

UNITED STATES  
INTERNATIONAL TRADE COMMISSION

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In the Matter of: )  
POLYETHYLENE RETAIL CARRIER ) Investigation Nos.:  
BAGS FROM INDONESIA, TAIWAN, ) 701-TA-462  
AND VIETNAM ) 731-TA-1156-1158 (Final)

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 BAGS FROM INDONESIA, TAIWAN, ) 701-TA-1156-1158 (Final)  
 AND VIETNAM )

Tuesday,  
 March 16, 2010

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

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

## APPEARANCES:

On behalf of the International Trade Commission:

Commissioners:

SHARA L. ARANOFF, Chairman  
 DANIEL R. PEARSON, Vice Chairman  
 DEANNA TANNER OKUN, Commissioner  
 IRVING A. WILLIAMSON, Commissioner  
 DEAN A. PINKERT, Commissioner

Staff:

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JOSHUA KAPLAN, Investigator  
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CRAIG THOMSEN, Economist  
CHARLES YOST, Accountant/Auditor  
KARL von SCHRILTZ, Attorney  
GEORGE DEYMAN, Supervisory Investigator

## APPEARANCES:

In Support of the Imposition of Antidumping and  
Countervailing Duty Orders:On behalf of Hilex Poly Co., LLC and Superbag  
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Superbag Corporation

MARK DANIELS, Vice President of Marketing and  
Environmental Affairs  
Hilex Poly Co., LLC

ANTHONY RIZZO, Vice President of Sales  
Hilex Poly Co., LLC

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BRIAN E. MCGILL, Esquire  
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Washington, D.C.

In Opposition to the Imposition of Antidumping  
and Countervailing Duty Orders:On behalf of P.T. Super Exim Sari Ltd. ("Super  
Exim and P.T SUPER MAKMUR ("Super Makmur")):

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Super Exim

TED DOWNING, Vice President  
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APPEARANCES: (Continued)

In Opposition to the Imposition of Antidumping  
and Countervailing Duty Orders:

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Advisor  
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ADAMS C. LEE, Esquire  
FRANK H. MORGAN, Esquire  
White & Case LLP  
Washington, D.C.

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P R O C E E D I N G S

(9:31 a.m.)

CHAIRMAN ARANOFF: Good morning. On behalf of the International Trade Commission I welcome you to this hearing on Investigation Nos. 701-TA-462 and 731-TA-1156-1158 (Final) involving polyethylene retail carriers bags from Indonesia, Taiwan, and Vietnam.

The purpose of these investigations is to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded by reason of subsidized imports of polyethylene retail carrier bags from Vietnam, and less than fair value of imports of polyethylene retail carrier bags from Indonesia, Taiwan, and Vietnam.

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

I understand that parties are aware of the time allocations. Any questions regarding the time

1 allocations should be directed to the secretary.

2 Speakers are reminded not to refer in their  
3 remarks or answers to questions to business  
4 proprietary information. Please speak clearly into  
5 the microphones and state your name for the record for  
6 the benefit of the court reporter.

7 Finally, if you will be submitting documents that  
8 contain information you wish classified as business  
9 confidential, your request should comply with  
10 Commission Rule 201.6.

11 Madam Secretary, are there any preliminary  
12 matters?

13 MS. ABBOTT: Madam Chairman, all witnesses  
14 for this hearing have been sworn. There are no other  
15 preliminary matters.

16 (Witnesses sworn.)

17 CHAIRMAN ARANOFF: Thank you. Then welcome  
18 to everyone, and let's proceed with opening remarks.

19 MS. ABBOTT: Opening remarks on behalf of  
20 Petitioners will be by Joseph W. Dorn of King k&  
21 Spalding.

22 MR. DORN: Good morning. In 2004, this  
23 Commission made an affirmative determination  
24 unanimously that the domestic industry producing  
25 polyethylene retail carrier bags was materially

1 injured by reason of dumped imports from China,  
2 Malaysia and Thailand. As a result, the Department of  
3 Commerce imposed antidumping orders against imports  
4 from all three countries.

5 The domestic industry receives and continues  
6 to receive substantial benefits from those antidumping  
7 order, but the appetite of U.S. purchasers for  
8 unfairly priced imports did not receded. They began  
9 to shift sourcing from the three countries subject to  
10 antidumping duties to countries with the lowest  
11 available prices; that is, to Indonesia, Taiwan, and  
12 Vietnam.

13 Imports from the subject countries roared  
14 into the U.S. on the same basis, unfair pricing, as  
15 did the imports from China, Malaysia and Thailand  
16 prior to 2004. Production capacity of the subject  
17 countries drew dramatically during the period of  
18 investigation. The Department of Commerce has  
19 preliminarily determined that imports from all three  
20 countries are being dumped and that imports from  
21 Vietnam are being subsidized. The domestic industry  
22 is materially injured by reason of these unfairly  
23 priced imports.

24 First, the volume of imports is significant  
25 and the increase in the volume of imports is



1 significant. In 2008, subject imports in quantity  
2 were equal to 40 percent of imports from all  
3 countries, 14 percent of U.S. consumption, and 22  
4 percent of U.S. production. From 2006 to 2008,  
5 subject imports jumped to 114 percent measured by  
6 number of bags, and more than doubled their share of  
7 the U.S. market.

8           Second, the subject imports adversely  
9 affected domestic prices. Significant underselling is  
10 demonstrated by responses to the department's  
11 questionnaire, the Commission's investigation of lost  
12 sales and lost revenue allegations, the product-  
13 specific pricing data, and the average unit values of  
14 subject imports and domestic products. In addition,  
15 the 114 percent increase in supply from the subject  
16 countries during the demand declined from 2006 to  
17 2008, created a supply/demand imbalance that  
18 necessarily had an adverse effect on U.S. prices.

19           The incremental supplies from the subject  
20 countries forced down market prices and prevented  
21 domestic producers from raising prices to cover their  
22 increasing cost of goods sold.

23           Third, the increasing volume of lower priced  
24 imports had a large and negative impact on the  
25 domestic industry's operations and financial

1 condition. The industry suffered declines in  
2 capacity, capacity utilization, production, shipments  
3 and employment from 2006 to 2008. Four plants closed.  
4 The industry's financial condition deteriorated as a  
5 result of declining sales and a cost price squeeze.

6 From 2006 to 2008, the domestic industry  
7 suffered declines in gross profits, operating income,  
8 operating income margins, capital expenditures, total  
9 assets, and return on investment.

10 The subject imports also threatened  
11 additional material injury to the domestic industry.  
12 The threat is apparent for the more than doubling of  
13 subject imports during a period of declining demand.  
14 Subject imports more than doubled their share of  
15 apparent U.S. consumption. The ratio of subject  
16 imports to domestic production increased from 9.7  
17 percent in 2006, to 22 percent in 2008.

18 Moreover, industry participants project  
19 increasing demand for PRCBs. The impact of increasing  
20 imports will be highly injurious in the context of  
21 flat or declining demand. The domestic industry is  
22 highly vulnerable to unfairly traded imports. Resin  
23 prices have been steadily rising since the sharp drop  
24 at the end of 2008. Given the accompanying decline in  
25 U.S. prices for PRCBs is critical for the domestic

1 industry to obtain price increases to cover increasing  
2 cost of resin.

3 If the Commission were to reach a negative  
4 determination, the subject foreign producers would  
5 scramble to accelerate imports into the United States  
6 market using low prices as their only competitive  
7 advantage. Substantial excess capacity exists in the  
8 subject countries and large capacity additions are  
9 underway. The subject producer are export oriented  
10 and the United States is their primary export market.

11 Finally, the filing of the petition and  
12 investigations were a significant market event that  
13 positively affected domestic industry performance in  
14 interim 2009. The Vietnamese producers were warned by  
15 U.S. Trade Counsel in October of 2008 that their low  
16 prices in the U.S. market would draw a trade case.  
17 Shortly after the petition was filed U.S. purchasers  
18 of importers became wary of subject imports and began  
19 replacing imports with domestic production. As a  
20 result the domestic industry gained back market share  
21 from subject imports in interim 2009, and increased  
22 the financial margin between their resin cost and PRCB  
23 sales prices as U.S. purchasers worried about the risk  
24 of high duties on subject imports.

25 For all these reasons we asked the

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1 Commission for affirmative determinations on all three  
2 countries. Thank you.

3 MS. ABBOTT: Opening remarks on behalf of  
4 the Respondents will be by Adam C. Lee of White &  
5 Case.

6 MR. LEE: Good morning. My name is Adams  
7 Lee of White & Case, and I am here today on behalf of  
8 Indonesian foreign producers Super Exim Sari, and  
9 Super Makmur.

10 This investigation on PRCBs from Indonesia,  
11 Taiwan, and Vietnam follows the investigations on  
12 PRCBs from China, Thailand and Malaysia that went to  
13 order in 2004. It appears that Petitioners will try  
14 to argue that this case is just like the 2004 case.  
15 The facts of this record, however, clearly are not the  
16 same as the 2004 record and thus the results of the  
17 case merit a different determination.

18 Indeed, while much of the 2004 case and the  
19 prelim. of this investigation focused on like product  
20 issues that tried to distinguish high end from low end  
21 bags, we believe that the Commission can set aside  
22 those like product issues and instead simply focus on  
23 the fundamental statutory factors that the Commission  
24 looks at in every case: volume, price and impact.

25 When Petitioners present their testimony

1 this morning we ask you to listen not only to what  
2 they are saying, but also to what they are not saying.  
3 With respect to volume and impact, when Petitioners  
4 talk about subject imports are they only talking about  
5 the changes between the beginning and the end of the  
6 POI or do they talk about the trends that are  
7 happening in each year-to-year period within the POI?

8 More importantly, when they talk about  
9 subject imports do they actually talk about what's  
10 happening to the domestic industry's volume and market  
11 share and financial condition in the same periods? Do  
12 they also talk about what's happening to nonsubject  
13 imports during the same period, particularly those  
14 from China, Thailand and Malaysia, which had volumes  
15 of market shares that were larger than the subject  
16 imports throughout the entire POI?

17 In looking at volume, we also urge the  
18 Commission to question why so many domestic producers  
19 or importers were purchasers of subject imports. As  
20 evidenced by Hilex's own approach to Super Exim, we  
21 ask the Commission to question whether domestic  
22 producers really are forced to make these imports as a  
23 defensive measure or whether the subject imports are  
24 really helping and complementing their more limited  
25 domestic production.

1           In short, we ask the Commission to listen to  
2           Petitioners' volume analysis and impact analysis to  
3           see if they adequately address causation, and take  
4           into account the key conditions of competition.

5           In our presentation we will show how the  
6           data clearly shows no causal correlation between the  
7           subject import trends and the domestic industry's  
8           trends for volume and impact. We will show how any  
9           POI declines in the domestic industry's financial  
10          condition cannot be blamed on subject imports, and  
11          also how any improvement the domestic industry's  
12          condition, especially at the end of interim 2009,  
13          cannot be credited to any departure of the subject  
14          imports. Indeed, the trends for the domestic industry  
15          tend to correlate more with nonsubject imports from  
16          China, Malaysia and Thailand than they do with subject  
17          imports.

18          We note that over the entire POI the  
19          domestic industry actually gained market share despite  
20          the drop in overall demand.

21          With respect to pricing, Petitioners  
22          complain about pricing, but we ask the Commission to  
23          consider what data do they actually offer to support  
24          their pricing arguments. Are Petitioners just  
25          repeating their side of the lost sales allegation or

1       how little do Petitioners address the staff's findings  
2       from the responses from the purchasers involved in  
3       those allegations. How much or how little do they say  
4       about the pricing product data collected by staff?

5               Our discussion will discuss how staff's  
6       pricing data shows subject imports predominantly  
7       overselling the domestic prices for products that  
8       account for the largest volumes in the U.S. market.  
9       We will also explain how the staff report data largely  
10      refutes the lost sales and lost revenue allegations.  
11      We will also show subject imports on an accumulated  
12      basis shows no threat to the domestic industry. Just  
13      as there is no causal correlation between subject  
14      imports and the condition of the domestic industry for  
15      purposes of injury, there is no causal relation for  
16      the Commission's threat analysis.

17             Although we believe that subject imports on  
18      an accumulated basis do not pose a threat, we also  
19      believe that Indonesia could and should be decumulated  
20      from Taiwan and Vietnam because there are differences  
21      in the rates of increases in volume, pricing patterns,  
22      capacity, and other factors, all of which would  
23      justify the Commission exercising its discretion to  
24      decumulate Indonesia's subject imports from those from  
25      Taiwan, and Vietnam for threat purposes.

1           In sum, we believe that Petitioners will  
2 present an incomplete story that fails to adequately  
3 address the key conditions of competition; namely, the  
4 continued strong presence of nonsubject imports and  
5 the significance of their own imports of subject  
6 imports.

7           In contrast, our presentation will explain  
8 how the staff report data prove there are no causal  
9 correlation between the subject imports and any  
10 adverse volume price or impact alleged by Petitioners.  
11 Accordingly, we request that the Commission make a  
12 negative determination and find that the domestic  
13 industry is not material injured or threatened with  
14 material injury by reason of the subject imports.

15           MS. ABBOTT: The first panel in support of  
16 the imposition of antidumping and countervailing duty  
17 orders should please come forward.

18           CHAIRMAN ARANOFF: Whenever you're read, Mr.  
19 Dorn.

20           MR. DORN: Thank you, Madam Chairman. Joe  
21 Dorn for Petitioners.

22           Before turning to the main event, I would  
23 like to begin by saying a few words about like product  
24 which used to be a major issue in this case, I guess,  
25 but based upon the other side's preparing brief and



1 the statement in the opening, I think it has become a  
2 non-issue, but I think it is important to understand  
3 the evolution of how we got here.

4 In the preliminary phase of these  
5 investigations Super Exim and other Respondents urged  
6 the Commission to find a separate like product for  
7 high end PRCBs defined as bags having a thickness of  
8 at least 2.25 mils and "high register full color  
9 graphics", whatever that means.

10 In its preliminary determination the  
11 Commission found that so-called high end bags were not  
12 a separate like product. The Commission correctly  
13 criticized the definitions offered by Respondents as  
14 being inconsistent. The Commission stated that it  
15 would explore the like product issue further in the  
16 final investigations and consider collecting data on  
17 high end PRCBs "assuming that a clear definition can  
18 be provided that distinguishes between these two types  
19 of PRCBs."

20 So the draft questionnaires to the final  
21 investigation is adopted. The definition that Super  
22 Exim and other Respondents had proposed, including a  
23 thickness of at least 2.25 mils and high register full  
24 color graphics. Then their comments on the draft  
25 questionnaire Super Exim and other Respondents made a

1 180 degree turn and rejected thickness and high  
2 register full color graphics as defining high end  
3 PRCBs. They said these are not clear dividing lines.  
4 They don't work Notwithstanding what we said earlier,  
5 they don't work. Don't use them.

6 So Super Exim and the other Respondents  
7 proposed a new definition of high end PRCBs. The  
8 Commission adopted that very definition in the  
9 questionnaires issued in these final investigations  
10 and collection data on the two industries proposed by  
11 Super Exim and the other Respondents.

12 As explained in our prehearing brief,  
13 however, this new definition is no more workable or  
14 justifiable than the prior attempts which date back to  
15 2003 and 2004; to segregate a portion of the industry  
16 from the continuum of PRCB products.

17 Then we come to the prehearing brief and  
18 Super Exim changes its position again. Now it rejects  
19 the definition used in the final questionnaires, the  
20 definition it had proposed, Super Exim now argues that  
21 high end PRCB should be defined as all bags other than  
22 T-shirt bags, but the reality is there is no clear  
23 dividing line between die-cut handle bags in the shape  
24 of a T-shirt and other die-cut handle bags. The step  
25 from a T-shirt handle die-cut back to a round or oval

1 handle die-cut bag is very minor.

2 As Ms. Lin of Super Exim testified at the  
3 staff conference at page 168, and she will be  
4 testifying later today, "There is certainly a kind of  
5 die-cut bag very similar to a T-shirt bag", and we  
6 agree. T-shirt bags and other die-cut handle bags are  
7 made by the same companies, using the same employees,  
8 the same blending equipment, the same extruders, the  
9 same printers, and even the same bag converting lines.  
10 Only the configuration of the dyes that cut the  
11 handles that need to be changed from a t-shirt shape  
12 to another shape die-cut handle bag, and surely the  
13 shape of the handle is not a clear dividing line.

14 In any event, in its prehearing briefs Super  
15 Exim correctly notes it is too late in these  
16 investigations for the Commission to have the data to  
17 analyze the two industries that it now thinks should  
18 be analyzed, and as we heard in the opening statement,  
19 I think this is a non-issue because in fact it appears  
20 that no party is challenging Petitioners' view that  
21 PRCBs constitute a continuum that constitutes a large  
22 part of the co-extensive with the scope of the  
23 investigations.

24 So, this morning what we are going to do is  
25 show why the industry producing that product, that

1 continuum of PRCBs, is materially injured and  
2 threatened with further injury by reason of the  
3 subject imports. We are going to be focusing,  
4 however, on the very, very large percentage of the  
5 market that is represented by the Petitioners here,  
6 Hilex and Superbag. They focus on die-cut handle  
7 bags, and that constitutes, or your prehearing report  
8 said the other bags are about 3 percent. We certainly  
9 think that we represent -- these types of bag  
10 represent well over 90 percent, perhaps over 95  
11 percent of the relevant products that are before you  
12 in these investigations.

13 So our first witness will be Mr. Isaac  
14 Bazbaz.

15 MR. BAZBAZ: Good morning. My name is Isaac  
16 Bazbaz. I am and have been a director of Superbag  
17 since its publishment in 1988. Superbag is a family-  
18 owned private company with headquarters in Houston,  
19 Texas. We are one of the largest U.S. producers of t-  
20 shirt type of polyethylene retail carrier bags. We  
21 operate a single plant that is totally dedicated to  
22 the production of PRCBs, and we have 250 employees.

23 Our bags are generally sold to grocery  
24 stores and retail outlets. As you know, these bags  
25 are given away for free. The process for making PRCBs

1 is generally the same everywhere in the world. It is  
2 a five-step process.

3 First, polyethylene resins and color  
4 concentrates are blended and injected into an  
5 extruder. Second, the mixture is extruded into film.  
6 Third, the film is wound into rolls and fed into a  
7 printer where a custom design is printed on the film.  
8 Fourth, the film is converted into bags by cutting the  
9 film into the desired shape and size of the bag and  
10 heat sealing the top and bottom. Finally, the  
11 finished bags are inspected, packaged, and placed in  
12 inventory.

13 Manufacturers of PRCBs in Vietnam, Indonesia  
14 and Taiwan use the same raw materials, employ  
15 generally the same production processes, and use  
16 similar production machinery as producers in United  
17 States. Imported bags from these countries and PRCBs  
18 made in the United States are perfect substitutes. In  
19 fact, in most cases the imported and domestic products  
20 are identical. Many retailers buy t-shirt bags from  
21 U.S. producers, like Superbag and Hilex, and also buy  
22 PRCBs from Vietnam, Taiwan or Indonesia, and they use  
23 domestic and imported products interchangeably. As a  
24 result, competition is based on price.

25 The Commission found in the prior

1 investigation that imports from China, Malaysia and  
2 Thailand were highly substitutable for the domestic  
3 products. The facts are no different in these  
4 investigations. There are no significant physical or  
5 other non-price differences between the t-shirt bags  
6 that we and other domestic producers make and the t-  
7 shirt bags that they are being imported from  
8 Indonesia, Taiwan, and Vietnam.

9 This is why these products are commonly  
10 purchased by major retailers through Internet bids,  
11 including reverse auctions. You wouldn't see such  
12 bidding procedures if the retailer viewed the product  
13 as anything other than a commodity.

14 Reality that this is a commodity is also  
15 reflected in the fact that some of the domestic  
16 producers are using blended sales programs; that is, a  
17 domestic producer will come in to sell to a customer  
18 higher priced domestic bags, and lower priced imported  
19 bags at a single average price. This approach works  
20 only because the customer sees the imported and  
21 domestic products as identical; hence, the only way  
22 that we can try to compete with imports from  
23 Indonesia, Taiwan, and Vietnam is on the basis of  
24 price.

25 One of the practice that is increasingly

1 common is the reverse Internet auction which makes the  
2 price the competition. Here are examples of typical  
3 T-shirt bags. The first is a product we make for  
4 Walmart. The second is an imported product sold by  
5 Spectrum to Walmart. The imported bag is not marked  
6 with the country of origin but Spectrum's logos appear  
7 on the bag, and we know that Spectrum imports bags  
8 from the subject countries.

9 MR. DORN: Excuse me. Should we go ahead and  
10 hand these up so you all can take a look at them? Why  
11 don't you hand those up as we go along here.

12 CHAIRMAN ARANOFF: Why don't you go ahead  
13 and give them to the secretary, please.

14 MR. DORN: You can see which bag is Superbag  
15 and which is the Spectrum bag by looking at the logos  
16 which are displayed on the backs.

17 MR. BAZBAZ: Next is a comparison of our bag  
18 and K-mart and Spectrum's bag for K-mart, and finally  
19 here is a bag we have made for Target and an imported  
20 bag for Target. I do not know for sure who is the  
21 importer. The indicated company of origin is Vietnam  
22 in the Target bag.

23 As you know from the public information  
24 submitted with our brief to the Commission, API  
25 reached an agreement with Target as a result of

1 reverse Internet auction that contemplated that all  
2 bags would be produced in Vietnam.

3 I testified before the Commission six years  
4 ago in the cases that were brought against PRCBs from  
5 China, Malaysia, and Thailand. At that time the U.S.  
6 industry was in a steep downturn due to imports from  
7 these countries even though demand was very strong.  
8 The successful outcome of those cases resulted in  
9 major improvement in our business. Our sales volume  
10 improved, our pricing improved, our narrow  
11 profitability increased.

12 In light of these changes for the better, we  
13 invested in new equipment which enabled us to increase  
14 our production efficiency and our capacity. But now  
15 once again we face a major problem with unfair trade.  
16 From 2006 to 2008, dumped and subsidized imports from  
17 Indonesia, Taiwan, and Vietnam dramatically increased.  
18 The number of bags increase was 114 percent. In 2006,  
19 the three subject countries accounted for 16 percent  
20 of income from all countries. In 2008, they accounted  
21 for 40 percent of imports from all countries.

22 Using fairly low prices, imports from these  
23 countries more than doubled their share into the U.S.  
24 market from 2006-2008. These imported bags are no  
25 better than our bags. They do not have any feature



1 that our bags lack. They have been able to take such  
2 a large share of the market for a single reason: they  
3 are very aggressively priced.

4 As a result, we have been deprived of some  
5 of the benefits that we previously enjoyed as a result  
6 of the orders against China, Malaysia and Thailand.  
7 These subject imports were offered at very low prices.  
8 We suffered many lost sales and this has been very  
9 damaging. For example, we lost significant business  
10 at one of our largest customers in 2008 to subject  
11 imports imported by Spectrum as detailed in our  
12 response to your questionnaire.

13 This resulted in significant reduction of  
14 our production which forced us to layoff more than 60  
15 employees. That is a reduction in employment of more  
16 than 20 percent.

17 Spectrum describes itself on its website as  
18 the leading importer of printed bags to the United  
19 States. It states that it has three strategically  
20 priced distribution centers enabling to quickly serve  
21 anywhere in the United States and Canada. The  
22 Spectrum website also makes clear that it offers a  
23 full range of PRCB products to food service outlets  
24 and retailers, including stark T-shirt bags, custom T-  
25 shirt bags, dye-cut bags, drawstring bags, patch

1 handle bags, fold-over dye-cut bags, flexi-loop handle  
2 bags, and flat-bottom bags. Spectrum competes with us  
3 based on price.

4 As the bag samples I showed you earlier  
5 demonstrate, we are constantly running up against  
6 Spectrum in the market, in the U.S. market. Spectrum  
7 compete with us with U.S. production with respect to  
8 quality and delivery lead time. The only factor that  
9 distinguishes our product offerings is the price. If  
10 we do not meet Spectrum prices, we lose the sale to  
11 Spectrum. If we meet its price, we lose revenue  
12 because Spectrum can drive prices down to ruinous  
13 levels.

14 These lost sales also hurt us in other ways.  
15 Our equipment is designed to run continuously, and as  
16 I indicated a moment ago, we increased our capacity  
17 after the antidumping orders were imposed because we  
18 thought that unfair trade in the market had been  
19 eliminated. We operated all of this capacity  
20 continuously during the period of investigation were  
21 it not for the imports at issue in this case.  
22 Instead, we had significant excess capacity.

23 In addition, because our equipment is  
24 designed to operate continuously, we were forced to  
25 try to compete with the low prices of imports to

1 maintain some level of business. In some cases we had  
2 no choice but to meet the low import prices head on.  
3 We have some customers that we simply cannot afford to  
4 lose.

5 Our operations require base load of volume  
6 in order to have any chance of operating successfully.  
7 This base load consisting large part of sales to major  
8 retailers. Prior to filing the petition, imports from  
9 Indonesia, Taiwan, and Vietnam were aggressively  
10 seeking to take over that business by operating very  
11 low prices.

12 The price of our primary raw material,  
13 polyethylene, rose significantly during 2007 and 2008.  
14 Ordinarily this would not by itself present a real  
15 problem. With many customers we have agreements that  
16 tie our price to the cost of resin as measured by  
17 publicly-available index. With other customers, we  
18 have an informal understanding that our price will be  
19 adjusted to reflect changes in the price of resin, but  
20 many of our contracts have meet-or-release provisions,  
21 and others do not have the security of a price tied to  
22 the index for the duration of the contract.  
23 Consequently, with the surge in subject imports we  
24 were unable to maintain an adequate margin between our  
25 selling price and cost of resin, especially in 2008.

1 In many cases we were simply not able to compete  
2 successfully with the subject imports on the basis of  
3 price. In some instances the import prices being over  
4 to our customers were so low that we would lose money  
5 on sales to those customers if we match the import  
6 price.

7 This has been especially frustrating because  
8 we have got very modern, cost-efficient facilities,  
9 and an efficient and trained workforce that is  
10 dedicated to the production of T-shirt style retail  
11 bags, but in many cases we are just not able to match  
12 the import prices, thus we have lost significant  
13 volume to those imports.

14 With this lost production volume the  
15 efficiency of operations was significantly impaired.  
16 It is expensive to stop and resume operations. You  
17 can't simply switch extruder machine on and off. For  
18 that reason we only shutdown on Christmas Day or New  
19 Year's Day, or the plant otherwise runs continuously.  
20 In 2008, however, as a result of the sales that we  
21 lost to the imports we were forced to shutdown our  
22 entire plant for four additional full days. We also  
23 had to shutdown a substantial portion of our plant for  
24 36 days. This drop up our unit cost significantly.

25 Finally, under these circumstances we cannot

1 make significant investments to modernize our  
2 equipment or otherwise improve our operations with the  
3 modern, highly automated facility and declining  
4 imports from China, Malaysia and Thailand, we should  
5 be investing in our business; instead we are just  
6 trying to survive.

7 Our questionnaire response shows you what  
8 has happened to our profitability. since the filing  
9 of the petition our business is better in 2009  
10 compared to 2008. It is a given, however, that if the  
11 preliminary duties are removed, subject imports will  
12 resume their rapid penetration in the U.S. market.  
13 The increase in imports from 2006 to 2008 was  
14 dramatic.

15 The filing of the petition has stopped  
16 increase but many factories in Indonesia, Taiwan, and  
17 Vietnam are waiting for your vote next month to  
18 determine what to do next. If orders are not put in  
19 place they will view it as a green light to intensify  
20 competition with each other and with Superbag and  
21 other U.S. producers for the U.S. market. They will  
22 use their unfairly low prices to grab market share  
23 into the United States and force more U.S. plants to  
24 close.

25 A number of the plants in Vietnam are fairly

1 new and have excess capacity. Moreover, with the  
2 support of the Vietnamese government they can easily  
3 add new capacity as needed to increase their exports  
4 further.

5           Increasing exports could not come at the  
6 worst time for this industry. Our industry faces the  
7 fact that U.S. demand may stagnate or decline as a  
8 result of imposition of various tax and regulatory  
9 measures. In addition, some of our major customers,  
10 including Walmart, are promoting reusable bags, thus  
11 we are trying to preserve the size of the pie at the  
12 same time that foreign producers are trying to  
13 increase their share of the pie.

14           As a result, our future clearly depends on  
15 your affirmative votes both in this investigation and  
16 the pending sunset review. If fair trading is  
17 restored against imports from Indonesia, Taiwan, and  
18 Vietnam, and fair trading is continued for China,  
19 Malaysia and Thailand, I am confident that we will be  
20 able to compete, to maintain our Houston factory and  
21 to maintain our 250 jobs.

22           Thank you for the opportunity to appear  
23 before you today.

24           MR. DANIELS: Hello and good morning, my  
25 name is Mark Daniels and I'm the Vice President of

Heritage Reporting Corporation  
(202) 628-4888

1 Marketing and Environmental Affairs for Hilex Poly  
2 Company. In that capacity, I have executive level  
3 marketing responsibility for all of Hilex products,  
4 including PRCBs. Additionally, I am involved in the  
5 legislative arena surrounding PRCBs in the United  
6 States as Chairman of the Progressive Bag Affiliates,  
7 which is our industry association. I have a degree in  
8 business administration from Villanova University.

9 Hilex is an industry leading manufacturer of  
10 plastic bags and film products. We are based in  
11 Hartsville, South Carolina. We have eight  
12 manufacturing facilities that make PRCBs and are  
13 strategically located throughout the states with  
14 nearly 1,300 associates. Additionally, we have a  
15 packaging film plant and the first plant in the United  
16 States devoted to recycling used plastic bags and  
17 wraps.

18 Hilex is the largest producer of PRCBs in  
19 the United States, and we believe that we are the  
20 large manufacturer of PRCBs in the world. All the  
21 PRCBs that we produce and sell are die-cut handle  
22 bags. While we focus on t-shirt style bags, we also  
23 produce other styles of die-cut handle bags which are  
24 called merchandise bags and header bags.

25 This is a Foot Locker Bag, which is a sample

1 of a T-shirt bag, followed by a Toys 'R Us bag, which  
2 is an example of a die-cut merchandise bag, and then  
3 we have a Taco Bell bag which is a die-cut header bag.  
4 We produce all three styles of bags on the same  
5 production equipment, using the same employees and the  
6 same lines. All we do is simply change the die  
7 configurations on the bag converting machines.

8 In late 2003, Hilex entered the plastic bag  
9 and film business with the purchase of the high-  
10 density film products division of Sonoco Products  
11 Company. In the fall of 2005, Hilex purchased  
12 Vanguard Plastics, Inc., which was one of the  
13 country's largest makers of PRCBs.

14 I joined Hilex from Vanguard where I served  
15 as direct or marketing and the general manager of the  
16 packaging and films division. One of the things that  
17 made Vanguard attractive to Hilex was the performance  
18 of Vanguard's PRCB business has improved substantially  
19 as a result of the antidumping orders against imported  
20 PRCBs from China, Malaysia, and Thailand that were put  
21 in place in mid-2004.

22 Since that acquisition, however, we have  
23 seen the benefits of those orders dissipate because  
24 imports have surged from Indonesia, Taiwan, and  
25 Vietnam. From 2006 to 2008, dumped imports from



1 Vietnam, Indonesia and Taiwan, and subsidized imports  
2 from Vietnam jumped by 114 percent in units and 188  
3 percent in value. Their surge is explained by one and  
4 only one reason: The imports were priced lower than  
5 comparable domestic products.

6           These unfairly traded imports more than  
7 doubled their share in the United States markets in  
8 just three years. The only way to explain the  
9 doubling of that market share is the fact that imports  
10 from these countries undercut our prices, and by  
11 substantial margins. Had we not filed this petition  
12 in March of last year, there is no doubt in my mind  
13 that imports from these countries would have continued  
14 to increase at the same rate. They certainly have the  
15 capacity and the motivation to continue penetrating  
16 the U.S. market.

17           In 2008, Hilex sent representatives to six  
18 factories in Indonesia and six factories in Vietnam to  
19 assess their PRCB capacity and their pricing of PRCBs.  
20 We were alarmed by what we found. There was  
21 tremendous existing capacity in both countries. The  
22 capacity was rapidly expanding in Vietnam. We learned  
23 that Fotai, Vietnam, had the greatest capacity in  
24 Vietnam, and said that it would double its existing  
25 capacity within a year.

1           As shown on Slide 3, this expansion will  
2 provide Fotai with the capacity to manufacture in  
3 excess of 20 billion bags, enough to supply 20 percent  
4 of the U.S. market. As explained in our prehearing  
5 brief, Fotai is legally bound to export 80 percent of  
6 their production of PRCBs.

7           We also learned that capacity was expanding  
8 in Indonesia. One of the Indonesian companies that  
9 Hilex visited, Super Exim. At Exhibit 1 to its  
10 prehearing brief Super Exim had submitted some e-mail  
11 correspondence between Hilex and Super Exim regarding  
12 Hilex exploratory trip to Indonesia in 2008.

13           Super Exim, however, failed to supply two e-  
14 mails that demonstrate the increasing capacity in  
15 Indonesia. As shown in Slide 4, on May 2, 2008, Super  
16 Exim told us it would increase its capacity from 1,200  
17 metric tons to 4,000 metric tons per months, or by 233  
18 percent at the end of 2008.

19           As shown on Slide 5, on September 25, 2008,  
20 Super Exim confirmed that the expansion was well  
21 underway. When finished, Super Exim capacity will  
22 exceed 8 billion bags per year, assuming a 13 pound  
23 per thousand bags. This represents an additional 8  
24 percent of apparent U.S. consumption.

25           U.S. importers and large retailers were

1 quick to take advantage of multiple foreign producers  
2 with increasing capacity in the subject countries who  
3 were trying to increase their sales in the United  
4 States by offering low prices. Prior to the filing of  
5 the petition U.S. importers and purchasers were  
6 shifting their sourcing to Indonesia, Taiwan and  
7 Vietnam to obtain lower prices and to avoid duties  
8 imposed against China, Malaysia and Thailand. The  
9 tremendous growth in reverse Internet auctions, and  
10 Internet bidding events provided easy and unfettered  
11 access for importers to submit very low prices for  
12 PRCBs.

13 This was extremely disappointed at Hilex  
14 since we had hoped that the antidumping duties would  
15 allow us to regain the market share we had lost from  
16 imports from those countries. Instead, market share  
17 was simply shifting to Indonesia, Taiwan, and Vietnam.

18 Although this import surge severely harmed  
19 our business operations in numerous ways, perhaps the  
20 clearest manifestation of the harm that Hilex has  
21 suffered is the fact that we have been forced to close  
22 three of our production facilities since 2007. In  
23 February 2007, we closed our Rancho Cucamonga,  
24 California, plant, in January 2008, we closed our  
25 Victoria, Texas, plant; and in October 2008, we closed

1 our Mount Olive, North Carolina, plant. Each of these  
2 plants was dedicated to the production of a wide range  
3 of PRCBs as defined in these investigations.

4 As we have detailed in confidential  
5 submissions, each of these plants had large bag making  
6 capacity and employed a significant number of  
7 employees. These plants were important employers and  
8 contributors to the tax base in their small  
9 communities. Now they are gone and all of these  
10 workers have lost their jobs.

11 But even this large reduction in capacity  
12 did not enable us to align our capacity with demand.  
13 Our reduction in capacity was matched by an equivalent  
14 drop in our sales and production due to the surge of  
15 imports from subject countries. That left us with as  
16 much excess capacity as we had before we closed the  
17 three plants.

18 This is a major problem because our  
19 facilities, like those of Superbag, are designed to  
20 operate continuously. As Commission staff can  
21 appreciate from their Richmond tour, the film  
22 extrusion process cannot economically shutdown at  
23 night and restart it in the morning. The plant is  
24 designed to operate 24/7. The equipment cannot be  
25 switched on and off without sacrificing a significant

1 amount of raw materials.

2 For this reason we ordinarily close only  
3 four or five days surrounding Christmas season. Our  
4 plants are designed to run 360 days a year, but during  
5 the period of investigation we were forced to shutdown  
6 operations on many occasions other than the normal  
7 holiday shutdowns.

8 In the first quarter of 2008, we were forced  
9 to close our Victoria, Texas, facility, and also cut  
10 production by 25 percent across our remaining plants  
11 for two months. We had to do this in an effort to  
12 rectify the supply/demand imbalance caused by the  
13 dramatic increase of imports from Vietnam, Indonesia  
14 and Taiwan from early 2006 through the end of 2007.  
15 This made our operations run less efficiently and  
16 drove up our unit costs.

17 During the last several years we came under  
18 increasing pressure to match extremely low import  
19 prices so that we could retain business and operate  
20 more efficiently. Our only way to compete with these  
21 imports is price because purchasing decisions are  
22 overwhelmingly driven by price. Orders are won or  
23 lost for a price difference of 1 percent. But when we  
24 reduce our prices to retain business we suffer lower  
25 margins. When we lose a customer to unfairly priced

1 imports, the foreign producer becomes the incumbent  
2 supplier. It's hard to get that business back unless  
3 we undercut the foreign producers' prices.

4 Some customers are just simply too important  
5 to lose. Their strategic value is critical to our  
6 operations. The unfairly priced imports also  
7 prevented us from raising our prices to keep pace with  
8 escalating operating costs. The surge in imports from  
9 Indonesia, Taiwan, and Vietnam subjected us to severe  
10 cost/price squeeze, especially in 2008. The filing of  
11 the petition has alleviated that cost/price squeeze,  
12 allowing profits to improve in interim 2009.

13 Thus meeting low import price was not and is  
14 not a strategy that we can employ very often. So in  
15 many cases we decided we could not do that and as a  
16 result lost business. As you can see, the  
17 consequences of our inability to match these import  
18 prices in our questionnaire response, our production  
19 fell sharply and our shipments fell sharply. Our  
20 profitability deteriorated significantly. The only  
21 reason for this is we lost sales to imports from the  
22 countries under investigation and lowered our prices  
23 to meet the import prices. We suffered lower gross  
24 margins due to the lower prices resulting from an  
25 over-supplied market.

1           Finally, let me talk about what the future  
2 will look like if we do not receive relief from unfair  
3 trade as a result of these cases. We value our  
4 employees and the communities where we have invested.  
5 We want to maintain our U.S. production assets, but  
6 our questionnaire responses show you that our  
7 financial performance has been very weak. If that  
8 situation continues it is inevitable that we will be  
9 forced to consider closing additional facilities which  
10 would cause even more harm to our workforce and the  
11 communities in which they live.

12           The threat to Hilex's U.S. plants and  
13 employees from increasing imports is greater now than  
14 at any time that I can remember. In the past we were  
15 always optimistic that PRCB consumption would continue  
16 to increase in tandem with increased population and  
17 retail sales. That is no longer the case. Even as the  
18 U.S. economy is rebounding, we project a demand for  
19 PRCBs will be flat at best.

20           As indicated in the Commissioner's  
21 prehearing report at Table 2-5, many industry  
22 participants expect the passage of laws regulation the  
23 use and disposals of PRCBs and believe such laws will  
24 have downward influence on demand for PRCBs. Even if  
25 onerous laws do not pass large retailers like Walmart

1 are actively promoting alternative packaging, such as  
2 the so-called reusable bags to reduce PRCB consumption  
3 and generate income through the sale of new products.

4 Our concern, however, about a shrinking or  
5 stagnant market is far exceeded by our fear that we  
6 will be competing for a share of that market in the  
7 face of increasing subject imports. That is something  
8 we cannot likely endure.

9 In conclusion, just as the industry needed  
10 your help in 2004, we need it again today. Hilex has  
11 world class manufacturing facilities. Our highly  
12 automated state-of-the-art equipment allows us to be  
13 highly cost competitive. Our primary raw material  
14 input is a global commodity, the same input used by  
15 our competitors in subject countries. We have a  
16 highly skilled and loyal workforce. We should have  
17 been profitable during 2006 to 2008, and have been  
18 able to at least maintain existing capacity. We  
19 cannot, however, compete with the unfairly low prices  
20 of dumped and subsidized imports that take away our  
21 sales and production, and force us to lower our prices  
22 on remaining sales. Please restore fair competition  
23 to the United States market. Thank you.

24 MR. RIZZO: Good morning. My name is  
25 Anthony Rizzo, and I am the Vice President of Sales

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1 for Hilex Poly. Including my tenure with Hilex Poly,  
2 I have 14 combined years of experience with plastic  
3 film and flexible packaging. Prior to sales  
4 management, I spent several years in managerial  
5 accounting positions within the packaging industry and  
6 have extensive experience in cost accounting and  
7 profitability management. In my current role with  
8 Hilex, I am responsible for developing Hilex sales  
9 strategies, supervising our analyses of the market,  
10 supervising our sales force, and overseeing all  
11 pricing decisions. I personally manage several  
12 strategic account relationships and I am often  
13 directly involved in the sales negotiation of some of  
14 our major customers.

15 In the PRCB market price is overwhelmingly  
16 the most important factor in pricing decisions. That  
17 is true of many products made from plastics, and it is  
18 especially the case with this product because the  
19 retailer does not charge its customers for it.  
20 Retailers see the product as providing little or no  
21 value added. This makes retailers very sensitive to  
22 the cost of the product, and because the product is  
23 given away, they would prefer that the cost of the  
24 product be as close to zero as possible.

25 In addition, the domestic product and

1 imports from Indonesia, Taiwan, and Vietnam are sold  
2 through the same channels of distribution. In fact,  
3 our product sits side by side with subject imports in  
4 the same distribution warehouses across the country.  
5 This is true even for the products that we sell to  
6 large retailers.

7           When we make such sales we negotiate the  
8 price with the retailer, but more often than not we  
9 actually ship the product to a distributor. There are  
10 several very large distributors, such as Bunzl, that  
11 ship a bundle of different products to the retailer  
12 that includes PRCBs and other items like register  
13 tape. A high percentage of imported PRCBs are sold in  
14 exactly the same way; that is, even when the sale is  
15 to the end user the product is sent to a distributor  
16 where it is warehoused and packaged in a bundle with  
17 other products for shipment to the retailer; thus  
18 pricing is viewed as critical.

19           So let me talk a little bit about the prices  
20 of imports under investigation. The prices that Hilex  
21 and other U.S. producers charge are grounded in  
22 reality. They move up and down with the changes in  
23 the price of polyethylene resin. But we have observed  
24 the price of imports from the countries under  
25 investigations at time bear little or no relationship

1 to the change in raw material pricing.

2 We find that in bid competitions the initial  
3 import price is set at very low levels. We have to  
4 set our prices to be competitive. Sometimes importers  
5 will also guarantee pricing for periods of time as an  
6 additional incentive. This is often problematic for  
7 us because it empowers buyers to seek fixed pricing  
8 agreements despite volatile resin markets.

9 The importers' price strategy has hurt us  
10 time and time again. In some cases it has become  
11 clear to us that low import prices were about to cause  
12 us to lose the business of customers that we regarded  
13 as strategic. So in those instances we were compelled  
14 to dramatically lower our prices as a defensive  
15 measure. In other case we decided that we could  
16 simply not afford to match the import price and so we  
17 lost that business.

18 In many cases we are not certain of the  
19 source of the imports, but we have reason to believe  
20 they are largely from one of the subject countries.  
21 There are a couple of reasons for this.

22 First, the country of origin from the  
23 imported bags is typically not marked on the bags  
24 themselves. When the prior case was before the  
25 Commission, I understand that it was common for the

1 country of origin to be identified on the imported  
2 bags. When antidumping duties were imposed on imports  
3 from China, Malaysia, and Thailand the country of  
4 origin markings on the bags became far less common.  
5 Instead the country of origin is now typically set  
6 forth somewhere on the carton in which the bags are  
7 sold.

8 We generally do not have access to these  
9 cartons but occasionally we obtain one. The one I  
10 have here was obtained on the west coast. It contains  
11 bags made for Northgate. If you turn the bag upside  
12 down and strain your eyes, you will see a small type  
13 on the bottom of the box stating "Made in Indonesia".  
14 This example shows you why it's become more difficult  
15 to identify the country of origin of imported bags  
16 that we have either lost sales to or had to lower our  
17 price against. These bags were made by Super Exim and  
18 sold to Northgate through Master Packaging.

19 The second reason we've had some difficulty  
20 in reporting the specific country to which we have  
21 lost a sale is because in many instances we have lost  
22 sales to an importer called Spectrum. Spectrum  
23 supplies bags from each of the subject countries.  
24 Headquartered in Cerritos, California, Spectrum has  
25 three warehouse distribution centers in the United

1 States. They are located in Cerritos, California,  
2 Addison, New Jersey, and South Haven, Mississippi.

3 We compete against Spectrum in all areas,  
4 including supermarket and grocery, retail, mass  
5 merchants and home goods. We compete head to head  
6 with Spectrum for all our large accounts and many of  
7 the intermediate and small accounts. Spectrum used to  
8 export largely from the countries included in the  
9 prior case, but it shifted a large share of its  
10 sourcing to Indonesia, Taiwan, and Vietnam in order to  
11 avoid antidumping duties in those other countries.

12 Spectrum is clearly a downward price leader  
13 in the U.S. market. Its sales strategy is to offer  
14 the lowest price, end of story. We have lost many  
15 sales to Spectrum. We have also had to lower our  
16 price many times to compete with Spectrum. Here are  
17 several examples of bags evidencing head-to-head  
18 competition with Spectrum on similar bags for the same  
19 customer.

20 The first is from -- do you want to submit  
21 them? Do you want to show them?

22 They are representative samples from Hy-Vee,  
23 Cub Foods and Bush's Market.

24 In particular, we compete against Spectrum  
25 and other importers of subject products in Internet

1 bid competitions. These include reverse auctions and  
2 other Internet bids that are managed by a company that  
3 specializes in conducting these bid events. Internet  
4 bids account for a large share of U.S. consumption of  
5 PRCBs. Walmart, for example, which represents about  
6 20 percent of the U.S. market only purchases through  
7 Internet bids. Overall we estimate that approximately  
8 75 percent of U.S. consumption of PRCBs is supplied  
9 through Internet bid events.

10 The prehearing report notes that the  
11 supplier country of the lowest bidder was not the  
12 supplier country of the winning bid in 15 of 20  
13 reported bidding events. I want to emphasize,  
14 however, that in a typical auction there may be  
15 several low bids within a tiny price range. The  
16 customer may accept the second or third lowest bid  
17 where the price difference is negligible. It will  
18 generally not do so where the price differential is  
19 meaningful.

20 Even where Hilex wins the bid without  
21 bidding the very lowest price, we must be very close  
22 to the lowest price, which is generally the import  
23 price. In one sourcing event at Kohl's where we were  
24 the incumbent supplier, we were told by Kohl's that  
25 while we were viewed as a strong supplier both in

1 quality and service, they could not ignore the savings  
2 being offered by competitors. We learned later that  
3 the customer was referencing imports from Spectrum.

4 The customer contended that along with lower  
5 product pricing the import competitors were offering  
6 financial incentives in the form of prebates in  
7 addition to fixed pricing. Again, given the strategic  
8 importance of this account, we considered all options.  
9 However, upon a comprehensive financial discussion we  
10 determined that meeting the competitive offer would be  
11 impractical. We even lost 25 percent of our volume as  
12 a result of that decision.

13 Subsequently when we competed to try and  
14 regain share of this business we failed to win back  
15 any of the volume because we could not undercut the  
16 price of the incumbent import supplier.

17 Consistent with the information provided in  
18 our questionnaire one particular auction exemplifies  
19 the practice in which Spectrum continually applies  
20 downward price pressure that is not aligned with the  
21 market. In 2008, we participated in a wide-scale  
22 auction coordinated by a sourcing group representing  
23 23 different buyers. In this particular case, we were  
24 the incumbent on a large portion of his business. We  
25 were forced to reduce prices on key pieces of business

1 by approximately 10 percent, representing  
2 approximately \$2.2 million on \$22 million of bag sales  
3 at previous price levels.

4 What's more troubling is that this business  
5 had been won by Hilex in the market place several  
6 years earlier where we were deemed the lowest cost  
7 supplier.

8 Hilex has clearly benefitted from the filing  
9 of our petition in March of 2009. For example, we  
10 have regained the ability to compete at certain  
11 customers where we previously could not compete. In  
12 mid-2009, we won a substantial order that had  
13 previously been supplied by Spectrum. The buyer told  
14 us that it moved a significant amount of sourcing to  
15 the United States because of the impact of antidumping  
16 investigations has limited the amount of available  
17 supply that is not subject to duties.

18 Thank you.

19 MR. DORN: Joe Dorn for the Petitioners.  
20 I'd like to say a few words about the conditions of  
21 competition which we believe the Commission is focused  
22 on in assessing the facts in this case. First, the  
23 subject imports, the domestic-like product are highly  
24 interchangeable and are sold on the basis of price as  
25 you've heard from these witnesses. That's consistent



1 with the Commission's determination in 2004, and it's  
2 preliminary determination here where the Commission  
3 found there's a high degree of substitutability  
4 between subject imports and the domestic-like product.

5 The prehearing report concludes, "There is  
6 likely to be a high degree of substitution between  
7 PRCBs produced in the United States and those produced  
8 in Indonesia, Taiwan and Vietnam." Accordingly, the  
9 only way that domestic business can compete with the  
10 subject imports is on the basis of price. According  
11 to the prehearing report, in purchase decisions, price  
12 was purported to be one of the top three factors by 49  
13 of 52 responding purchasers. For the top three  
14 factors, price is highest ranked followed by quality  
15 and availability.

16 If the 51 responding purchasers, 46  
17 indicated that price was a "very important" purchasing  
18 factor. No purchasers reported that price was a "not  
19 important" factor. U.S. producers reported almost  
20 uniformly that the imported and domestic products are  
21 always interchangeable, and that non-price differences  
22 are never a factor in purchasing decisions. Importers  
23 and purchasers also agree the subject imports and the  
24 domestic-like product are always or frequently  
25 interchangeable.

1           The high degree of interchangeability is  
2           underscored by the use of reverse internet auctions  
3           and other internet bid events where the retailer will  
4           hire another company to manage the auction, to gather  
5           the bids, and it can either do it in a reverse auction  
6           format or just in a bid format where everyone is  
7           prequalified so everybody's quality is already  
8           assured, and they bid. Whether to reverse auction or  
9           this other type of bid event, it's the same thing.  
10          It's emphasis on price.

11           You've also heard testimony about blended  
12          sales programs where companies will sell some of their  
13          own U.S.-made product, and then they'll compliment  
14          that with some imported product that's cheaper and  
15          then sell the blended price for the imported and  
16          domestic product together, which also shows the  
17          fungibility of the products. Second, PRCB production  
18          facilities are designed to operate continuously as  
19          you've heard from witnesses.

20           It's just not economic to turn the machines  
21          on and off, so the domestic producers face enormous  
22          pressure to keep those machines running continuously,  
23          so they sometimes don't have a choice. They've got to  
24          go down low to meet the import prices in order to keep  
25          their plants going. Third is included in the

1 prehearing report. Demand for PRCBs is price and  
2 elastic. Thus, the lower prices of subject imports do  
3 not stimulate any additional demand. They just take  
4 away sales and revenues from domestic producers.

5 Fourth, as you've heard from the witnesses,  
6 and as detailed in our prehearing brief, the domestic  
7 industry has benefitted from the anti-dumping duties  
8 on orders from imports from China, Malaysia and  
9 Thailand. Finally, the filing of the petition was a  
10 significant market event that changed the buying  
11 patterns of purchasers and provided volume and price  
12 benefits to the domestic industry during January to  
13 September 2009.

14 If you look up at Slide 7, this one is not  
15 in our prehearing brief. We have a couple of other  
16 articles that are, but this one shows that in October  
17 2008 a U.S. trade lawyer was speaking to the Vietnam  
18 Plastic Association, and he said that imports from  
19 Vietnam have offered the lowest prices for their  
20 products, and American rivals who have suffered  
21 overall declines in revenues consider this an unfair  
22 trading practice.

23 Those comments we submitted on the GSP issue  
24 was an initial step for a lawsuit by them against  
25 Vietnam's exporters of the bags. You also know that

1 many factories from China and other countries and  
2 territories have moved to Vietnam to circumvent anti-  
3 dumping orders from the U.S. government. We have  
4 another article dated April 2, 2009. It's Exhibit 12  
5 to our prehearing petition from Vietnam, which is  
6 entitled U.S. Dumping Lawsuit Looms as Vietnam's  
7 Plastic Bags Smother Market.

8 This was reporting on another talk I think  
9 that the same U.S. trade lawyer made to the Vietnam  
10 Plastic Association warning that a trade case was  
11 likely, and then Exhibit 13 to our prehearing has an  
12 article that appeared on April 8, 2000. That's just  
13 about a week after the petition was filed entitled,  
14 "Anti-dumping Lawsuits Hindering Exports." He was  
15 reporting on the filing of this petition and noting  
16 that it was already hindering exports to the United  
17 States.

18 As the Commission is well aware, you've run  
19 into this issue a lot in the last couple of years, but  
20 the statute requires the Commission to consider  
21 whether any changes in the trends are related to the  
22 pendency of the investigation, and if it find a  
23 pendency affect, it may reduce the way to coordinate  
24 the data for the period after filing of the petition,  
25 and the SAA is pretty strong on this saying that

1 really the burden is on the other side to show that  
2 any change in trends is not related to the filing of  
3 the petition.

4 We think the pendency effect in this case is  
5 clear from the record evidence, which we've summarized  
6 in our confidential prehearing brief. It comes from a  
7 lot of information in the questionnaire responses,  
8 which of course is confidential, so we think that the  
9 commission should focus on data from 2006 to 2008 and  
10 give considerably less weight to interim 2009 when  
11 evaluating the health of the industry both for  
12 material injury and also the vulnerability of the  
13 industry in the context of assessing threat.

14 Turning to material injury, I'd like to go  
15 through these statutory factors. I have a few more  
16 slides to help us with some of the data. First, the  
17 volume of imports is significant and the increase in  
18 the volume of imports is significant. The volume of  
19 imports is significant in relation to domestic  
20 production and U.S. consumption. During 2008, subject  
21 imports were equal to 22 percent of domestic  
22 production and 14.4 percent of U.S. consumption.

23 Imports from the subject countries accounted  
24 for over 40 percent of imports from all countries.  
25 The increase in the volume of subject imports is also

1 significant. As shown on Slide 8, you'll see that  
2 subject imports increased 114 percent from 2006 to  
3 2008. I would emphasize in terms of the other side  
4 saying well, there wasn't any big increase in 2008,  
5 these are imports that hit the port right?

6 It's silly to say that imports in 2007  
7 didn't have any impact on the market in 2008. When  
8 Hilex closed a plant in January 2008, I would submit  
9 that's not due to the high level of imports in 2008.  
10 It's to the surge taking place in 2007, so this  
11 cherry-picking the data and not using your normal  
12 trend of looking for the beginning of the period of  
13 investigation to the end of investigation we think is  
14 collaborate but not persuasive.

15 As shown on Slide 9, subject imports  
16 increased by 188 percent in value from 2006 to 2008.  
17 As shown on Slide 10, subject import share of apparent  
18 consumption in units increased from 6.3 percent in  
19 2006 to 14.4 percent in 2008. That's an increase of  
20 8.1 percentage points. As shown on Slide 11, subject  
21 imports share of apparent consumption in value  
22 increased from five percent in 2006 to 12.5 percent in  
23 2008. It increased sequentially from 2006 to 2007,  
24 and again from 2007 to 2008, and that's an increase of  
25 7.5 percentage points.

1           As shown on Slide 12, the ratio of subject  
2 imports to domestic production increased from 9.7  
3 percent in 2006 to 22 percent in 2008. There was an  
4 increase from 2006 to 2007 and again an increase from  
5 2007 to 2008. Turning to pricing, the subject imports  
6 have had an adverse affect on prices, and I know you  
7 generally look at underselling, and the statute  
8 requires you look at whether prices have been  
9 adversely affected otherwise, so while we think that  
10 this record contains a lot of evidence of  
11 underselling, there's also additional alternative  
12 evidence that also indicates the adverse price effects  
13 of the imports.

14           We go through the underselling evidence in  
15 detail in our prehearing brief at page 40 to 49. A  
16 lot of that is confidential of course, but the  
17 following are among the facts that can be discussed in  
18 this public hearing. Purchasers overwhelmingly  
19 characterize subject imports as lower in price or  
20 comparable in price to domestic producers. According  
21 to the prehearing report, 12 of 16 purchasers reported  
22 that domestic product prices were higher than or  
23 comparable to prices of imports from Indonesia.

24           Sixteen of 19 purchasers reported that  
25 domestic product prices were higher than or comparable

1 to prices for imports from Taiwan, and 19 of 24  
2 purchasers reported that domestic product prices were  
3 higher than or comparable to prices for imports from  
4 Vietnam. As the prehearing report note, product-  
5 specific pricing comparisons using the Commission's  
6 normal methodologies of coming up with weighted  
7 average unit values based on shipment and value data  
8 per quarter are complicated by a number of factors.

9 Even with those caveats, the product-  
10 specific quarterly data indicates significant import  
11 underselling. Subject imports undersold the U.S.  
12 product in 152 of 258 quarterly comparisons. Some  
13 underselling was present for all eight products.  
14 Those quarterly price comparisons do not include the  
15 direct imports by retailers for their own use. Those  
16 are detailed separately in the prehearing report at  
17 Appendix 10, and as noted in the prehearing report at  
18 page 5-28, prices for such direct imports were  
19 generally lower than the importers' sales' prices used  
20 for the quarterly price comparisons.

21 Obviously, direct imports by retailers are  
22 head-to-head competition with domestic producers, and  
23 they're very significant in the marketplace. I mean,  
24 these are companies that are large enough to have  
25 their own container programs and to be bringing in



1 direct imports, and Exhibit 14 to our prehearing brief  
2 compares domestic prices with those direct retail  
3 importer prices. As shown on Slide 13, an average  
4 unit value analysis indicates underselling by the  
5 subject imports.

6 I know you have some hesitation in using  
7 unit values in this case because of the range of  
8 products, but given the fact that 95 percent of the  
9 product is T-shirts and other dye-cut bags, we think  
10 the comparisons are very valid, and if anything,  
11 they're biased against the domestic industry in this  
12 comparison to the extent that you believe that the  
13 imports constitute a higher percentage of the higher-  
14 end bags.

15 What this would show is that the subject  
16 imports are substantially under the U.S. producers'  
17 average unit values, and I didn't put this up on the  
18 slide, but these prices are also below the average  
19 unit values of imports from China, Malaysia and  
20 Thailand, which corroborates what's obvious from the  
21 data, which is there's a switch of sourcing from the  
22 countries subject to duties to these suppliers in  
23 Indonesia, Taiwan and Vietnam.

24 Irrespective of underselling, it's clear  
25 that just applying basic economics to the subject

1 imports cause significant price suppression in this  
2 case because they added tremendous incremental  
3 supplies to the market. There's intense price  
4 competition. Orders are won by a one-percent  
5 difference in price. You add that much incremental  
6 volume to the market, it's got to have a downward  
7 impact on price.

8 In fact, as you found in your preliminary  
9 determination as if found in the prehearing report,  
10 the imports subjected the domestic industry to severe  
11 cost price squeeze. As shown on Slide 14, from 2006  
12 to 2008, the ratio of U.S. producers COGS to net sales  
13 rose by 2.4 percentage points. The increase in COGS  
14 was driven by raw material costs. Overall, the cost  
15 of goods sold increase overwhelmed the concurrent  
16 increase in sales value resulting in lower gross  
17 profit in 2008 than in 2007.

18 In short, the domestic industry was unable  
19 to maintain gross margins because import price  
20 competition prevented it from increasing prices  
21 sufficiently to cover increasing costs to production.  
22 The doubling of subject import volumes while demand  
23 was falling necessarily suppressed prices in the U.S.  
24 market, and we're not talking about a 20-percent  
25 increase. I could see there would be an issue here if

1 it was a 20-percent increase or a 15-percent increase,  
2 but we're talking about a doubling of imports from  
3 2006 to 2007, and that had to have adverse price  
4 effects.

5 Looking at the third factor in the statutory  
6 analysis, subject imports have had an adverse impact  
7 on the domestic industry. During the POI, the  
8 domestic industry should have benefitted from the  
9 anti-dumping orders against imports from China,  
10 Malaysia and Thailand. Imports from those countries  
11 declined dramatically from 2006 to 2008. In fact,  
12 imports from China, Malaysia and Thailand lost 8.3  
13 percentage of U.S. marketshare in quantity from 2006  
14 to 2008.

15 The marketshare that the under-order  
16 countries had taken, when they receded from the  
17 market, we should have taken that back as a domestic  
18 industry. Instead, much of it was taken by producers  
19 in Indonesia, Taiwan and Vietnam whose marketshare  
20 rose from 6.3 percent in 2006 to 14.4 percent in 2008.  
21 Moreover, even with the reduction in subject imports  
22 from order countries, the domestic industry's  
23 commercial shipments by quantity declined by 2.5  
24 percent from 2006 to 2008.

25 In interim 2009 however, the domestic

1 industry regained two percentage points of marketshare  
2 from subject imports due to the strong pendency effect  
3 in the U.S. market. As summarized on slide 15, from  
4 2006 to 2008, the industry suffered declining  
5 performance trends in capacity, production, U.S.  
6 shipment quantity, production in related workers and  
7 in hours worked. In fact, the greatest decline, the  
8 sharpest decline in production and PRWs and hours  
9 worked I believe was from 2006 to 2007.

10 Also, I should note that in addition four  
11 plants closed during the period of investigation due  
12 to the supply/demand imbalance. Workers at two of  
13 those plants were certified for trade adjustment  
14 assistance. Three of the plants were those of Hilex.  
15 The fourth plant was of Euro Packaging, which closed  
16 in late 2008. Its data is not in the prehearing  
17 report, so there is some survivor bias at issue here  
18 in terms of the data trends.

19 As shown on Slide 16, the industry also  
20 suffered declining financial performance from 2006 to  
21 2008. Net sales and quantity declined, gross profit  
22 declined substantially, capital expenditures  
23 plummeted, and operating income was a disaster. The  
24 greatest drop in capital expenditures I might add was  
25 from 2006 to 2007. As shown on Slide 17, the

1 industry's operating income margin and return on  
2 assets was barely positive in 2006 and 2007 and became  
3 sharply negative in 2008.

4 You'll hear the other side argue that we had  
5 this great increase in performance in 2007 when  
6 imports were going up. I don't see it here. You  
7 can't survive with an operating income margin of less  
8 than one percent and return on investment of about one  
9 percent. It's not going to work. I want to emphasize  
10 the question of investment and growth, which the  
11 statute of course requires.

12 CHAIRMAN ARANOFF: Mr. Dorn, you have run  
13 out of time here and gone a few seconds over. Can you  
14 wrap up for us, please?

15 MR. DORN: Yes. I would just like to  
16 emphasize the fact that the outcome of this case is  
17 really going to dictate the profile of this industry  
18 going forward. A negative vote is going to mean  
19 there's going to be a continuing trend of contraction  
20 and disinvestment and that the U.S. market will be  
21 supplied more and more by imports from these subject  
22 countries. An affirmative determination is going to  
23 allow these companies to resume investing in their  
24 U.S. plants and to maintain our U.S. factories and  
25 U.S. employment basis. Thank you.

1                   CHAIRMAN ARANOFF: Thank you. I think we  
2 went about a minute over, Mr. Secretary. You can add  
3 a minute to the other side for this afternoon. Okay,  
4 well -- welcome to this morning's panel. We have this  
5 new sound and timing system in here which brings us  
6 into the 21st century, assuming we're paying enough  
7 attention to it to see when the time is running out.  
8 Unfortunately, the one thing our new system can't do  
9 for us is change our clock to Daylight Savings Time,  
10 so the clock that we're looking at is an hour off,  
11 which isn't helping to stay completely in touch with  
12 what's happening, but in any event, I do want to  
13 welcome all the witnesses to this morning's panel, and  
14 thank you for taking time away from your businesses to  
15 be here and to answer our questions.

16                   We're going to begin the questioning this  
17 morning with Commissioner Pinkert.

18                   COMMISSIONER PINKERT: Thank you, Madam  
19 Chairman, and I join the Chairman in welcoming all of  
20 you and thanking you for being here. My first  
21 question, I'm not sure whether it's more appropriate  
22 for post-hearing or for the hearing itself, but I want  
23 to give you an opportunity at the hearing to respond  
24 to an argument, and the argument is that a certain  
25 type of importer accounts for almost all of the

1 imports from Taiwan and Vietnam for certain pricing  
2 products. Now, I can't be more specific than that,  
3 but if you look at page 27 of the prehearing brief  
4 filed by the other side, they talk about this.

5 MR. DORN: I think I'm looking at the  
6 public, and so much is whited out here, I think we'll  
7 have to address this in our post-hearing.

8 COMMISSIONER PINKERT: That's fine.

9 MR. DORN: Just to respond to that argument  
10 basically?

11 COMMISSIONER PINKERT: Yes.

12 CHAIRMAN ARANOFF: Mr. Secretary, can you  
13 get the green light on, please?

14 COMMISSIONER PINKERT: Okay. Now, my second  
15 question goes to your point about the performance of  
16 the industry in interim 2009, and I'm wondering if the  
17 panel would characterize that performance as robust?

18 MR. DORN: Well, I would note that among  
19 other datapoints for January to September 2009, that's  
20 the lowest capacity utilization of any of the periods,  
21 so it's kind of hard to say it was robust. It was  
22 better in comparison to a very weak performance in  
23 2006 and 2007.

24 MR. BAZBAZ: Well, in our case, we continued  
25 losing money, less money, but still a loss.

1                   COMMISSIONER PINKERT: What was driving  
2                   that?

3                   MR. BAZBAZ: We had a tremendous impact from  
4                   a loss of sales that happened in mid-2008, and that  
5                   carried on until sometime in 2009. After we filed the  
6                   petition, the market strengthened, and we were able to  
7                   regain some of those sales, but we were already too  
8                   long in the 2009 period to find there.

9                   MR. DANIELS: I would also concur that it's  
10                  not robust. There's still significant improvements  
11                  that can be made to get this industry back to  
12                  profitability, and a lot of that's going to depend on  
13                  how this Commission determines the outcome of this  
14                  case. We are seeing some elevation in pricing. In  
15                  the tail end of 2008, we saw some de-escalation in  
16                  resin prices, and you always have a bit of a lag  
17                  effect on that, so we had some wind in our sails and  
18                  profitability that way.

19                  Now in 2010, we're seeing an escalation in  
20                  resin prices, and we could be subject to the same  
21                  kinds of price pressures from the way business is  
22                  conducted with these subject countries.

23                  MR. BAZBAZ: I would also argue that even  
24                  though we didn't make any money, the industry made  
25                  about \$25 or \$26 million, but investment in the



1 industries after depreciation is still at \$500  
2 million, so I would argue that this is not enough  
3 return for the investment there and for the risk that  
4 this industry has.

5 COMMISSIONER PINKERT: Okay. Let's go back  
6 to 2006, 2007, and again I'm looking at the  
7 performance of the domestic industry, and the question  
8 is did the performance improve from 2006 to 2007, and  
9 if so, why?

10 MR. BAZBAZ: Our performance improved  
11 because of the orders that were placed against China,  
12 Thailand and Malaysia. That had a very, very good  
13 impact in the market.

14 COMMISSIONER PINKERT: Any other responses?

15 MR. DORN: If I might just add following up  
16 on that comments, from 2006 to 2007 the imports from  
17 China, Malaysia and Thailand were backing out of the  
18 market, and unfortunately, the domestic industry  
19 didn't pick up a large chunk of that receding supply,  
20 but it did pick up some, so it was benefitting from  
21 the orders against China, Malaysia and Thailand. It's  
22 just it didn't get as much benefit as it would have  
23 gotten had these imports not been replaced by the  
24 subject countries.

25 MR. BAZBAZ: There is also something else

1 that we all see is that most of the activity of the  
2 imports come in the second part of the year, so as we  
3 were benefitting from the existing orders, the surge  
4 in imports did not come exactly at the same time that  
5 the prior subject imports from China, Thailand and  
6 Malaysia were going down, but they came in a surge  
7 substantially in the second half, which is typical for  
8 the industry to receive that.

9 COMMISSIONER PINKERT: Mr. Daniels?

10 MR. DANIELS: I would note that our  
11 financial condition was very poor during those  
12 periods, and really coming out 2008 into 2009 is when  
13 we've had significant improvements as a result of the  
14 preliminary determinations.

15 COMMISSIONER PINKERT: Thank you.

16 MR. DORN: And I'd just add one other thing.  
17 I mean, from 2006 to 2007, you did have the biggest  
18 drop in employment and capital investment, so it's  
19 kind of misleading to sort of pigeon-hole the data  
20 into one count a year. I mean, there was a surge of  
21 imports that exhibits certain damage in 2007, a plant  
22 closure by Hilex, declining employment, declining  
23 investment, but those imports didn't all get absorbed  
24 in the market by December 31.

25 I mean, their inventories increased. In

1 your normal case, we have a good response rate from  
2 importers that's comprehensive. You would compare  
3 marketshare by looking at the shipments by the  
4 importers, and here you're using the official import  
5 data as a proxy, so I think you have to consider that  
6 in looking at the import trends that if it was in  
7 terms of shipments, you would see a continuing  
8 increase in units in 2008 we believe.

9 COMMISSIONER PINKERT: Thank you. Now I  
10 want to talk a little bit about the reverse internet  
11 auctions, and I noted from the testimony, particularly  
12 from Mr. Rizzo's testimony, that you talked about how  
13 the lowest bid didn't always win the auctions, but I'm  
14 wondering if there's a way that you can quantify the  
15 amount by which the winning bid deviated from the  
16 lowest bid and in particular what the maximum  
17 percentage deviation was from the lowest bid so that  
18 we can get some idea of Mr. Rizzo's point that it  
19 didn't deviate by very much from the lowest bid?

20 MR. RIZZO: I would say we keep pretty  
21 comprehensive records of the bid results to the extent  
22 of what's published. Some internet results don't  
23 publish exactly what the lowest amount is, so to the  
24 extent that we know, we can certainly disclose that  
25 and come up with some indicator, but in terms of

1 anecdotal information, the deviation is not great.

2           There's just no reason for it to be, and if  
3 there's a spread among three different viable  
4 competitors who have all been prequalified in terms of  
5 quality, if the spread is marginal, they basically got  
6 three compelling opportunity, and generally the spread  
7 is not large.

8           MR. BAZBAZ: In our case, we participated in  
9 that precise reverse auction that Mr. Rizzo alluded  
10 to, and in that auction, you could see what was the  
11 lowest bid all the time. We were trying to get to the  
12 first or second or third place. I mean, we just  
13 needed to get some business in that period of time.  
14 We had a tremendous downturn from our loss of business  
15 in Walmart, and we knew that, for instance, in a  
16 portion of the business that was about \$3 million  
17 because this event was for a few supermarkets, an  
18 entity that was buying bags for a few supermarkets.

19           One of the supermarkets was about \$3 million  
20 in the total purchase, and our difference with the  
21 lowest one was less than \$10,000 in the \$3 million.  
22 In many cases, in many segments of that, the second  
23 place represented like \$800 or \$1,000 from the lowest  
24 one, so you could tell there were many, many people  
25 competing at the last stage for a very, very little

1 amount of money.

2 COMMISSIONER PINKERT: Thank you. Thank  
3 you, Madam Chairman.

4 CHAIRMAN ARANOFF: I have a bunch of  
5 questions about conditions of competition, and first I  
6 wanted to start with the issue of demand. We know  
7 that demand declined during the period. You all have  
8 predicted that it's likely to stay or maybe decline in  
9 the future. Are those for the same reasons, or would  
10 you say it declined during the period of investigation  
11 because of the economy, and then in the future, you're  
12 looking for at the issue of reusable bags or  
13 restrictions on plastic bags?

14 MR. DANIELS: I think it's a bit of a  
15 combination of both. There's somewhat of a cascading  
16 effect when you get into a recessionary period where  
17 those shoppers that let's say shopped at Macy's or  
18 Dillard's have decided that maybe they're going to shop  
19 at Target, and those people that maybe were shopping  
20 at Target wanted to begin to shop at Walmart, you  
21 know, have your dollar go a little bit further.

22 You'll also kind of work the fact that many  
23 people that may have gone out to dinner oftentimes are  
24 now going to shop at supermarkets and do some cooking  
25 and things like that, so I wouldn't say on a per-unit

1 basis there's great deal of decline due to the recess,  
2 if you will. I think that a lot of retailers as we  
3 testified before such as Walmart or Publix, they  
4 actively promote reusable bags.

5 Here in DC we were not expecting a very  
6 regressive tax to go into effect on plastic bags,  
7 which is going to affect demand, so I think we've seen  
8 some customer perception awareness that plastic bags,  
9 you can use them more responsibly, they can be  
10 recycled and things like that. I think that's had  
11 some declining effect on the marketshare, but I  
12 wouldn't say the recession. I think that's just a  
13 shift in consumer behavior more than anything else.  
14 Does that answer your question?

15 CHAIRMAN ARANOFF: Well, it tells me what's  
16 not causing the observed decline. It doesn't  
17 necessarily tell me what is causing it. Would you say  
18 that is mostly a shift to using reusable bags?

19 MR. DANIELS: I think it's a shift away from  
20 retail.

21 MR. RIZZO: I mean, if we're going back  
22 looking at the past couple of years, I would say that  
23 there's a narrow portion of the business on the retail  
24 side that's certainly been compressed and certainly  
25 been impacted by the economy, and when we start to

1 sort of project that forward and we start to take a  
2 look forward, I mean, certainly there's uncertainty  
3 going forward, but there's no positive indicators that  
4 are countering that or any pending legislation to ban  
5 bags, so there's just not a lot of bright spots in  
6 terms of increased demand. For us, the best-case  
7 scenario is stagnant demand.

8 CHAIRMAN ARANOFF: Okay.

9 MR. BAZBAZ: Sorry, Ma'am.

10 CHAIRMAN ARANOFF: Go ahead.

11 MR. BAZBAZ: In our case, if we are just  
12 trying to understand the mind through in the period of  
13 investigation, even as late as late-April of 2009, our  
14 reports from the industry and from our customers, we  
15 had a large regional retail where we supply all the  
16 bags to them. They had told us that they have sold a  
17 lot of reusable bags, but only one percent of those  
18 people return those bags to the store to buy  
19 groceries. That was true until that timeframe, so the  
20 demand decrease had to be attributed to the recession  
21 because it just doesn't jive, the data more than one  
22 percent.

23 CHAIRMAN ARANOFF: Right. I mean, my  
24 observation, and sometimes I guess maybe we live in a  
25 bubble here in the Washington area, but I don't know a

1       sole who doesn't go to the grocery store now and use  
2       reusable bags. I've got a huge pile of them in my  
3       car, so to me it looks like huge phenomenon, but maybe  
4       nationwide, that's just not true.

5               MR. BAZBAZ: That might be true starting  
6       when the tax was approved, but I would argue that it  
7       was not the case before that.

8               CHAIRMAN ARANOFF: I don't actually live and  
9       shop in DC where they charge the tax. I'm over the  
10      border in another state where in fact they pay you to  
11      bring your reusable bags to the supermarket, five  
12      cents a bag. That's a pretty good incentive, but my  
13      question is even assuming that this catches on for  
14      supermarkets, which strikes me as sort of the easy  
15      conversion because you go there every week, and you  
16      bring your shopping list and your bags, that's kind of  
17      easy, but can that phenomenon spread to other kinds of  
18      shopping as easily? If you go to the mall, are people  
19      going to bring reusable bags?

20              MR. DANIELS: I can say this, Madam  
21      Chairman, first of all, bring your plastic bags back  
22      to recycle too, okay?

23              CHAIRMAN ARANOFF: I do. I do religiously.

24              MR. DANIELS: Because that's what our  
25      industry supports very much. I mean we have stated by



1 2015 to try to get 40 percent recycled content, and we  
2 need consumers to bring their bags back just as you  
3 would a reusable bag. We don't believe that it's as  
4 easy. We have taken surveys throughout the United  
5 States, and we probably had a population of about  
6 2,500 people views throughout all segments of the  
7 United States, and we're seeing about a two percent,  
8 two and a half percent return to supermarkets to your  
9 point of bringing back reusable bags for reuse.

10 I think that those people that want to reuse  
11 bags will probably bring them to footlocker or to the  
12 mall if they choose to shop in that kind of arena.  
13 I've not particularly seen it or witnessed that, but I  
14 wouldn't expect it to be a great deal of impact in the  
15 retail market space.

16 CHAIRMAN ARANOFF: So when people recycle  
17 plastic bags, are they generally turned back into  
18 plastic bags that compete with the new ones?

19 MR. DANIELS: In some instances, yes. We  
20 have a manufacturing facility in North Vernon,  
21 Indiana, that's devoted to that, so we bring the  
22 plastic bags and wraps back and wash them and  
23 reprocess them into pellets and make new plastic bags  
24 with a percentage of post-consumer resin. They are  
25 also returned to companies like Trex in Virginia that

1 make composite lumber.

2 There's a plethora of the different that  
3 they're made into. They're made into sewer pipes.  
4 There's some 850 million pounds of polyethylene resins  
5 that are returned to grocery stores and such that are  
6 recycled into lots of different materials, but plastic  
7 bags being one of them yes, absolutely.

8 CHAIRMAN ARANOFF: Do you view the recycled  
9 bags as being a competitive product?

10 MR. DANIELS: Yes, the processing costs and  
11 the logistic costs of getting those materials back  
12 from maybe Giant here in Maryland or wherever in the  
13 U.S., there's the logistic cost of taking the  
14 truckloads of materials back and reprocessing it, and  
15 then we distribute that material to our manufacturing  
16 facilities, so it's a cost that's comparable to when  
17 we purchase virgin resin or sometimes a little bit up.  
18 It's a market into itself, but it usually stays fairly  
19 well in balance for us.

20 CHAIRMAN ARANOFF: Does the domestic-like  
21 product that we're talking about include both the  
22 virgin product and the recycled product?

23 MR. DANIELS: Yes, it does.

24 CHAIRMAN ARANOFF: Okay. One of the things  
25 I'm also curious about in this market is just

1 understanding better the role of distributors.  
2 Correct me if I'm wrong, as I understand it, the  
3 retailer buys the bags from the manufacturer, but then  
4 the bags are shipped to distributors generally, not  
5 directly to the retailer?

6 MR. RIZZO: Yes, the distributors have  
7 product lines that are sort of bucketed in supply  
8 goods. Basically, they're non retail items, items  
9 that are not for resale, and that includes register  
10 tape, mop heads, shrink wrap, basically anything that  
11 can't be resold by the retailer, and if they're  
12 selling into supermarkets, you're including also bags  
13 for deli, bakery, so on and so forth, but they'll  
14 warehouse and distribute and bundle in trucks so that  
15 they can save on freight.

16 CHAIRMAN ARANOFF: Who owns the products  
17 that these distributors are warehousing? Do the  
18 distributors own them, or are they owned by the  
19 retailer that they're ultimately going to go to?

20 MR. RIZZO: Every commercial agreement could  
21 be different. You could be billing directly to the  
22 distributor, or you could still be billing back to the  
23 retailer. It's a commercial term dependent on the  
24 agreement.

25 CHAIRMAN ARANOFF: Okay. I'm just trying to

1 understand how those distributors are making their  
2 money. Are they getting paid a fee for a service, or  
3 are they marking up the price of the product?

4 MR. RIZZO: They make an up charge. What  
5 they'll do is they value proposition for the end user  
6 as we'll maintain a warehouse with all of the supply  
7 goods that you're going to need. We'll figure out  
8 what your monthly usage is, and when you're selling to  
9 retailers, they could have 600 stores, they could have  
10 1,200 stores, so they'll basically make sure that  
11 they've got store to door supply of non-resellable  
12 items available at any given time, so they make their  
13 money on holding the networking capital.

14 They have an up charge on the service that  
15 they're providing and whatever money that they make on  
16 the freight component.

17 CHAIRMAN ARANOFF: So when a retailer puts a  
18 purchase of plastic bags up for bid or however they do  
19 business, they know that they're paying not just the  
20 price that they're paying to you, the manufacturer  
21 plus they know they have to add this additional charge  
22 that they're going to pay the distributor?

23 MR. RIZZO: Yes, but it offsets what their  
24 freight would be otherwise or their warehousing costs  
25 would be otherwise.

1                   CHAIRMAN ARANOFF: Right.

2                   MR. RIZZO: I mean, there's an offset.  
3 There's definitely a benefit to them. I mean, the  
4 distributors who have a major share in the United  
5 States, they add value, and they make money  
6 accordingly.

7                   MR. BAZBAZ: Can I add some to that?

8                   CHAIRMAN ARANOFF: Sure.

9                   MR. BAZBAZ: Walmart was buying bags in the  
10 period of investigation, and we were delivering the  
11 bags in their distribution centers, and at that time,  
12 all the U.S. suppliers to Walmart were able to manage  
13 those distribution centers so they would never run out  
14 of bags, so you would keep two weeks or four weeks of  
15 inventory for the distribution centers that you were  
16 allocated. During 2008, Walmart made the decision, or  
17 maybe late 2007 beginning 2008, to start using Bunzl  
18 as a distributor.

19                   Walmart still bought the bags, but we were  
20 invoicing Bonzl for the bags, and they were charging  
21 Walmart a service charge for delivering the bags along  
22 with other things. I would say that cost should have  
23 been equivalent to what Walmart was going to cost them  
24 to distribute from their distribution centers to the  
25 stores.

1                   CHAIRMAN ARANOFF: Okay. I appreciate those  
2 answers. Thanks. Let me turn to Vice Chairman  
3 Pearson.

4                   VICE CHAIRMAN PEARSON: Mr. Rizzo, in your  
5 testimony, you emphasized the importance of price.  
6 And yet on this record we see for some pricing  
7 products in particular a substantial amount of  
8 overselling by the subject imports rather than the  
9 underselling. You know, it would almost seem to me  
10 that there's a disconnect between some of what you  
11 were saying in your statement and what I'm seeing on  
12 the record. Can you explain why I sense a disconnect?

13                   MR. RIZZO: Yeah. Actually, it's a great  
14 question. I'm glad you asked it. The truth is that  
15 doesn't reflect any of the experience that we have in  
16 the marketplace, and I agree that there is a bit of a  
17 disconnect. But just intuitively is it possible to  
18 increase your market share by such, you know, a huge  
19 degree over the course of two years by continually  
20 overselling a commoditized product? It's  
21 counterintuitive. There's just no logic behind it.

22                   I mean, you're talking about a spot sale?  
23 Perhaps. But not something that can be sustained over  
24 the course of time. You know, there are other factors  
25 in the middle of that as well.

1           MR. DANIELS: Yeah, if I could on this, yeah,  
2           when I was looking through their pre-hearing report on  
3           5-7, it appears that a substantial amount of the data  
4           is just missing. Indonesia's only reporting 19.5%,  
5           Taiwan 32.2%, Vietnam 58%. I'm unclear that data set  
6           is sufficient to come up with an accurate conclusion.  
7           And then what Mr. Dorn had said earlier that the  
8           direct, you know, the quarterly pricing for the direct  
9           imports to retailers where there was no broker or  
10          anything else involved, that's a substantial amount of  
11          the business. I believe that is not even contemplated  
12          in there.

13                 And then, you know, as I took a look at one  
14          of the slides that Mr. Dorn put up with regards to the  
15          average unit value, boy, that's much more accurate for  
16          what we see when we go into bid process and we find  
17          that we're two, two and a half dollars off in pricing  
18          on a case of bag that sold at ten dollars. That's  
19          more reflective of my experience at 20 years in the  
20          industry.

21                 So I wish I could explain exactly what I --  
22          I don't get to see all of the confidential data. But  
23          there was some real disconnects in here. Maybe  
24          another thing is the categories that we put together.  
25          You know, if you take a look at category two or three,

1 you know, it's such a wide expanse that maybe we're  
2 taking a look at the price of the smallest dimensions,  
3 the thinnest gauge, you know, printed with small ink  
4 on one color and comparing that to the largest  
5 dimension, the heaviest gauge printed with the most in  
6 colors. That's got to be a big disconnect because  
7 some of those pound differences were, you know, 50  
8 percent, 75 percent difference. And I think that  
9 there has to be a lot of noise within these figures  
10 because it's not our experience.

11 VICE CHAIRMAN PEARSON: Of course. But with  
12 our pricing products, we're measuring the quantity in  
13 terms of pounds and not in terms of the number of  
14 bags. So I think that the last issue that you  
15 mentioned has been addressed in our data, and staff  
16 will please correct me if I'm wrong. Okay, okay.

17 MR. BAZBAZ: Can I say something about it?

18 VICE CHAIRMAN PEARSON: Please, Mr. Bazbaz.

19 MR. BAZBAZ: Well, there's this issue, and I  
20 think this is true for every bag manufacturer. There  
21 is a fixed cost of bag manufacturing per day per bag  
22 machine, and there is a set amount of bags that you  
23 make per day on that bag machine. Now in certain  
24 product categories, you can have 8 pounds per 1,000  
25 bags or 15 pounds per 1,000 bags or 13 pounds per



1 1,000 bags. So if you divide the set amount of fixed  
2 cost into the number of pounds produced, you have a  
3 tremendous difference between the 8 pounds per 1,000  
4 to the 13 pounds per 1,000. So let's assume you're  
5 distributing to say something -- I add those numbers.  
6 There's \$3,000 per bag machine over 8,000 pounds is  
7 different than when you distribute \$3,000 into the 13  
8 pounds. So when you are comparing our 13 pounds, per  
9 pound might be lower because our cost is lower. And  
10 an importer might be using that 8 pounds as a basis of  
11 its value and the basis of his sale. So that might  
12 explain some of the overselling.

13 Another thing that might explain the  
14 overselling, I was thinking about this, is that at the  
15 event of the bid there is a competition right there.

16 VICE CHAIRMAN PEARSON: I'm sorry, at what  
17 point?

18 MR. BAZBAZ: At the event of the bid.

19 VICE CHAIRMAN PEARSON: At the bid? Okay.

20 MR. BAZBAZ: Yes, or the deadline for  
21 submitting all the bids, that's when the buyer makes a  
22 decision who to buy from. So let's assume for a  
23 moment that the buyer elects to buy from a lower price  
24 from Indonesia or Taiwan or Vietnam and at a very  
25 close price to the U.S. We have contracts that we

1 have to lower the price as the Kim data goes down on a  
2 monthly basis. So we start with the price, and next  
3 month we have a lower price and the following month we  
4 have a lower price. However, the imports they sell it  
5 at this price and they have 90 days to fill the  
6 pipeline with the same pricing. So it might very well  
7 be that the price that was reported as a sale was the  
8 original price and not the discounted price from the  
9 U.S. industry.

10 I tell you, we sell to Walmart and we lost  
11 the business for price, no question. And the damage  
12 we suffered, it's because of imports from price. So I  
13 don't understand any other situation.

14 MR. DORN: As I understand it in these bid  
15 situations, I mean sometimes you'll be bidding for 12  
16 months, 24 months of business. And so, you know, you  
17 could be undersold by the importer and lose a bid in  
18 July of 2008. But then using the methodology the  
19 Commission uses, I mean you're not capturing that  
20 point of competition right there because the product  
21 may not even be delivered -- the import product may  
22 not be delivered that quarter. So you're not  
23 capturing the real competition in price at the time of  
24 the bid.

25 What you're capturing is quarterly average

1 unit shipment values, you know, going down the road,  
2 you know, into 12 to 24 months of that contract. And  
3 so all kinds of things can happen.

4 VICE CHAIRMAN PEARSON: Right. But there's  
5 nothing unique about this case relative to all the  
6 other antidumping or countervailing duty cases we deal  
7 with in terms of how our quarterly pricing is handled,  
8 is there? Or am I missing something?

9 MR. DORN: What I would say is different is  
10 that the volatility of resin prices during this POI,  
11 if you look at that and the use of indices to index  
12 your prices to resin cost, and that's not uniform  
13 across the industry. I mean some people index or they  
14 change the price every month. Some change it every  
15 quarter. Sometimes you do it by negotiation every  
16 quarter with a customer. So it's just a lot of noise  
17 in the data.

18 And one other thing about the price  
19 comparisons that Mr. Daniels was talking about in  
20 terms of the, say, product two where you have a low  
21 end product would be the smallest dimensions, lowest  
22 weight, one ink with very little coverage and the high  
23 end larger dimensions, larger weight, full coverage of  
24 ink and five ink colors. There's a range there that  
25 could explain differences.

1 VICE CHAIRMAN PEARSON: Right.

2 MR. DORN: Also --

3 VICE CHAIRMAN PEARSON: But within our  
4 pricing data the way we have things structured, the  
5 only difference that we're not capturing would be the  
6 ink, right? Is that correct, because when we're  
7 measuring it on a weight basis, then the dimension  
8 size and the thickness of the bag should all wash out  
9 in the weight. Am I correct?

10 MR. DORN: I think not, as Mr. Bazbaz was  
11 trying to explain in terms of the units.

12 VICE CHAIRMAN PEARSON: Well, I understood  
13 what Mr. Bazbaz was saying, and he'll correct me if  
14 I'm wrong that at a time when raw material prices are  
15 falling that there can be some what would be  
16 artificial overselling because a longer term contract  
17 of three months or whatever for imports would continue  
18 to sell at a previous higher price, and the price that  
19 Mr. Bazbaz might be subject to with monthly  
20 renegotiation could be a lower price. And so you can  
21 have some artificial overselling, if you will, for  
22 that reason. Is that correct, Mr. Bazbaz?

23 MR. BAZBAZ: That was one argument which it's  
24 there as you indicate you understand. But there is  
25 another argument which is if we are making a bag that

1 weighs 13 pounds per 1,000, we're going to be more  
2 efficient and be willing to sell it at a lower price  
3 than a bag that would be 8 pounds per 1,000 because  
4 we.

5 MR. DANIELS: A lower pound price.

6 MR. BAZBAZ: I'm sorry?

7 MR. DANIELS: A lower pound price.

8 MR. BAZBAZ: A lower price per pound. So in  
9 the same product description, we had a substantial  
10 variation on the weight per 1,000 not between products  
11 and products but within the same product category.

12 VICE CHAIRMAN PEARSON: Right, because your  
13 concern is how other factory costs are allocated over  
14 the poundage of product produced, right?

15 MR. BAZBAZ: Yes.

16 VICE CHAIRMAN PEARSON: So --

17 MR. BAZBAZ: So let's assume that the data  
18 that you gathered was referring to a lighter weight  
19 product instead of a -- and the data that we promoted  
20 was a heavier weight product.

21 VICE CHAIRMAN PEARSON: Okay.

22 MR. BAZBAZ: And you would necessarily find  
23 some sort of overselling because it's still not apples  
24 to apples.

25 VICE CHAIRMAN PEARSON: Okay.

1 MR. BAZBAZ: Even if it's by the pound.

2 VICE CHAIRMAN PEARSON: My understanding in  
3 this investigation is that a very substantial cost of  
4 the final product is the raw material, the pet resin.  
5 And so in my mind I've been discounting any effect of  
6 other factory costs. But perhaps that's not correct.  
7 So for purposes of post-hearing, Mr. Dorn, if you have  
8 some way of elaborating the argument that Mr. Bazbaz  
9 is presenting to help make it more explanatory, more  
10 clearer to me, that would be helpful.

11 MR. DORN: We'll certainly do that. And one  
12 additional point is, you know, if you have a --

13 VICE CHAIRMAN PEARSON: I'm over time, but a  
14 very quick point.

15 MR. DORN: Just that in responding to the  
16 questionnaire, you can also report products that are  
17 not within the range if you just think that they're  
18 competitive. You have that option to add products in.  
19 So that even -- that broadens the range even more.

20 VICE CHAIRMAN PEARSON: Okay. Thank you.  
21 Madam Chairman, my time is expired.

22 CHAIRMAN ARANOFF: Commissioner Okun.

23 COMMISSIONER OKUM: Thank you, Madam  
24 Chairman, and I join my colleagues in welcoming all of  
25 you to the Commission. I appreciate you being here

1 and taking the time to answer our questions.

2 I think I'll just stick with some price  
3 questions since we're talking about that right now.  
4 And Mr. Dorn, first I think to you just in light of  
5 those comments that you had made regarding the AUVs,  
6 do you think the AUVs are more probative than the  
7 pricing data that we covered? Or what are you urging  
8 the Commission to do in conducting its analysis?

9 MR. DORN: I think that there are multiple  
10 forms of evidence in the record of price underselling  
11 which I've briefly summarized but go into more detail  
12 in our brief if you look again at confidential data  
13 that goes beyond just the quarterly pricing  
14 comparisons. There's a lot of other evidence of price  
15 underselling in the record.

16 One of those pieces of evidence is the AUVs  
17 which we think are very telling here.

18 COMMISSIONER OKUN: Okay, and --

19 MR. DORN: And they should be looked at as  
20 another indication of price underselling.

21 COMMISSIONER OKUN: Okay, now I will go back  
22 and look at those portions. In the discussion of the  
23 AUVs, did you address or respond to why we see such  
24 large fluctuations in AUVs of U.S. producers and U.S.  
25 shipments in terms of is it resin, is it product mix?

1 I mean what do you see in the AUVs when I look at them  
2 and see this fluctuation. And we have all this  
3 discussion about how large the product range is. It  
4 does give me concern in looking at the AUVs.

5 MR. DORN: It would be much easier to answer  
6 that in the --

7 COMMISSIONER OKUN: Okay, it's confidential.  
8 Okay. That's fine. Okay, that makes sense.

9 MR. DORN: But you're asking about the  
10 difference in the AUVs in the quarterly data or in the  
11 average unit value shipment data?

12 COMMISSIONER OKUN: I was looking at the data  
13 in the shipment data.

14 MR. DORN: Good. Thank you.

15 COMMISSIONER OKUN: Okay. And then Mr.  
16 Rizzo, I just wanted to -- there you are over there --  
17 go back to you in your oral testimony had referenced  
18 the coal sale. And I don't know, Mr. Dorn, if you can  
19 confirm in the public session whether this would be --  
20 the references -- all the references on the last sales  
21 are the same ones that the staff have investigated,  
22 and you might want to do that post-hearing for me.

23 MR. RIZZO: I think I better do that.

24 COMMISSIONER OKUN: Okay. So if you could do  
25 that because there were a number of -- your testimony



1 obviously referenced -- a number of the testimonies  
2 referenced very specific clients or customers or  
3 potential customers or customer used lots, and I just  
4 want to make sure that if it was referenced, it's one  
5 we've already investigated. And if not, then provide  
6 it.

7 MR. RIZZO: I'll be glad to do that.

8 COMMISSIONER OKUN: Okay. That would be  
9 helpful. And then Mr. Bazbaz, in your testimony you  
10 had mentioned the meet and relief clauses, and there's  
11 some information in the staff report about that. It's  
12 not clear to me, however, whether what you're saying  
13 is you have in fact during the period of investigation  
14 had meet or relief clauses invoked.

15 MR. BAZBAZ: The question is if we were --

16 COMMISSIONER OKUN: Did you have a contract  
17 where a meet or relief clause was invoked? In other  
18 words, they came to you and you either had to meet or  
19 relief? Did you actually have to do that during the  
20 period of investigation?

21 MR. BAZBAZ: Yes ma'am. Yes.

22 COMMISSIONER OKUN: Okay. So Mr. Dorn, can  
23 you make sure in post-hearing that we have the  
24 specifics on those.

25 MR. DORN: I'd be happy to do that.

1 COMMISSIONER OKUN: Okay.

2 MR. BAZBAZ: One more thing, ma'am.

3 COMMISSIONER OKUN: Yes.

4 MR. BAZBAZ: And I was thinking about the  
5 prices, too, is that those shipments that they are  
6 maybe reported by the actual price of the transaction  
7 might not reflect the pre-bid -- I mean the pre-bids  
8 that Spectrum was giving specifically to this total  
9 transaction. So it could be that variation as well.

10 COMMISSIONER OKUN: Okay. Well, I think from  
11 the questions you received both and then may receive  
12 later, just you know again the Commission tries its  
13 best in working with both sides to collect the most  
14 probative pricing data it can. And so to the extent  
15 that there are issues that you want us to look at or  
16 trying to distinguish this case from others when we've  
17 relied on pricing data and obviously we've collected a  
18 lot of pricing data here. There are a number of  
19 products, and that will be very helpful for the post-  
20 hearing and I know some of that must be done in post-  
21 hearing. But I'd appreciate seeing that.

22 Another question I wanted to raise that  
23 showed up in a number of the places in the staff  
24 reports was with respect to dual sourcing for your  
25 industry and what that means, it might mean for the

1 pricing data. So if producers could comment on is  
2 dual pricing common in your view in this industry?  
3 And if so, does that have an impact on pricing?

4 MR. RIZZO: When you refer to dual sourcing,  
5 you mean domestic versus imports, or --

6 COMMISSIONER OKUN: Or just, say, your  
7 customer saying I'm not going to put all my product  
8 with you. I want to spread it out either because you  
9 can't meet my requirements or for other reasons. I  
10 mean we hear lots of different reasons for why they're  
11 dual sourcing. But maybe do you hear that, and if so  
12 what reasons are given, and do you think that that  
13 affects pricing or volume.

14 MR. RIZZO: Plenty of customers. Plenty of  
15 customers. I mean I think every buyer's sort of got  
16 their own philosophy in terms of their risk tolerance.  
17 But it's very common to share business. We share  
18 business since we have mutual share of common  
19 customer. I mean it's pretty common. I mean does it  
20 create more of a competitive environment? Absolutely.

21 COMMISSIONER OKUN: Okay. And does it create  
22 more of a competitive environment regardless of who  
23 you are competing against, and do you know? In other  
24 words, in some cases -- again, not your facts when you  
25 tell me your facts here. In some cases we've heard

1 where you have dual sourcing, it's a little easier for  
2 the domestics to keep their price edge because some  
3 portion is going to go to domestics and some portion's  
4 going to go to another source, and therefore domestics  
5 maintain some type of pricing advantage. Is that the  
6 case here or not?

7 MR. RIZZO: Well, think about one thing,  
8 though. A lot of the reasons why the domestics keep  
9 their volume -- have been able at least we can speak  
10 on behalf of Hilex. One of the reasons we've been  
11 able to keep share is because we've been forced to  
12 lower our prices dramatically, and we've shown that in  
13 our submissions.

14 I think anecdotally you find the domestics  
15 sort of fall in line only because the cost structures  
16 are similar. But we've been unable to really align  
17 ourselves, you know, competitively against some of  
18 these imports who are not subject to duties where  
19 they're priced unfairly, where they come into the  
20 market with pricing that's what we would consider  
21 misaligned with the marketplace.

22 COMMISSIONER OKUN: Mr. Bazbaz, do you have  
23 any comments on it.

24 MR. BAZBAZ: Yes. We have to compete. We  
25 cannot have a disparity on prices. They will not pay

1 a premium for U.S. industry just because it's U.S. So  
2 if we had certain benefits in the past where because  
3 we were competing with fair conditions -- in fair  
4 conditions. When once the duties were applied to  
5 China and Malaysia, we were competing and able to  
6 compete there.

7 COMMISSIONER OKUN: Okay. Then that actually  
8 leads into another question. One of the arguments by  
9 respondents is that an important condition that the  
10 Commission should be looking at is the substantial  
11 amount of imports -- of subject imports by domestic  
12 producers themselves. And while some of the data's  
13 confidential, I wondered if you could respond to that  
14 allegation that because domestic producers are  
15 bringing in imported product, it can't be injuring  
16 you.

17 MR. BAZBAZ: In our case, sorry, we are  
18 bringing in very minimum amount of products compared  
19 to our sales. We are manufacturers. The fact that  
20 we're bringing our products that we could not produce  
21 efficiently at the price that the customer wants to  
22 pay for these products from overseas suppliers.

23 COMMISSIONER OKUN: And if you can comment,  
24 you might not be able to do that in open session. Are  
25 you saying those are products that you are no longer

1 producing? Or in other words, I'm trying to  
2 understand how that relates to your capacity  
3 utilization or the need to keep your factories  
4 running?

5 MR. BAZBAZ: We can produce those products.  
6 But specifically they are products that the weight per  
7 thousand bags is so low that our fixed cost of  
8 manufacturing is higher than what the imports are.  
9 And so we had to bring them to compete in just a small  
10 portion that complements that specific need for the  
11 customer. So this customer might require 10 percent  
12 of the lightweight bags, and that is the 10 percent  
13 that we buy. We buy pretty much just to be able to  
14 supply this customer the other 90 percent.

15 COMMISSIONER OKUN: Okay. And just so I'm  
16 clear on that, would you be also selling that customer  
17 some of your domestically produced bags in that same  
18 way, or you're saying that would be -- you would be  
19 importing that specific specification. You'd be  
20 importing all of that and then supplying domestic in  
21 another specification?

22 MR. BAZBAZ: No. In many other cases, that  
23 smaller weight basis we make for other customers that  
24 they are paying a decent price for that that would  
25 enable us to continue to supply in that.

1 COMMISSIONER OKUN: Okay.

2 MR. BAZBAZ: There are certain customers that  
3 would, you know, that we make those bags for.

4 COMMISSIONER OKUN: Okay. And could I ask  
5 representatives from Hilex to comment on that.

6 MR. RIZZO: We import less than 1 percent of  
7 our sales.

8 COMMISSIONER OKUN: And the reason you  
9 import?

10 MR. RIZZO: Similar example. I mean we'll be  
11 faced with a competitive situation. It's a price that  
12 we just can't hit with domestic production, and we  
13 look to see if we can import it.

14 COMMISSIONER OKUN: Okay. And Mr. Dorn, I  
15 have a few seconds remaining, I should say. At this  
16 time, your legal argument on how we should --

17 MR. DORN: Well, we certainly look forward to  
18 briefing this in full in our post-hearing brief. But  
19 as you know, the statute directs the Commission to  
20 focus on the U.S. production operations and not on  
21 importing operations by the domestic industry. You're  
22 not supposed to be focused on the foreign to the  
23 extent a U.S. producer has an affiliation in  
24 Indonesia, that's not a consideration for you either.

25 So I would say that if domestic producer A

1 is importing some product, that producer A is being  
2 hurt by those imports to the extent that it's reducing  
3 U.S. production, U.S. investment and U.S. assets,  
4 reducing production workers. But even if you were to  
5 disagree with me and say, well, maybe that's  
6 benefitting producer A, those imports by producer A  
7 are clearly hurting producer B, C, D, E, F and G. And  
8 you know, there's certainly precedence for it where  
9 the Commission has said that as well. So we'll be  
10 addressing those types of issues in our post-hearing  
11 brief.

12 COMMISSIONER OKUN: Okay. I appreciate those  
13 responses. Thank you, Madam Chairman.

14 CHAIRMAN ARANOFF: Commissioner Williams.

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

18 I want to continue along the same line of  
19 questioning as Commissioner Okun. And Mr. Dorn, you  
20 sort of said how we're supposed to look at these  
21 imports by domestic producers. Are you saying that we  
22 should give them less weight to these imports in our  
23 analysis, or what?

24 MR. DORN: No, you should equal weight. The  
25 imports that come into the United States are



1 necessarily displacing U.S. production. They're  
2 having effect on employment. They're having effect on  
3 investment. I think this record is very telling with  
4 respect to the impact of imports on investment  
5 decisions. As I said in my remarks earlier, the  
6 outcome of this case is going to dictate how much  
7 investment there is in U.S. capacity and how much the  
8 market is increasingly served by imports.

9 COMMISSIONER WILLIAMSON: Okay. Thank you.  
10 Mr. Bazbaz, go ahead.

11 MR. BAZBAZ: Yes, I'd like to make a  
12 distinction here. We import very minimum amount of  
13 quantities. But we know of other practices of other  
14 people like in this case API which they follow a  
15 strategy, have a blended program where a substantial  
16 portion of the sales product are coming from overseas.  
17 So the average price is lower than the domestic price  
18 if we were to manufacture it purely in U.S.

19 So in this case, the imports are relevant in  
20 th impact to the U.S. producers and relevant to the  
21 benefit of API benefitting from that lower price or  
22 benefitting the customer somehow. It's not the same  
23 as us.

24 COMMISSIONER WILLIAMSON: If I got it from  
25 your earlier comments, you were saying that there's

1 certain very light weight products that you might  
2 import but wouldn't produce here. Now why is that?  
3 Is it because it costs more to produce here?

4 MR. BAZBAZ: We make lightweight products for  
5 other customers. In this case, this is specific  
6 customer that one of their product categories for this  
7 customer was a lightweight bag that if we were to  
8 produce in the United States it would be more  
9 expensive than the prices that he was willing to pay  
10 when he compared that against somebody else -- that  
11 imported bag. So we had to buy those bags, and still  
12 have ample capacity because the prices for those bags  
13 were lower. If we were to produce those bags, our  
14 variable cost would be higher than the cost that this  
15 customer was buying.

16 COMMISSIONER WILLIAMSON: Would the same  
17 situation might apply even on a heavier weight bag?

18 MR. BAZBAZ: No. The heavier weight bag is  
19 substantially easier to compete, you know, depending  
20 on that category. We were able to make the heavier  
21 weight bag.

22 COMMISSIONER WILLIAMSON: Okay. So you might  
23 be more cost competitive --

24 MR. BAZBAZ: Yes, yes.

25 COMMISSIONER WILLIAMSON: In making the

1 heavier weight bag.

2 MR. DANIELS: If I may, think of it this way.  
3 You go through a few stages of manufacturing. You  
4 have to go through an extrusion process. And a thin  
5 film process, you might only be able to extrude, let's  
6 say, 500 pounds an hour of polyethylene through that  
7 unit that you're charging \$2,500 a day to, whereas a  
8 heavier gauge product you might be able to get 1,000  
9 pounds through. So your fixed assets become, you  
10 know, much more smooth with a heavier product.

11 And the same goes across the converting  
12 line. As you print and convert bags, you still might  
13 only on a thin gauge bag be able to do -- you're going  
14 to do the same amount of bags, but the thin gauge bags  
15 you're going to do much less pounds than the heavier  
16 gauge bags.

17 COMMISSIONER WILLIAMSON: Okay.

18 MR. DANIELS: So that heavier gauge bags, you  
19 get better asset utilization and extrusion and  
20 conversion, and your costs go down. To the point  
21 earlier, you know, the heavier larger bag will be sold  
22 at a price per pound less even though it might be more  
23 profitable than a thin gauge smaller bag.

24 COMMISSIONER WILLIAMSON: Okay, thank you for  
25 that clarification. I think I'm getting it now.

1 MR. DANIELS: Does it make sense?

2 COMMISSIONER WILLIAMSON: Yes, thank you very  
3 much. Let's see, respondents have said on page four  
4 of their brief that T-shirt bags are not produced in  
5 the same facilities by the same employees as all other  
6 bags. To what extent is there overlap at your  
7 production facilities?

8 MR. DANIELS: I testified that those three  
9 samples that I showed that the T-shirt bag, the die  
10 cut merchandise bag and the header bags are all made  
11 on any piece of equipment by our same employees across  
12 our portfolio of 120 some lines. So we really don't  
13 have any issue with regards to that. I think it was  
14 just a misinterpretation by our opponents.

15 COMMISSIONER WILLIAMSON: Okay.

16 MR. DORN: Just to be clear, I mean the three  
17 bags he showed, one bag was a T-shirt bag which they  
18 say is a separate industry from the two other bags he  
19 demonstrated -- one with a round hole and I think  
20 another one with a oval hole. They're saying those  
21 are not T-shirts. So there are other PRCB, and they  
22 claim that you can't make those with the same  
23 equipment. But that's not Hilex's experience. It is  
24 the same all of its lines including its bag converting  
25 lines. All it has to do is change the dye in terms of

1 how it stamps the film when it comes through the line.

2 COMMISSIONER WILLIAMSON: Okay. And I take  
3 it that's not a big deal to change dyes?

4 MR. DANIELS: Not a big deal at all. A dye  
5 might cost \$20, and the time to change the dye, you  
6 know, might be less than an hour. It's not a great  
7 cost to change over.

8 COMMISSIONER WILLIAMSON: Okay. Thank you.  
9 You argued that -- Petitioner argued that Interplash  
10 should be excluded from the domestic industry as a  
11 related party. Now the data are confidential. But  
12 please comment in your post-hearing brief on the ratio  
13 of this company's imports to its domestic production  
14 in light of Commission precedent on this issue and  
15 whether our precedent supports your conclusion.

16 MR. DORN: We'll certainly do that. Thank  
17 you.

18 COMMISSIONER WILLIAMSON: Good. Thank you.  
19 Do you have any forecasts or expectations on future  
20 demand in the U.S. and globally for bags?

21 MR. RIZZO: I mean from a broad market  
22 perspective as I stated earlier, our belief is that we  
23 can expect stagnant if not marginal declines.

24 COMMISSIONER WILLIAMSON: In the U.S.?

25 MR. RIZZO: In the U.S.

1                   COMMISSIONER WILLIAMSON: What about  
2 globally?

3                   MR. DANIELS: Globally, there's some negative  
4 pressure which obviously concerns us. I mean there  
5 was a tax law in Ireland, and there was some limited  
6 bans in China and some in Northern Africa. What  
7 concerns us about that is that the capacity still  
8 exists in that marketplace which would make world  
9 capacity even to a greater degree and leave us exposed  
10 to the supply/demand imbalance and price pressures  
11 that we're under now.

12                  COMMISSIONER WILLIAMSON: So you're saying if  
13 other countries start putting laws that try to reduce  
14 the consumption of the bags.

15                  MR. DANIELS: They'll export to the United  
16 States.

17                  COMMISSIONER WILLIAMSON: Okay. Thank you.  
18 Now where are the machines for making these bags? Are  
19 they -- is one country dominating that? Is there,  
20 say, one major global supplier?

21                  MR. DANIELS: It really depends. There's --  
22 Alpine is made in the United States.

23                  COMMISSIONER WILLIAMSON: Actually, where is  
24 Alpine? Is it over in Germany?

25                  MR. BAZBAZ: It's a combination of Japanese

1 and German components.

2 MR. DANIELS: I'm going to let Mr. Bazbaz  
3 answer this question.

4 MR. BAZBAZ: We have bag machines from  
5 Germany and from Italy. There are bag machines made  
6 all over the world -- in Taiwan, in China. There are  
7 many, many places that produce the machines, and  
8 clearly you can buy a substantial amount of equipment  
9 from any of those countries in Asia and in Germany as  
10 well.

11 COMMISSIONER WILLIAMSON: A significant  
12 difference in cost? I mean are Asian suppliers able  
13 to get machines cheaper?

14 MR. BAZBAZ: Yes. Typically, the machines  
15 that we buy from Germany are wide enough so we can  
16 have three to four lanes simultaneously running up,  
17 you know. Especially in the United States,  
18 substantially more expensive. But so labor  
19 utilization, it might be less in comparison to some  
20 extrusion facilities overseas. There might be just  
21 one extruder that would produce the equivalent of one  
22 bag off at substantially smaller investment, and those  
23 machines can be made also very quickly. Of course,  
24 the smaller investment compensates, you know, those  
25 are prohibitive. So.

1                   COMMISSIONER WILLIAMSON: But I take it, the  
2                   bags are the same. I mean --

3                   MR. BAZBAZ: The bags are the same.

4                   COMMISSIONER WILLIAMSON: Yeah, okay. Thank  
5                   you. You partially addressed this, but I was  
6                   wondering how do you respond to the Respondents'  
7                   assertion that you have not been seeking out new  
8                   production facilities in subject countries. This is  
9                   not a defensive measure but really a proactive  
10                  investment strategy. And in this connection, can you  
11                  comment on the correspondence between Hilex Poly and  
12                  Super EXIM Sari provided in Respondent's Exhibit 1 of  
13                  their brief.

14                  MR. DANIELS: I'd be happy to respond to  
15                  that, but we'd really like to do that in the  
16                  confidential post-briefing if I may.

17                  COMMISSIONER WILLIAMSON: Okay. Thank you.  
18                  Okay, starting import volume -- oops, I'm sorry.  
19                  Excuse me. I forgot to look. Thank you.

20                  CHAIRMAN ARANOFF: Commissioner Pinkert.

21                  COMMISSIONER PINKERT: Thank you, Madam  
22                  Chairman. My first question is a legal question for  
23                  Mr. Dorn. And from his previous answers, I think I  
24                  know what he's going to say on this one. But I want  
25                  to give him an opportunity to address it specifically.



1 Does it matter for our analysis of pricing and volume  
2 why the domestic producers might be importing? In  
3 other words, do we have to get into a subjective  
4 analysis of whether they're importing because they're  
5 being forced to import or they're importing because  
6 they want to import?

7 MR. DORN: I don't think a subjective  
8 analysis is called for and certainly not practical.  
9 And I think if you look at the record, I think you'll  
10 see that this is an industry that wants to be  
11 producing bags here in the United States. It's an  
12 industry that has come together to restore fair trade  
13 to the United States. If fair trade's not restored,  
14 they're all operating businesses. They've got to make  
15 make or buy decisions. If they cannot serve certain  
16 price points by making the product in the United  
17 States, they may be forced to import. But I don't  
18 know how you characterize that as being, you know,  
19 subjective intent. I think it's just business logic  
20 that if you're able to -- if you're getting, if you're  
21 losing market share to lower priced imports, you have  
22 no incentive to invest in your U.S. assets and you're  
23 going to start looking for alternatives. You want to  
24 keep being a player in the U.S. market, then so you go  
25 to the lowest cost country to compete with the

1 spectrum who's already getting that lower cost product  
2 in. So as I said before, I mean it's like in a trade  
3 adjustment assistance application. You can be awarded  
4 trade adjustment assistance where you just say that we  
5 increased imports -- our own company, and you get  
6 trade adjustment assistance because that's injurious.  
7 And your focus should be on the U.S. production assets  
8 and U.S. employers, and imports are injurious however  
9 you define the subjective intent of the importer, and  
10 they're injurious to the producer who's importing.  
11 And as I said before, they're obviously injurious to  
12 the other domestic producers who haven't made those  
13 imports.

14 COMMISSIONER PINKERT: Thank you. Now  
15 turning to an issue that is perhaps one that some  
16 commissioners look at in different ways. I'm  
17 wondering if the subject imports had exited the U.S.  
18 market during the period under examination, what would  
19 the pricing and the volume of the non-subject imports  
20 have been?

21 MR. DANIELS: Could I -- I'm sorry. I didn't  
22 quite understand the question.

23 COMMISSIONER PINKERT: Well, in other words,  
24 are the non-subjects simply reacting to what the  
25 subjects are doing so that if the subjects had left

1 the market, would the non-subjects have replaced them  
2 and deprived the domestic industry of any benefit?

3 MR. DORN: Well, the non-subjects are mostly  
4 China, Malaysia and Taiwan. So they're under the  
5 discipline of anti-dumping orders. If you look at the  
6 average unit values in the record, they are priced  
7 higher than imports from Indonesia, Taiwan and  
8 Vietnam. So there are substantial constraints in place  
9 to prevent them from coming in at the same prices.

10 So you know, I would suggest that even if  
11 imports from Indonesia, Taiwan and Vietnam had merely  
12 replaced imports from China, Malaysia and Taiwan  
13 without taking any share from the U.S. industry which  
14 is not the case, it would still be injurious because  
15 of the lower price points and the more aggressive  
16 downward pressure on market prices. But in this case,  
17 they obviously took share from domestic industry.

18 COMMISSIONER PINKERT: Thank you. Now I'd  
19 like to get the panel to talk specifically about  
20 Indonesia. I noted in the opening statements that the  
21 -- one of the attorneys was suggesting that we might  
22 decumulate Indonesia for purposes of threat -- of a  
23 threat analysis. So I'm wondering if the panel can  
24 speak specifically to pricing and volume of the  
25 Indonesian subject imports during the period.

1                   MR. DANIELS: Well, with regard to the  
2 volume, I thought I was telling that we were able to  
3 in that same chain of emails come up with the fact  
4 that Super EXIM was increasing their units from 1,200  
5 metric tons a month to 4,000 metric tons a month or a  
6 233 percent increase. You know, certainly that's  
7 problematic with that much capacity coming on stream.  
8 Another 8 billion and 8 percent of the marketplace  
9 that they could export into this market at prices that  
10 we've seen are extremely low. So that was a concern  
11 to us. That was kind of redacted from their  
12 testimony. So I'd be curious to see their argument a  
13 little bit later.

14                   MR. BAZBAZ: Also the bags are the same. The  
15 bags are the same in Indonesia, same quality, same  
16 bags made in Vietnam or Taiwan and bags made in non-  
17 subject countries. They're all the same distributed  
18 by the same channels and sold in the same way.

19                   MR. DORN: And if Spectrum, for example, who  
20 I understand from talking to the industry witnesses  
21 will source bags from Indonesia, Taiwan, Vietnam  
22 interchangeably, you know. In fact, sometimes we go  
23 to bid and not being sure which country's going to  
24 supply the order. So we don't see any basis for any  
25 differences in conditions of competition between

1 imports from Indonesia versus the other two countries.

2 COMMISSIONER PINKERT: Shouldn't we be  
3 looking at the average unit values of Indonesia versus  
4 the other two countries for purposes of making this  
5 cumulation determination?

6 MR. DORN: I don't think so. I think the  
7 more important thing is whether the excess capacity  
8 exist in all countries. There's capacity increases.  
9 There's the fungibility of the products from the three  
10 countries. The fact that they're channeled through  
11 the same importers I think it makes the conditions of  
12 the competition the same for all three countries.

13 COMMISSIONER PINKERT: And then specifically  
14 on the volume issue, if we look at market share for  
15 the three countries, should we be looking at  
16 differences in the percentage increases of the market  
17 share?

18 MR. DORN: I'd like to address that in a  
19 post-conference brief looking at your precedents on  
20 that and addressing all these factors if that's okay.

21 COMMISSIONER PINKERT: That's fine. Thank  
22 you. Now turning to your argument again on this  
23 threat analysis, turning to your argument that there  
24 are going to be significantly increased volumes from  
25 the cumulated countries in the imminent future, I'm

1 wondering whether that argument is based solely on  
2 available capacity or whether you have other driving  
3 factors that would suggest the increased volumes in  
4 the imminent future.

5 MR. DORM: Well, for -- you know, some of the  
6 information's confidential, of course, in the  
7 questionnaire responses. But for example, we have  
8 evidence of Fotai, Vietnam making a huge investment  
9 which is underway. We know that a major motivation  
10 for filing this action was the concern about that  
11 increasing capacity, and there was a slide Mr. Daniels  
12 referred to earlier based on market intelligence that  
13 highlights Scott about the new plant that they're  
14 building. And when that plant is completed, they  
15 would be able to serve 20 percent of the U.S. market.  
16 So that's a huge increase.

17 And we also have -- you should also keep in  
18 mind that the industry in Vietnam in particular is  
19 very new. I mean these are plants that have just  
20 started up since, you know, three or four years ago.  
21 It's a rapidly expanding industry. We know from one  
22 of the slides he was talking about the fact that Trade  
23 Council was talking to Vietnam Plastic Association and  
24 talking about plants that had sprung up by producers  
25 in other countries subject to the duties on Malaysia,

1 China and Taiwan who had moved to Vietnam to  
2 circumvent the duties in place.

3 So there's a lot of evidence, both  
4 confidential and public, to show that the capacity is  
5 increasing and that there's substantial excess  
6 capacity now. And interestingly, there's also  
7 information of record about the impact of the filing  
8 of this petition and these investigations with respect  
9 to capacity additions in these subject countries.

10 COMMISSIONER PINKERT: Thank you.

11 CHAIRMAN ARANOFF: Mr. Dorn, you've argued  
12 and the record indicates that the industry experienced  
13 a cost price squeeze between 2006 and 2008 because it  
14 didn't raise prices sufficiently to cover rising  
15 production costs. On this basis, you argue that  
16 competition from low price subject imports suppressed  
17 prices for domestic like product.

18 Now, a statute directs the Commission to  
19 consider whether subject import suppressed price  
20 increases that otherwise would have occurred, so my  
21 question to you is rising costs in kind of a healthy  
22 growing market, you would expect that a producer could  
23 pass along rising costs in the form of higher prices.

24 But what we have here is a market that was  
25 admittedly not that vibrant during this period of time

1 either because of economic conditions or because of  
2 shifting demand.

3 So my question is how can I conclude that  
4 price increases otherwise would have occurred absent  
5 the subject imports?

6 MR. DORN: I think you should listen to the  
7 expert testimony from the industry witnesses in terms  
8 of their experience in passing along changes in resin  
9 prices based on the way they price their finished  
10 products.

11 MR. RIZZO: If I can. I would say the  
12 overwhelming majority of our agreements all have very  
13 specific commercial terms that talk about how we pass  
14 through price changes specifically in raw materials.

15 If there are instances where changes occur  
16 in the way we sell or the price, or the type of bag  
17 that they're buying, or something that's going to  
18 impact our conversion costs, we have the ability to  
19 discuss that as well.

20 So our commercial terms are fairly clear in  
21 terms of our ability to be able to pass through price  
22 changes. If the competition is not enforcing those  
23 rule or not enforcing those terms in the same way,  
24 that's where the disconnect exists.

25 CHAIRMAN ARANOFF: So is that where you get



1 the instances where someone comes to you with a meter  
2 relief clause?

3 MR. RIZZO: I'll let Mr. Bazbaz respond to  
4 that --

5 CHAIRMAN ARANOFF: Because, I mean, if you  
6 could --

7 MR. RIZZO: -- I don't have such agreements.

8 CHAIRMAN ARANOFF: Okay, because you've got  
9 commercial terms that say, listen, we're going to pass  
10 on our increased cost.

11 MR. RIZZO: We're also going to decrease  
12 them as the --

13 CHAIRMAN ARANOFF: Right.

14 MR. RIZZO: -- next change, so that's really  
15 the crux of the issue.

16 CHAIRMAN ARANOFF: Right, but we if we have  
17 a situation here where the evidence shows that the  
18 costs were going up faster than your prices were and  
19 your commercial terms clearly state that that  
20 shouldn't happen so now I'm looking for the mechanism  
21 for why that didn't happen.

22 Now, an immediate release clause would be a  
23 mechanism, but if you don't have that, what's the  
24 mechanism?

25 MR. RIZZO: Well, the alternative is losing

1 the business if you don't acquiesce to the price  
2 compression. I mean, so it's effectively make a  
3 decision to deviate from our own commercial terms to  
4 maintain the volume. That's effectively how it  
5 happens.

6 CHAIRMAN ARANOFF: Yes. No, that I  
7 understand and that would show up in, you know, market  
8 share information, but it wouldn't show up as price  
9 suppression.

10 MR. RIZZO: It would show up as lost  
11 revenues?

12 CHAIRMAN ARANOFF: Yes.

13 MR. RIZZO: Okay.

14 CHAIRMAN ARANOFF: Mr. Bazbaz?

15 MR. BAZBAZ: Well, in our case there was  
16 substantial margin deterioration above the price of  
17 raw materials from the time the bid was set to you  
18 know -- this is, we already had a very, very tight  
19 margin above the cost of resin.

20 We were as aggressive as we could, but still  
21 we lost a huge amount of business because of the  
22 imports, and that really hurt us in a time where there  
23 was no other alternative.

24 Then the price of resin started to go up.  
25 For the small amount of business that we had in many

1 instances, some other -- in a different situation,  
2 some other people say, well, we are not receiving  
3 price increases from these other people so why should  
4 we pay you in price increase?

5 I said, okay, you know. We have this  
6 agreement that we will go up as, you know, when the  
7 price of resin goes up. He says fine, and you know,  
8 we just buy from the other guy.

9 MR. DORN: The only thing I've been -- as I  
10 understand the way the business operates, at the time  
11 of the bid you're competing, you know, and obviously  
12 everybody at the table here wants to get the highest  
13 price they can in relation to their resin cost, and  
14 they're competing with other players in the market in  
15 terms of what that initial bid price is is going to  
16 get the business.

17 What we're saying is that's where the  
18 underselling's taking place although it's not captured  
19 in the quarterly data, and that's where the price  
20 suppression is taking place because you're having to  
21 meet those competitive situations.

22 Even the -- you know, just the incremental  
23 volume is going to force you to meet a lower market  
24 price which is going to suppress the spread over your  
25 resin cost.

1                   CHAIRMAN ARANOFF: Okay. All right. I  
2 appreciate those answers.

3                   One of the arguments that the Respondents  
4 raise is that some of what shows up in our data as  
5 excess capacity for the domestic industry isn't really  
6 available because the domestic industry doesn't have  
7 the flexibility to sort of fit in short runs of  
8 product at the time when they might be needed because  
9 it's more efficient to have longer runs and turn down  
10 these small sales. So I guess I have two questions  
11 about that.

12                   One is essentially whether that's true and  
13 accounts for some of the excess capacity we see, but  
14 the other is if the subject producers are using the  
15 same equipment that you are, how come they can run  
16 those short runs as they claim they can.

17                   MR. DANIELS: In speaking for Hilex, we're  
18 very flexible when it comes to that. We do multiple  
19 short runs. Now, a short run for us would be about  
20 180 cases of bags, and I'm not really sure what the  
21 definition they were talking to, but that is -- in our  
22 industry with high speed, very state of the art  
23 equipment, 180 cases might only take us, you know,  
24 less than a half a shift to run.

25                   But we do that every single day of the week,

1 and we don't miss shipments. We track that very  
2 carefully. There's the fine lead times, and we meet  
3 those lead times. So I think that there was a bit of  
4 a disconnect there, a mistake, in their philosophy on  
5 how we go about their business.

6 MR. BAZBAZ: In our case, we have dedicated  
7 equipment specifically for short runs with a crew that  
8 is ready there to make those changes as fast as  
9 possible and continue.

10 We have idle equipment that if we get any  
11 sort of business that is above any valuable cusp to  
12 have some contribution, we will run then. So you  
13 know, we'll do that any time.

14 CHAIRMAN ARANOFF: Okay, thanks. That's a  
15 helpful clarification.

16 Is there a market for generic bags, ones  
17 that are plain or have some kind of generic printing  
18 on them like "thank you"?

19 MR. RIZZO: Yes. I mean, primarily sold  
20 through the distribution channels where they're just  
21 looking for a generic bag to sell to a multitude of  
22 different customers.

23 CHAIRMAN ARANOFF: Do you know about how  
24 much of the U.S. market the generic bags account for?

25 MR. RIZZO: I could do a little scrubbing on

1 that. If you give us a chance to go and analyze that,  
2 I'm sure we can come back to you with an estimate.

3 CHAIRMAN ARANOFF: Okay. I mean, you know,  
4 ball park. Are we looking 5, 10 percent of the  
5 market, or are we looking half the market, I mean?

6 MR. RIZZO: No, they're certainly not --

7 MR. DANIELS: Yes, I'd say less than 10.

8 MR. RIZZO: They're single digits.

9 CHAIRMAN ARANOFF: Okay. That's helpful.

10 MR. DANIELS: That is the most compressed  
11 highly commoditised market that's out there right now.  
12 You know, when Hilex says imported for competitive  
13 intelligence levels as well as anything else, it's  
14 usually the thank you bags that we would import as a  
15 defensive measure as opposed to supplementing any kind  
16 of production that we can do.

17 CHAIRMAN ARANOFF: Now, in most cases, is it  
18 the purchaser, the ultimate user, the retailer who  
19 sets the criteria for the bag in terms of the  
20 dimensions, and the thickness of the plastic, and you  
21 know, obviously the printing that's going to go on it?

22 MR. DANIELS: Certainly, but with our  
23 counsel. You know, a retailer such as, let's say, a  
24 Wal-Mart that's selling a mix needs a little bit of  
25 the heavier bag with some more integrity in it than,

1 let's say, a clothing retailer that might want  
2 something very inexpensive.

3 The color of the film, the printing colors,  
4 and things like that, that usually comes out of the  
5 marketing department of the retailer or the grocer.  
6 So it is the final decision of the retailer, but we  
7 certainly provide counsel on what would be an  
8 appropriate bag for their applications.

9 CHAIRMAN ARANOFF: So they're going to tell  
10 you what kind of products are going to go in the bag  
11 and then you're going to have to talk about how big  
12 the bag has to be to fit those objects and how sturdy  
13 it has to be?

14 MR. DANIELS: Correct. You know, we want a  
15 bag that's going to work, certainly.

16 CHAIRMAN ARANOFF: Okay, and in the case of  
17 these generic bag, who's setting the perimeters on  
18 those?

19 MR. DANIELS: Usually no one.

20 MR. BAZBAZ: May I say something about --  
21 these original sizes of the T-shirt bags came as a  
22 substitution for many, many years of certain volume of  
23 bags. They're 1/6 barrel, they're 1/7 barrel, and so  
24 on.

25 So it's a volume measurement, and the

1 dimensions of the bag reflect the volume measurement.  
2 So you have primarily three or four sizes of bags that  
3 apply. Not that many, however, there are some  
4 differences in the thicknesses of the bags. As some  
5 people might say, well, I don't need that thick bags,  
6 and so on.

7 CHAIRMAN ARANOFF: Okay. Allow me to start  
8 on this even though my time is going to run out and we  
9 may not finish it. You've made two arguments here  
10 that strike me as a little bit contradictory, and I  
11 wanted to ask you to reconcile them.

12 The first was that because these bags are  
13 products that the retailers give away, they have an  
14 incentive to get absolutely the lowest price. They're  
15 giving them away for free. Everything's overhead to  
16 them, so they want absolutely the lowest price.

17 You also said that, you know, the reason  
18 that our data don't show that these bids are going to  
19 the lowest bidder is because, you know, within the top  
20 two or -- the bottom two or three bidders, the  
21 difference is marginal which strikes me if you're a  
22 really large retailer dealing with a lot of bags and  
23 you're giving them away for free that even a tiny  
24 difference is not marginal.

25 That's what we keep hearing from those kind



1 of retailers when they talk to us about almost  
2 anything that they buy in large quantity. How do you  
3 reconcile that?

4 MR. RIZZO: I mean, like I said, we could  
5 show auction results that have a spread on the lowest  
6 three prices that are within a couple of thousand  
7 dollars of each other.

8 How would they reconciled not going to  
9 absolutely the lowest one? Well, when you have a  
10 spend of \$3 Million and maybe the incumbent is number  
11 two or number three, the cost of switching may not  
12 exceed the savings you'd get.

13 You've got inventory exposure. You've got  
14 just, you know, setting up new PO items. I mean, it's  
15 not -- the administrative costs might exceed the cost  
16 of change.

17 CHAIRMAN ARANOFF: So you would say it's  
18 probably an administrative cost as opposed to a  
19 difference in quality or --

20 MR. RIZZO: Absolutely not --

21 CHAIRMAN ARANOFF: -- something else.

22 MR. RIZZO: -- perception of quality. To be  
23 invited to the bid -- you're not participating in the  
24 bid if you're not deemed a qualified supplier.

25 CHAIRMAN ARANOFF: What about just taking

1 some that are higher priced because you're trying to  
2 maintain a dual or multiple supplier situation?

3 MR. RIZZO: That's really just -- it would  
4 be unique. It's unique to me. You don't see that all  
5 that often, but then that goes right back to the  
6 philosophy of the buyer.

7 CHAIRMAN ARANOFF: Okay.

8 MR. RIZZO: With the risk tolerances.

9 CHAIRMAN ARANOFF: Okay. Well, my time is  
10 up. Let me turn to Vice Chairman Pearson.

11 VICE CHAIRMAN PEARSON: Thank you, Madam  
12 Chairman.

13 The quantity of shipments for pricing  
14 product number three appears to exceed the quantity of  
15 shipments of all the other pricing products that we've  
16 looked at in the staff report. Yet for pricing  
17 product three, we have a mixed pattern of overselling  
18 and underselling with overselling leading by a little,  
19 but it's close.

20 So my question, isn't that a relatively  
21 normal competitive marketplace that we're looking at  
22 where there's kind of half overselling, half  
23 underselling?

24 I mean, if there were no imports in the  
25 marketplace, not one of your companies would get all

1 the business. You'd lose some business to  
2 competitors, so isn't what we're seeing here just  
3 normal competition?

4 MR. DORN: Well, I think what's telling here  
5 is the sharp shift in market share of doubling the  
6 market share in three years. I mean, that's showing  
7 that we know that this is a very price sensitive  
8 product. We know that pricing hugely determines the  
9 market share, and we know that market share has been  
10 going to the three countries with the lowest AUV's for  
11 imports.

12 And so, you know, they've got to be using  
13 price to do that. I would direct -- Vice Chairman, I  
14 would look at also Exhibit 14 to Petitioner's pre-  
15 hearing brief in which we look at product three, not  
16 in the data that was in the quarterly pricing  
17 comparisons but using the data in the appendix to the  
18 report which compares the prices -- has the prices of  
19 direct imports by retailers.

20 They're very large volumes there, and we  
21 think that's very telling in terms of the underselling  
22 analysis. Of course, the data are confidential.

23 VICE CHAIRMAN PEARSON: Okay. You have  
24 mentioned, though, this doubling of market share, and  
25 you know, it's hard for me to know exactly all the

1 influences in the market place.

2 But when I look at the change in market  
3 share for total imports, I see a decline over time.  
4 And yes, looking at subject imports, I do see an  
5 increase.

6 How should we evaluate the effect on the  
7 market place of the subject imports in the context of  
8 the decline in non-subject imports?

9 MR. DORN: Well, I think it's a significance  
10 that the decline in non-subject imports is basically  
11 China, Malaysia, and Thailand which are subject to the  
12 discipline of anti-dumping orders and that those have  
13 higher averaging values than the imports from  
14 Indonesia, Taiwan, and Viet Nam.

15 So you know, the remedy that was provided to  
16 the industry was working, and so this industry should  
17 be gaining back the market share it lost to China,  
18 Malaysia, and Thailand.

19 As those countries recede from the market,  
20 the domestic industry should be reaping that benefit.

21 VICE CHAIRMAN PEARSON: But didn't that  
22 happen to some degree with the non-subject imports  
23 losing more market share than the subject imports have  
24 gained and the domestic industry gaining some market  
25 share, then, over the period of time?

1                   MR. DORN: Well, there's mixed. As we  
2 explain in the pre-hearing brief, we were robbed of a  
3 substantial portion of the benefit that we should have  
4 obtained because some of that market share, a large  
5 part of that market share, went to the subject imports  
6 rather than domestic industry.

7                   So you've got the imports that are under  
8 order withdrawing from the market and, you know,  
9 instead of all that share going back to the domestic  
10 producers, a large portion of it's going to the  
11 subject imports which is, you know, it's how they  
12 double their market share.

13                   VICE CHAIRMAN PEARSON: Mr. Bazbaz?

14                   MR. BAZBAZ: You don't just look at market  
15 share, but look at market share at what price, at what  
16 margin, with what damage to the industry. I would  
17 argue that, you know, I'd rather have the competition  
18 from, you know, from China, Thailand, and Malaysia  
19 than having the competition that is completely wild  
20 and dumping. So we have to match those margins, and  
21 in many cases, even matching the margins, we just lost  
22 the business.

23                   One of the issues that I've been trying to  
24 also come with in settlement with is that the biggest  
25 size of use is also used by Wal-Mart and is not

1 reporting the data of pricing, or overpricing, or  
2 underpricing, and we lost it for price, nothing else.  
3 And Wal-Mart is a substantial buyer, you know, 20  
4 percent of the market.

5 VICE CHAIRMAN PEARSON: Okay. Mr. Dorn, how  
6 do you explain the disparity in financial performance  
7 among the various domestic producers? I mean, in most  
8 investigations we have some firms that are doing  
9 better than others.

10 We see that pattern again here, and it may  
11 be having some effect on the overall results that we  
12 see for the industry. And probably more for post-  
13 hearing than now, could you explain to me why we're  
14 seeing that difference because it's not at all obvious  
15 to me why it should be the case given that we have  
16 world-globally traded input that should be available  
17 to all the producers at pretty much the same price.

18 The production process is well known. It's  
19 been described here that their equipment is the same,  
20 and the market place they're selling into is pretty  
21 much the same for all of them. So why the  
22 differences? Are some firms managed better than  
23 others, or are there other factors that enter in?

24 MR. DORN: Well, I don't think this is  
25 unique at all to this case. I mean, I think in most

1 of the cases I work on you have a great disparity in  
2 terms of differences in terms of the absolute levels  
3 of probability of firms within the industry.

4 And I think that you start with a high  
5 profit and be hurt by imports. So you get a a little  
6 bit lower, you can start with a low profit, and  
7 imports are forcing you lower. Or you can have a  
8 loss, and the loss gets greater. But what --

9 VICE CHAIRMAN PEARSON: Yes, but this is --

10 MR. DORN: -- the Commission does is looks  
11 at the aggregate data, and I don't see a reason to do  
12 anything differently in this case.

13 VICE CHAIRMAN PEARSON: Right, but the  
14 majority of the sales here really are commodity sales  
15 in which the technology and the raw material costs are  
16 the same for everyone, and yet we're seeing this  
17 dispersion of financial results.

18 In cases where you have a lot of product  
19 differentiation and one firm doing a high-end product  
20 relative to another, then I can understand more easily  
21 why we see the differences in financial performance.

22 MR. DORN: I think Mr. Bazbaz wants to  
23 comment, but I think that there are other analogues to  
24 this case with similar types of products where you  
25 still have these varying patterns among the producers.

1 So I don't think that --

2 VICE CHAIRMAN PEARSON: So tell me what's  
3 causing those patterns in this case. That's what I'd  
4 like to know for post-hearing.

5 Mr. Bazbaz?

6 MR. BAZBAZ: Okay, well, even though we  
7 might think that labor is variable, it's really not  
8 variable. When you have your plants scheduled to work  
9 24/7, full time, and all the machines filled up, and  
10 then all of a sudden you get substantial loss of  
11 volume, it's a tremendous shove to that -- and you're  
12 trying to get business from somewhere else at a lower  
13 margin. You have to compete with the imports at a  
14 lower margin, but it's not instantaneous that you  
15 regain that volume.

16 So I would argue that the disparity -- the  
17 dispersion between producers has to do with the  
18 capacity capacitization most than anything. So you  
19 know, I would pretty much ask you to look into the  
20 records. I don't know any of that, but I know what is  
21 our relevant impact because of the use of capacity.

22 VICE CHAIRMAN PEARSON: So and actually I  
23 should offer an apology to the producers here because  
24 you haven't seen the comparison data that we have and  
25 you ought not to see it, but Mr. Dorn has and so



1 that's why I directed the question to him.

2 MR. BAZBAZ: I could only tell about us.  
3 That's all.

4 VICE CHAIRMAN PEARSON: All right. I  
5 believe that Respondents are arguing that there's  
6 really no causal link between subject imports and the  
7 financial results of the U.S. industry.

8 Certainly you can observe that the  
9 industry's best year for earnings was in a year in  
10 which subject imports did increase in a meaningful  
11 way, and then subject imports after that decreased  
12 modestly and the industry had worse results.

13 So you can easily make an argument that the  
14 relationship between subject import volume and  
15 financial performance seems opposite what one would  
16 expect.

17 Can you elaborate on that and explain why  
18 that might be the case?

19 MR. DORN: Well, a couple of factors. One,  
20 there was not any big improvement in profitability  
21 from 2006 to 2007. If you look at the operating  
22 income margins and you look at the return on assets  
23 margin, we're talking about less than one percent for  
24 operating income. We're talking about one percent for  
25 return on investments, so 2007 was a dismal year. It

1 was not a year that you'd say we made great strides.

2 As I mentioned earlier, if you look  
3 comparing -- if you want to cherry pick data just from  
4 two years, you'll see that the change from 2006 to  
5 2007 in terms of declining hours worked, production,  
6 and related employees and capital investment was the  
7 greatest from 2006 to 2007.

8 The other point I'd make is, you know, these  
9 data are for imports as they hit the shore, not when  
10 the imports are reaching the shelves of the check-out  
11 counters of the retailers.

12 So you can't just categorize all the imports  
13 in 2007 and suggest they had no impact in 2008. In  
14 fact, when Hilex closed its plant in January of 2008,  
15 it didn't know what imports were going to be in 2008.  
16 It's reacting to the over-supply situation that's  
17 created in 2007.

18 VICE CHAIRMAN PEARSON: Okay. Well, my time  
19 has expired, so thank you very much.

20 CHAIRMAN ARANOFF: Commissioner Okun?

21 COMMISSIONER OKUN: Thank you. I have a few  
22 more questions about the role of non-subjects in this  
23 market. I guess maybe just to start with one question  
24 which producers may have some perspective one which is  
25 why did it take so long for China, Malaysia, and

1 Taiwan to start dropping out of the market after the  
2 order is imposed?

3 I mean, sometimes we have these cases and  
4 you have an order put on, and what we see is an  
5 immediate drop out. Sometimes not, but I'm just  
6 curious in this case what you think explains that.

7 MR. DORN: Can I just say something about  
8 the data first?

9 COMMISSIONER OKUN: Yes.

10 MR. DORN: We didn't have an HTS breakdown  
11 until I believe it was July 1, 2005 for this product  
12 category, so we really had no way of tracking, you  
13 know, what happened right when the orders were  
14 imposed. So that makes it a little bit difficult so  
15 sort of look at the trend data.

16 But I'll also say that this industry's been  
17 very aggressive in administrative reviews, and we have  
18 gotten some good results in administrative reviews.  
19 And we've let it be known that we're going to be  
20 aggressive, and we've gotten increasing benefits with  
21 these administrative review results.

22 COMMISSIONER OKUN: Okay. Well, then maybe  
23 comment on this, and I guess it relates a little bit  
24 to the trends question the Vice Chairman had posed and  
25 that the Respondents have argued which is one could

1 look at this data and look at this substantial  
2 presence of non-subjects still in the market. I mean,  
3 they dropped down and then seemed to stabilize.  
4 Domestics pick up some market share and non-subjects  
5 pick up some market share.

6 If it were truly a market where lowest price  
7 was driving it, why wouldn't we have seen more on  
8 subject imports in the market. I mean, it almost  
9 doesn't look like it's all price driven because you're  
10 not even driving out the fairly priced non-subjects.

11 MR. DORN: Well, I mean, I think it's fairly  
12 unusual to see three countries double -- go for 114  
13 percent in three years -- in two years, and to double  
14 their market share or more than double their market  
15 share. I mean, that's a pretty aggressive penetration  
16 in the market, so --

17 COMMISSIONER OKUN: Yes, but it's hard to  
18 see that --

19 MR. DORN: -- and I can understand --

20 COMMISSIONER OKUN: -- when the domestic,  
21 you know, you see it coming out of the domestic's hide  
22 straight out and, you know, that's not good taste.  
23 And I understand they are -- heard the arguments on,  
24 you know, it's not just the market share to look at  
25 and obviously I'm not just looking at that but just

1 observing the data itself on where the competition is  
2 and where the domestics are competing and, you know,  
3 what role the non-subjects have in that.

4 Because again, I mean, we're looking at all  
5 these products. I mean, you've still got Malaysia in  
6 here. I mean, you're showing us these products that  
7 you, you know, brought around, and it's clearly one  
8 where, you know, commodity product will here but lots  
9 of non-subjects. Where do I look for the subject  
10 import impact?

11 MR. DORN: Well, I think you look at it in  
12 comparison to AUV's between the subject countries and  
13 the non-subject countries, in particular the order  
14 countries which are the predominant non-subject  
15 countries.

16 You consider the fact that those are at a  
17 discipline of the -- a pricing discipline from the  
18 dumping order and that the imports from these three  
19 subject countries do not have any pricing discipline  
20 at all.

21 If you look at Exhibit 14 to our pre-hearing  
22 brief, you will see price comparisons which are based  
23 upon the prices paid by retailers for direct imports.  
24 Those are large volumes. We think those are more  
25 likely apples to apples comparisons and that the

1 results are telling although confidential.

2 COMMISSIONER OKUN: Okay. Anything from the  
3 producers with respect to any differences you see in  
4 the market when you're competing against non-subject  
5 versus subject imports?

6 MR. RIZZO: When you're referring to non-  
7 subject, are you referring to the previously --

8 COMMISSIONER OKUN: Yes, the three that were  
9 put under order in 04, so China, Malaysia --

10 MR. RIZZO: Yes. This is maybe just  
11 oversimplifying the situation. As far as we can tell  
12 tell what we're seeing -- what we saw was a ship from  
13 the order countries to the -- effectively, we're  
14 dealing with dumping, and now we're dealing with  
15 dumping again except there's no order yet imposed.

16 I mean, for us it was just a shift. We were  
17 able to glean a small portion of that shift, but no  
18 where near the amount that we felt that we were  
19 entitled to.

20 COMMISSIONER OKUN: Mr. Bazbaz?

21 MR. BAZBAZ: Well we are able to compete  
22 against Thailand, China, and Malaysia, and we are not  
23 able to compete against Viet Nam, Indonesia, and  
24 Taiwan.

25 COMMISSIONER OKUN: Okay, well, obviously

1 we've asked a number of the questions about the  
2 pricing data, and I think with respect to the  
3 confidential data with respect to lost sales, Mr. Dorn  
4 for post-hearing if you can address the arguments with  
5 respect to what impact -- how we look at the impact of  
6 non-subject imports versus subject imports in this  
7 market with respect to volume price and impact, I'd  
8 appreciate that.

9 MR. DORN: We'll be pleased to do that.

10 COMMISSIONER OKUN: Okay. And I think with  
11 that, I have made it through the questions or my  
12 colleagues have asked them, so with that I want to  
13 thank all the witnesses. I very much appreciate all  
14 the responses. Thank you.

15 CHAIRMAN ARANOFF: Commissioner Williamson?

16 COMMISSIONER WILLIAMSON: Thank you, Madam  
17 Chairman. I just have a few more questions.

18 Domestic industry's U.S. shipments declined  
19 by only 2.5 percent from 2006 to 2008. On the other  
20 hand, apparent consumption fell by 6.3 percent. Given  
21 this difference, why should we attribute any of the  
22 shipment decline to subject imports since consumption  
23 fell a lot more than the domestic industry shipments?

24 MR. DORN: Right. Well, it's what we've  
25 been talking about in response to the prior questions

1 about non-subject imports, China, Malaysia, and  
2 Thailand, in particular. Discipline of duties has  
3 resulted in them receding from the market.

4 So what in effect the imports from  
5 Indonesia, Taiwan, and Viet Nam have done is robbed  
6 the domestic industry of the benefits of those prior  
7 orders.

8 You know, we have in terms with -- in  
9 competition with fairly traded imports, the domestic  
10 industry made some gains, but it was more of an offset  
11 by the losses suffered by the imports from the new  
12 entrants.

13 COMMISSIONER WILLIAMSON: So are you saying  
14 that all of the 6.3 percent decline in domestic  
15 consumption all should have come from imports?

16 MR. DORN: Well --

17 COMMISSIONER WILLIAMSON: You know, that the  
18 domestic industry should not have had any decline in  
19 its shipments?

20 MR. DORN: But the -- there's a tremendous  
21 benefit in terms of conditions of competition for the  
22 domestic industry in terms of the receding imports  
23 from the countries under order.

24 But that was largely dissipated by a  
25 doubling of imports from Indonesia, Taiwan, and Viet



1 Nam. So obviously without that surge in imports, the  
2 domestic industry would have faired much better in  
3 terms of its shipment quantities, shipment values, and  
4 all the indicators.

5 COMMISSIONER WILLIAMSON: But when you have  
6 overall consumption going down by six percent,  
7 wouldn't you expect the domestic industry to take some  
8 of that hit?

9 MR. BAZBAZ: I think they did.

10 MR. DORN: I think they did.

11 COMMISSIONER WILLIAMSON: Well, yes, but at  
12 much less than the overall decline is what I'm getting  
13 at.

14 MR. BAZBAZ: In proportion -- you mean  
15 because -- I'm not sure if I understand your question.  
16 Are you saying if demand went down sis percent --

17 COMMISSIONER WILLIAMSON: Right.

18 MR. BAZBAZ: -- why the industry only lost  
19 two percent?

20 COMMISSIONER WILLIAMSON: Right.

21 MR. BAZBAZ: Of the six?

22 COMMISSIONER WILLIAMSON: Of -- it's  
23 shipments only went down by two percent.

24 MR. BAZBAZ: Yes, but we lost participation  
25 of a lower demand. When we lost the two percent, it

1 was already lower, so we already went in proportion to  
2 what we had before, more than proportion that what we  
3 had before.

4 In other words, our share of the market was  
5 already down by six percent, and even then it was  
6 lower than, you know, two percent.

7 COMMISSIONER WILLIAMSON: Okay, so you're  
8 saying if you look over a longer period of time --

9 MR. BAZBAZ: No, no. What I'm saying is  
10 total consumption went down by six percent, right?

11 COMMISSIONER WILLIAMSON: Yes.

12 MR. BAZBAZ: But on top of that, our share  
13 went from -- we lost two percent further than already  
14 a reduced market of six percent. Our participation in  
15 the market went worse. The total absolute number is  
16 substantially more. So you understand what I'm  
17 saying?

18 COMMISSIONER WILLIAMSON: Okay.

19 MR. BAZBAZ: I'm explaining it --

20 COMMISSIONER WILLIAMSON: Okay. Mr.

21 Daniels, I think can --

22 MR. DANIELS: I think maybe saying it in  
23 another way is even though apparent U.S. consumption  
24 was down with the duties imposed on China, Malaysia,  
25 and Taiwan, we would have hoped to have, even in a

1 declining market, gotten more share. Instead, that  
2 share had shifted to the subject countries.

3 If we had fair trade competition --

4 COMMISSIONER WILLIAMSON: Okay.

5 MR. DANIELS: -- even though in that  
6 declining market, we would have gotten a higher share  
7 of that declining market.

8 COMMISSIONER WILLIAMSON: Okay. Thank you.

9 MR. DORN: And we did suffer a declining  
10 share from 2007 to 2008 in quantity from 66.3 percent  
11 to 64.2 percent, and also in value we suffered a  
12 decline from 2006 to 2008 from 74 percent to 66  
13 percent.

14 COMMISSIONER WILLIAMSON: Okay. Thank you.  
15 That helps.

16 Now, the cost of goods sold to net sales  
17 ratio increased over the period of investigation but  
18 only by 2.4 percentage points. Is this sufficient  
19 evidence for us to find price suppression especially  
20 in light of the declining demand?

21 It was given at -- with the demand going  
22 down, should we -- this increase in cost of goods  
23 sold, do you think that's sufficient to satisfy the  
24 argument for price suppression?

25 MR. DORN: Well, that's a significant --

1 that flows down to profitability, and I think it had a  
2 significant impact. If you look at the variance  
3 analysis that the Commission staff did in the pre-  
4 hearing report, they're attributing the declining  
5 profitability to that increase in cogs ratio of net  
6 sales.

7 So I think in terms of pure financial  
8 analysis, yes, that's responsible for the damage to  
9 the industry and that's a significant shift in the  
10 cogs to net sales ratio for an industry like this  
11 that's selling a product that's made from a commodity  
12 raw material.

13 MR. RIZZO: If I could just follow that up?

14 COMMISSIONER WILLIAMSON: Sure.

15 MR. RIZZO: This is not a sophisticated  
16 packaging. This is not seven-layer extrusion  
17 lamination, you know, for pharmaceutical use. This is  
18 packaging 101. 2.4 percent is huge in terms of the  
19 impact. It's tremendous for us.

20 Exacerbated by the fact that it's also  
21 during a period where we eliminated fixed cost and lay  
22 offs were occurring. I mean, those are also sort of  
23 mitigating the 2.4, so I mean in some cases it might  
24 even be understated.

25 COMMISSIONER WILLIAMSON: Okay.

1 MR. BAZBAZ: In our case, the 2 percent  
2 would have made a difference between losing or making  
3 money.

4 COMMISSIONER WILLIAMSON: Okay. I  
5 appreciate those answers. Thank you.

6 Our coverage of the industry in the subject  
7 countries appears to be substantially incomplete. Are  
8 you aware of any public data on these industries that  
9 we can rely on?

10 MR. DORN: We've taken a look for that and  
11 have been unable to come up with any, you know,  
12 comprehensive reports on capacity in, you know, any of  
13 these countries.

14 So what we've done to the best of our  
15 ability is to search the internet to -- and we've  
16 provided a lot of information in the exhibits --  
17 that's why our brief is so thick, is we've put as much  
18 information as we can about a number of producers who  
19 have not submitted questionnaire responses to the  
20 Commission.

21 We would certainly ask the Commission to  
22 draw some adverse inferences from the lack of  
23 participation by the subject producers in responding  
24 to the foreign producer's questionnaire.

25 COMMISSIONER WILLIAMSON: How do you think

1 we should treat this sort of paucity? Are you given  
2 one -- yes. Actually, you anticipated my question. I  
3 was going to ask you how we should treat this paucity  
4 of data in our thread analysis. Mr. Dorn?

5 MR. DORN: Well, I think we've -- we've  
6 certainly indicated a confidential record giving an  
7 indication of the companies that we are aware of, for  
8 example, that participated. The Department of  
9 Commerce, we have some data there in terms of what  
10 they said their operations were and their levels of  
11 shipments and so forth. So we would ask you to look  
12 at that data.

13 We would ask you to look at the other data  
14 we've obtained from web sites about the production  
15 capacities and about capacity expansions. And we ask  
16 you to consider the evidence that are presented today  
17 regarding Fotai Viet Nam's doubling of capacity and  
18 the information that we have on their existing  
19 capacity.

20 Then the fact that, you know, you're not  
21 getting any rebuttal to our evidence at least with  
22 respect to Viet Nam and Taiwan.

23 COMMISSIONER WILLIAMSON: Okay. Thank you  
24 for that.

25 Just one last question. What are your

1 projections for raw material costs for 2010 and 2011?

2 MR. DANIELS: In 2010 they have been  
3 escalating since the beginning of the year, and we  
4 would expect them to plateau and then have a slight  
5 decline.

6 You know, we're so reliant on world energy  
7 costs in the United States, primarily natural gas in  
8 Asian -- on oil derivatives. And 2011 is a little bit  
9 too tough to tell. Let's see how the economy comes  
10 back and what the fuel demands are and things like  
11 that.

12 COMMISSIONER WILLIAMSON: Okay.

13 MR. DANIELS: But it's escalating in the  
14 United States right now.

15 COMMISSIONER WILLIAMSON: Okay. Thank you.

16 MR. BAZBAZ: It is correct. We have seen  
17 the cost of ethylene to escalate, and necessarily the  
18 polyethylene is going to go up and will continue going  
19 up.

20 COMMISSIONER WILLIAMSON: Okay. Thank you  
21 for those answers, and with that I have no further  
22 questions. I want to thank the witnesses for their  
23 tm.

24 CHAIRMAN ARANOFF: Commissioner Pinkert?

25 COMMISSIONER PINKERT: I have nothing

1 further for the witnesses, and I look forward to the  
2 post-hearing submission. Thank you.

3 CHAIRMAN ARANOFF: I have a few questions  
4 left. The first one for post-hearing. The bottom of  
5 pages 34 to 35 of Respondent's pre-hearing brief make  
6 an argument about the way that we should view the  
7 domestic industry's operating income in 2008, and I  
8 would ask that you respond to that. The information  
9 is confidential, so if you could do that for post-  
10 hearing.

11 MR. DORN: I'm sorry, what page was that?

12 CHAIRMAN ARANOFF: Thirty-four to 35.

13 MR. DORN: Thank you.

14 CHAIRMAN ARANOFF: Similarly, on the bottom  
15 of page 35 and going over into page 36 of Respondent's  
16 brief, if you could respond to their argument  
17 regarding the largest factor in the domestic  
18 industry's improvement in interim 2009.

19 MR. DORN: We will do so.

20 CHAIRMAN ARANOFF: Thank you. And I just  
21 want to ask one or two questions about the threat.  
22 First of all, since the filing of the petition in  
23 these investigations, a number of production  
24 facilities in the subject countries have been idle.

25 I know your argument is that's due to the



1 pendency of the investigations and that those are just  
2 waiting to come back on line. Is there any evidence  
3 on the record that the idling of those facilities  
4 could be related to any other factor, for example,  
5 such as declining demand?

6 MR. DORN: I'm not aware of any.

7 CHAIRMAN ARANOFF: Okay.

8 MR. DORN: But there is contrary evidence on  
9 the record that would tie the idling to the petition  
10 though.

11 CHAIRMAN ARANOFF: All right. If I don't  
12 remember to ask that question again this afternoon, I  
13 hope that the Respondents will answer it in the post-  
14 hearing.

15 Once a plant producing this product is  
16 idled, how long does it take and about how much does  
17 it cost to bring the plant back up to full operation?

18 MR. DANIELS: Maybe we should do that post-  
19 hearing. I could probably get some information from  
20 our operations people on what the costs would be to  
21 bring it back up.

22 CHAIRMAN ARANOFF: Okay. I appreciate that.

23 And is it easy to move manufacturing  
24 equipment for this product from one country to another  
25 or one plant to another, or is that a very time-

1 consuming and costly endeavor?

2 MR. DORN: For the domestic part, it's  
3 rather an expensive cost to do it because once again  
4 to Mr. Bazbaz's points, we have rather large extrusion  
5 equipment and large converting equipment.

6 In the Asian market where they have very  
7 small bubbles and they actually do them floor by floor  
8 going up, it's much less expensive to move those  
9 assets around from one country to the next.

10 CHAIRMAN ARANOFF: This is another question  
11 that I hope to remember to ask again this afternoon,  
12 but I think it's rather rare that the Commission finds  
13 so many subject producers that make 100 percent of  
14 their product for export and most or all of those  
15 exports are directed to the U.S. market as we see for  
16 a number of the subject producers in this case.

17 How should the Commission weigh those  
18 circumstances in assessing threat?

19 MR. DORN: Well, certainly it's a positive  
20 for the domestic industry for the petition in terms of  
21 threat. I mean, you know, you certainly see a lot of  
22 situations in cases where you say that the farm  
23 producers are export oriented.

24 Here this goes much beyond that in terms of  
25 their focus on the U.S. market. In the case of Fotai

1 Viet Nam, they have a commitment with their government  
2 that they export 80 percent of their output.

3 CHAIRMAN ARANOFF: Okay. With that, I think  
4 I don't have any further questions. Do my colleagues  
5 have more questions?

6 Vice Chairman Pearson.

7 VICE CHAIRMAN PEARSON: I do have one, Madam  
8 Chairman. I thought one of my colleagues might ask it  
9 but it hasn't happened, so let me try.

10 Respondents in their brief attached an email  
11 from Hilex to a producer in Indonesia and then --  
12 parts of this may be confidential, so I will just read  
13 two sentences that are not indicated as being  
14 bracketed.

15 Hilex is a manufacturer of high molecular  
16 high density T-shirt vest carrier bags, merchandise  
17 bags, and a proprietary system of vegetable and fruit  
18 bag for the supermarket industry. Every year in the  
19 third and fourth quarter of the year, we experience  
20 capacity issues and have supplemented our capacity  
21 with production from China.

22 Now that's my way of background for, you  
23 know, do you have capacity constraints in the third  
24 and fourth quarter? What was being said here? This  
25 does relate to 2008, so I understand it's a couple

1 years ago, but still it was within the period of  
2 investigation.

3 MR. DANIELS: If I may, Mr. Pearson, I  
4 addressed that earlier that we would like to do that  
5 on a confidential basis post hearing.

6 VICE CHAIRMAN PEARSON: Oh, okay. Good.

7 MR. DANIELS: On the rationale.

8 VICE CHAIRMAN PEARSON: Someone did raise  
9 it, and I just wasn't paying attention.

10 MR. DANIELS: Someone did actually ask that  
11 question. Thank you.

12 VICE CHAIRMAN PEARSON: Thank you for that  
13 clarification.

14 Madam Chairman, I have no other questions.  
15 I shouldn't even have had that one.

16 CHAIRMAN ARANOFF: Any additional question  
17 from Commissioners?

18 Do the staff have questions for this panel?

19 MR. DEYMAN: I'm George Deyman, Office of  
20 Investigations. The staff has no questions.

21 CHAIRMAN ARANOFF: Okay. Well, then first  
22 of all it falls to me to thank this morning's panel  
23 for your time, all your answers, and the many things  
24 we asked you to respond to post hearing which we'll  
25 look forward to seeing.

1                   With that, we're going to take a lunch break  
2 of an hour.

3                   Oh, that's right. Thank you. I was  
4 supposed to ask whether Respondents have questions.  
5 We've had a whole string of 332 hearings lately where  
6 I haven't had to ask that question, and now I've  
7 forgotten that I'm supposed to.

8                   Do the Respondents have questions for the  
9 panel?

10                  MR. MORGAN: We have no questions.

11                  CHAIRMAN ARANOFF: Okay. But thank you for  
12 reminding me. We're going to take a lunch break for  
13 an hour. I'm going to check my watch because the  
14 clock isn't right. I have 12:35, so we'll come back  
15 at 1:35.

16                  I need to remind you that this room is not  
17 secure. Please don't leave anything in here that's  
18 confidential or valuable as it may not be here when  
19 you come back.

20                  With that, we will recess.

21                  (Whereupon, at 12:36 p.m., the hearing in  
22 the above entitled matter was recessed to reconvene at  
23 1:35 p.m., March 16, 2009.)

24                  //

25                  //



1           We are pleased to have these industry  
2 witnesses to present testimony and to answer your  
3 questions. But because our theory of the case relies  
4 so heavily on the data that the Commission staff have  
5 already collected, myself along with my colleagues,  
6 Adams Lee and Dierdre Maloney will be presenting much  
7 of the direct testimony today. And we'll try to do  
8 that in as concise a manner as possible.

9           I also have a bit of a cold, so Adams Lee  
10 may switch off giving the testimony in the event that  
11 a cough becomes disruptive, proving that lawyers are  
12 fungible.

13           You have read the Petitioners' brief, and  
14 you have heard their testimony this morning. After  
15 all that has been written and said, Petitioners cannot  
16 explain away the evidence demonstrating that there is  
17 no meaningful correlation between subject imports and  
18 the domestic industry's condition.

19           For instance, the volume of subject imports  
20 increased from 2006 to 2007, pretty much the only  
21 increase of any sort during the POI. Yet the domestic  
22 industry's condition improved. Subject imports  
23 maintained a relatively stable market share, from  
24 interim 2008 to 2009, yet the domestic industry's  
25 condition improved.

1           Petitioners also cannot explain away the  
2 predominant over-selling by subject imports in pricing  
3 products 2 and 3, which account for a large share of  
4 total U.S. consumption and the domestic industry's  
5 shipments.

6           Indeed, Petitioners cannot explain away the  
7 fact that the domestic industry performed well  
8 throughout most of the POI, with 2008 representing the  
9 sole exception, and even with that largely confined to  
10 the last quarter of 2008. Following that short blip,  
11 the domestic industry's condition rapidly improved in  
12 interim 2009.

13           In short, the record establishes that there  
14 is no correlation between the subject imports and the  
15 domestic industry's condition.

16           In our view there are few conditions of  
17 competition that are relevant to the Commission's  
18 analysis. First, non-subject imports from China,  
19 Malaysia, and Thailand have been present throughout  
20 the POI, and in larger volumes in the subject imports.

21           During our presentation, references to non-  
22 subject imports will be to those from China, Malaysia,  
23 and Thailand, to avoid confusion.

24           To the extent the subject imports gained  
25 market share, it is evident that they did so from non-



1 subject imports. Subject imports increased, as did  
2 domestic shipments, while non-subject imports  
3 declined.

4 A second relevant condition of competition  
5 is the fact that a number of domestic producers have  
6 imported from subject, as well as non-subject,  
7 sources. And as we explained in our confidential  
8 prehearing brief at pages 7 to 14, a great deal of  
9 those imports are not defensive, but are for purposes  
10 of supplementing domestic production.

11 And I note that today you heard from the  
12 representatives of Hilex and Superbag. But as you are  
13 surely aware, there are a number of other U.S.  
14 producers in this industry.

15 A third condition of competition concerns  
16 the fact that although U.S. demand declined slightly  
17 during the POI, most market participants do not  
18 project further declines.

19 Petitioners characterize it otherwise in  
20 their prehearing brief, but the record speaks for  
21 itself, and I believe that the testimony you heard  
22 this morning also suggests that demand will remain  
23 stable to moderate declines.

24 We note, in our confidential prehearing  
25 brief at page 15, the number of domestic producers who

1 reported in their questionnaire responses that they  
2 don't predict meaningful declines in demand because of  
3 environmental concerns, regulations, or for any other  
4 reasons.

5 In our view, the Commission should place a  
6 great deal of weight on the producers' views, given  
7 that they are in the best position to know of  
8 potential developments because of their obvious  
9 interest. Other market participants largely do not  
10 believe that there will be a significant effect on  
11 demand in the future. Over half of the importers do  
12 not expect passage of laws regulating PRCBs, let alone  
13 a decrease in demand. And just under half of  
14 purchasers do not expect any laws to be passed,  
15 either.

16 And we'll present the numbers a little bit  
17 differently, but it's clear that there are some  
18 outlyers in the data that, when you derive a simple  
19 average, as Commission staff did, and there was really  
20 no other way to do it; but once you account for the  
21 outlyers, the demand predictions show that it's going  
22 to be, you know, any declines that market participants  
23 believe will happen will be fairly minor.

24 I now turn to volume and impact, which  
25 really go hand in hand in this investigation, given

1 the absence of a meaningful causal relation between  
2 subject import volume trends and the domestic  
3 industry's performance.

4 It is true, as Petitioners have noted, that  
5 subject import volumes did increase in absolute and  
6 relative terms from 2006 to 2008. But that has never  
7 constituted the extent of the Commission's volume  
8 analysis.

9 The Commission, as it always has, must  
10 determine whether subject import volumes have been  
11 significant. And answering that question requires an  
12 examination of what was occurring throughout the POI.

13 In this case, the facts establish that the  
14 volume of subject imports was not significant.

15 A number of facts put the increase in  
16 subject import volume into perspective. First, the  
17 subject imports did not gain share at the expense of  
18 the domestic industry. The domestic industry  
19 increased its market share from 2006 to 2008, even as  
20 apparent consumption declined during that period.

21 The domestic industry also increased its  
22 market share from 2006 to 2007, and from interim 2008  
23 to interim 2009. Notably, as the chart shows, the  
24 industry increased while demand was declining, which  
25 is not typically a sign of an industry that has been

1 injured by imports.

2 In fact, as the chart shows, the only time  
3 that the domestic industry lost share during the POI  
4 was, it was in the amount of 2.1 percentage points,  
5 was from 2007 to 2008. Yet subject imports gained  
6 only 0.4 percentage points of market share, and  
7 declined in absolute terms; whereas non-subject  
8 imports from China, Malaysia, and Thailand gained 3.3  
9 percentage points.

10 The table on page 20 of our confidential  
11 prehearing brief presents an additional point for the  
12 Commission's consideration, which is the degree to  
13 which the domestic industry's own imports contributed  
14 to the increase in subject imports from '07 to '08.

15 A second factor limiting any significance in  
16 the volume of subject imports is that the absolute  
17 increase was limited to one period: 2006 to 2007.  
18 Yet during that period, the domestic industry  
19 increased shipments by approximately three billion  
20 bags, or by 4.5 percent; and the industry gained 4.6  
21 percentage points of market share.

22 Coincident with this, the volume of non-  
23 subject imports declined by 11.6 percentage points.  
24 Consequently, the only period in which the volume of  
25 subject imports increased in absolute terms, they did

1 not gain market share at the domestic industry's  
2 expense.

3 Now, Petitioners' counsel said this morning  
4 that comparing '06 to '07 had flaws, as subject  
5 imports had continuing effects into 2008. But what  
6 this fails to account for is the fact that once the  
7 import in this case enters the market, the sale has  
8 already been made. The target has already been  
9 printed on the bag. It's sold to target. It's not  
10 like other commodity products, where it may sit in  
11 inventory. I mean, the import doesn't occur until the  
12 sale has been made. So that result will hit the  
13 financial records of the producer in the year it's  
14 made.

15 Now, in a product like steel, you might have  
16 a sale to a distributor, who then sells it into the  
17 marketplace after the import has been made. But here,  
18 the sale will actually occur before the import is  
19 made. These bags are produced to order.

20 The lack of an impact on the domestic  
21 industry's performance by reason of the subject  
22 imports is evident from these same trends. From 2006  
23 to 2007, the volume of subject imports increased, and  
24 the domestic industry's condition improved.

25 Notably, the domestic industry's operating

1 income increased by almost \$2 million, or by 39  
2 percent. The industry's condition improved in many  
3 other areas, as shown here.

4 From 2007 to 2008, the volume of subject  
5 imports declined in absolute terms, an increase by  
6 only 0.4 percentage points. Yet the domestic  
7 industry's condition deteriorated.

8 Pages 34 to 35 of our confidential  
9 prehearing brief explains what part of the loss in the  
10 last quarter of 2008 can be attributed to, but the  
11 remainder is evidently from factors other than subject  
12 imports. As the chart on the bottom shows, there was  
13 no spike in subject import volumes in the last quarter  
14 of 2008.

15 The interim comparisons likewise establish  
16 that there is no meaningful correlation between  
17 subject imports and the domestic industry's condition.  
18 The volume of subject imports declined in absolute  
19 terms from interim '08 to interim '09. The table on  
20 page 33 of our confidential prehearing brief discusses  
21 the degree to which the domestic producers' own  
22 imports accounted for the decline.

23 Turning back to the public data, although  
24 there was an absolute decline in absolute volume of  
25 subject imports, the market share held during the

1 interim periods was relatively steady, declining by  
2 just two percentage points. Even though subject  
3 imports retained largely the same share of the market  
4 in interim '09 as they did in interim '08, the  
5 domestic industry's condition improved, from an  
6 operating loss of \$4.6 million to an operating profit  
7 of \$24.6 million in interim '09. The domestic  
8 industry's performance improved in many other areas,  
9 as well.

10 In our view, the numerous counter-trends on  
11 the record establish that there was no connection  
12 between the subject imports and the domestic  
13 industry's condition; and thus, no basis for an  
14 affirmative finding, injury finding.

15 The last point I will address concerns the  
16 Petitioners' request for the Commission to discount  
17 the interim data because of the pendency of the  
18 petition.

19 There is no basis in fact for doing so,  
20 because the petition did not have a meaningful effect  
21 on the subject import volumes during the interim  
22 period.

23 First, the subject market share declined by  
24 only two percentage points in the interim period. So  
25 even if the filing of the petition led to fewer

1 purchases of subject imports, the effect on the  
2 domestic industry from the volume of subject imports  
3 that remained in the market was not diminished simply  
4 by virtue of the petition being filed.

5 To the extent the domestic industry's  
6 condition improved as dramatically as it did despite  
7 the continued presence of subject imports, the filing  
8 of the petition had nothing to do with that  
9 improvement, and there is no basis for discounting the  
10 interim data.

11 As this slide shows, the Petitioners'  
12 premise is wrong in any event. The import data  
13 establishes that the final petition did not have even  
14 a noticeable effect on subject import volumes, which  
15 are shown for 2009 on the lower line, until September  
16 of 2009. In fact, in January, February, or March,  
17 before the petition was filed, import volumes were  
18 below those of 2008.

19 And in fact, as you can see, once the  
20 petition was filed, import volumes actually increased.  
21 So it's directly counter to the trends that the  
22 Petitioners are attributing and urging the Commission  
23 to discount the tendency of the interim data because  
24 of the petition.

25 In short, the petition had no effect in



1 eight out of the nine months of the interim period,  
2 and there is no reasonable basis to discount that  
3 data.

4 Dierdre Maloney of White and Case will now  
5 discuss pricing.

6 MS. MALONEY: Good afternoon. My name is  
7 Dierdre Maloney. I am a senior trade adviser with  
8 White & Case.

9 Today I'm going to discuss the price effects  
10 of subject imports; namely, that subject imports did  
11 not have any adverse price effects on the domestic  
12 like product during the POI, particularly for the  
13 high-volume products.

14 Our ability to discuss these data is  
15 somewhat limited because a significant portion of the  
16 underlying data is proprietary. Nonetheless, using  
17 the public data, we would like to draw your attention  
18 to certain points.

19 We heard from Petitioners this morning that  
20 the pricing data are not meaningful, especially for  
21 product 3, a high-volume product, a t-shirt bag, that  
22 shows predominant over-selling. We heard about the  
23 range of specification this product definition covers.

24 Yet, at other times this morning, we heard  
25 that a t-shirt bag is a t-shirt bag is a t-shirt bag,

1 sold solely on the basis of price. Petitioners cannot  
2 have it both ways.

3 Largely at the suggestion of Petitioners,  
4 the petition narrowed the specifications in the final  
5 phase of this investigation for products 1 through 4,  
6 all t-shirt bags, and they now cover a fairly limited  
7 range of size and weights. And, as discussed this  
8 morning, the Commission collected data on the basis of  
9 pounds for the final investigation.

10 Products 2 and 3 account for the vast  
11 majority of the total pounds reported in the pricing  
12 products. For these products the price data show that  
13 subject imports predominantly oversold the domestic  
14 product.

15 For product 2, for instance, the imported  
16 product oversold the domestic product in 90 percent of  
17 the quarters, at margins exceeding 33 percent and  
18 averaging over 11 percent.

19 For product 3, the imported product oversold  
20 the domestic product in over 53 percent of the  
21 quarters, at even higher margins, over 36 percent,  
22 with an average margin of over 13 percent.

23 Products 2 and 3 are the most common types  
24 of t-shirt bag, so the price data for these two  
25 pricing products are of particular interest. The

1 pricing data for product 2 are largely confidential,  
2 but product 3 contains enough public data to use for  
3 today's presentation.

4 We estimated that the portion of total  
5 domestic shipments accounted for by domestic shipments  
6 of product 3 for each year of the POI and interim  
7 2009. The U.S. shipment in 1,000 bags, but the  
8 product 3 price data in 1,000 bags are proprietary.  
9 However, the U.S. shipment data in pounds are public.

10 Therefore, to arrive at an estimate of U.S.  
11 shipment data in thousand bags using public data, we  
12 converted the product 3 public price data from pounds  
13 into 1,000 bags, using a conversion rate of 12.5  
14 pounds per 1,000 bags.

15 While this estimate is not exact, it  
16 nonetheless provides a reasonable method to estimate  
17 the portion of total domestic shipments of bags  
18 accounted for by domestic shipments of product 3 using  
19 public data. Based on these data and seen in the  
20 graph, product 3 accounts for almost 70 percent of the  
21 total U.S. shipments of PRCBs over the POI. Thus, the  
22 prevalence of over-selling in this product is  
23 important.

24 This percentage would only increase if we  
25 also included the volumes of product 2, another common

1 t-shirt bag, for which there is widespread over-  
2 selling. We will provide this analysis in our post-  
3 hearing brief, using the actual proprietary data.

4 Petitioners offered very little credible  
5 information in their prehearing brief and this morning  
6 on the price data presented in the staff report. They  
7 tended instead to minimize the importance of the data,  
8 especially for these products 2 and 3.

9 This we believe is largely due to their  
10 desire to minimize the over-selling in these products,  
11 the t-shirt bags that are the bread and butter of the  
12 domestic industry.

13 Petitioners instead rely on other price  
14 measures; notably, a comparison of average-unit values  
15 of domestic shipments and imports. They would have  
16 you believe that these data are more probative than  
17 pricing data.

18 We disagree. AUVs in this case are less  
19 reliable and meaningful, given the many different  
20 types of PRCBs the AUV data cover. They also resort  
21 to relying on comments of individual purchasers; but  
22 these, too, are not a replacement for price data.

23 Finally, they rely on lost sales and lost  
24 revenue allegations. But as the staff report makes  
25 clear, only a small number of these allegations were

1 confirmed, and these accounted for an insignificant  
2 portion of the losses alleged by the domestic  
3 industry.

4 In short, the record shows that subject  
5 imports did not have adverse price effects on the  
6 domestic like product during the POI, especially for  
7 those high-volume products that account for a large  
8 part of the domestic market.

9 Thank you.

10 MS. LIN: Good afternoon. My name is Faye  
11 Lin. I represent P.T. Super Exim Sari and P.T. Super  
12 Makmur.

13 Our company is a plastic bag manufacturer  
14 located in Jakarta and Indonesia. I work for the  
15 company as a marketing executive. I be in this  
16 position, and also in this industry, for four years.

17 Our product portfolio is actually quite  
18 diversified. Our company focus on high-end specialty  
19 bags. Our majority product is industrial packaging  
20 bags for product like diapers, tissues, napkins, oil,  
21 et cetera.

22 We also produce bags for food packaging.  
23 These are non-subject merchandise.

24 In terms of the PRCBs, our focus is high-end  
25 shopping bags. We also produce t-shirt bags, but we

1 don't consider that as our main product.

2 We support both Indonesia market and the  
3 export market. We export not only to U.S., but also  
4 to Japan, Europe, Canada, and South America.

5 When we sell to our export market, the  
6 comments we constantly receive from our customers are  
7 that our price is much higher than other producers.  
8 And based on our relationship with our customer, we  
9 know that our customer buy from us because of great  
10 printing effect, stable quality, reliable delivery,  
11 and a satisfactory after-sale service.

12 Among these factors, quality and service are  
13 actually very critical factors. Because production  
14 never be perfect, and sometimes things go wrong, our  
15 customer all know about this. So how the producer  
16 deal with production problems makes big difference in  
17 setting up long-term relationship.

18 We know that the Petitioners are very  
19 worried about us posing a threat of injury to the U.S.  
20 domestic industry in the near future. I'm here to  
21 tell you that this is not true.

22 Since 2006, Super Exim did have an expansion  
23 plan to increase our capacity. But the intention was  
24 not to increase the capacity for PRCB. As I mentioned  
25 earlier, our majority product is industrial packaging

1 product.

2 Our plan to increase capacity is more to  
3 fulfill the increased domestic demand on the  
4 industrial packaging, which is much higher value-added  
5 product than PRCB.

6 In a message that Petitioners show on a  
7 slide this morning, shows the name of the brand of our  
8 machines. They are German-made machines. They are  
9 very, very high-tech. We need this high-tech machine  
10 because the printing requirement for industrial  
11 packaging is much higher than the PRCBs.

12 For example, packaging for diapers often has  
13 a picture of a baby on the bag, and the printing  
14 quality must be perfect enough to show the sparkle of  
15 the baby's eyes. We purchase our extrusion and  
16 printing equipment to achieve this high standard for  
17 industrial packaging.

18 They can also produce high-end shopping bag,  
19 but the machines can make more valuable product in  
20 high-end PRCB. And certainly we will not use this  
21 machine to produce t-shirt bags.

22 In Petitioners' testimony this morning, they  
23 show a correct correspondence message between Super  
24 Exim and Hilex, indicating our plan of extension. But  
25 he didn't show a very important point. I would like

1 to ask permission, Commissioner, to read this  
2 correspondence carefully.

3 I am reading the correspondence now. We  
4 clearly state that we have no capacity at this moment,  
5 and we also say that we are not planning to increase  
6 the capacity for t-shirt bags.

7 This corrects two things that the  
8 Petitioners mentioned this morning. The first thing  
9 is machines to produce all PRCBs are the same. This  
10 is not true. This is also a diecut bag. I think you  
11 can see that this is very different from the bag that  
12 I show you this morning. This is also a diecut bag.  
13 And this bag can be produced by the machine that can  
14 produce t-shirt bags.

15 And the second things we want to correct of  
16 the Petitioners is that our increased capacity is not  
17 a threat of injury to the U.S. domestic industry,  
18 because we increase our capacity for other usage. The  
19 intention is to fulfill our needs for non-PRCB and  
20 other high-end shopping bags.

21 In 2004, after anti-dumping order on China,  
22 Thailand, Malaysia imposed, we did receive more  
23 inquiries. More U.S. customers came to us to see if  
24 we can supply their product that they used to source  
25 from China, Thailand, and Malaysia.



1           Before we complete our expansion of our  
2 industrial production line, in the interim we can  
3 supply more high-end PRCB bags. We have completed our  
4 extension now, and we have already in the process of  
5 shifting our capacity to industrial packaging.  
6 Therefore, I don't think Petitioners need to be  
7 worried about our increased capacity.

8           And Super Exim had exported to U.S. markets  
9 for about 15 years. We export both t-shirt bags and  
10 high-end shopping bag to U.S. However, over this 15  
11 years, the growth is mainly on high-end shopping bag,  
12 which require manual labor in production; while the t-  
13 shirt bag shipment remains secondary to our specialty  
14 bags.

15           I now would like to take some time to talk  
16 about our own perception of the difference among the  
17 subject countries, Indonesia, Taiwan, and Vietnam.

18           The labor cost in Taiwan is higher. To our  
19 knowledge, they only produce bags that are purely made  
20 by machines; they do not ask for any high-end shopping  
21 bags, and instead they mainly produce and export t-  
22 shirt bags.

23           As to Vietnam, the labor cost is cheaper,  
24 but we heard from the industry that the labor  
25 workforce there is not very stable, which result in

1 inconsistency in product quality. We did have  
2 customer who switched source to Vietnam, but then come  
3 back to us because of quality issues.

4 Other than that, it is well known that  
5 Taiwan has affiliates in U.S., and there are many  
6 forming investment in Vietnam. Most of the Vietnamese  
7 factory are set up by Chinese people, after they had  
8 this anti-dumping order imposed in China.

9 Unlike these producers in these two  
10 countries, most of the Indonesian producers are set up  
11 by native Indonesians. And we all have very long  
12 history of plastic bag production, and also long  
13 history on supporting bags for market.

14 Next I'm going to spend some more time to  
15 share the details regarding our argument on the U.S.  
16 producers' import.

17 In April 2008, Hilex approached Super Exim.  
18 Before they approached us, we didn't know this  
19 company. They would like to arrange a visit to our  
20 company in Jakarta. This is actually a very general  
21 way for our customer to approach us. We don't, most  
22 of the time the customer come to us for inquiries,  
23 they visit us to see that we really exist, what kind  
24 of machines we have; they check on our team and our  
25 facilities, et cetera.

1           The Petitioners said that our web site offer  
2 internet purchase. This is not true. Our web site  
3 only gives very basic information about our company  
4 and the product we can produce. If a customer want to  
5 buy from us, they need to contact us to talk about a  
6 detailed specification of the bag they need.

7           Hilex request us to quote on the bags. They  
8 clearly explained that every year, in the third and  
9 fourth quarter of the year, they experience capacity  
10 issues. And they have supplement their capacity with  
11 production from China.

12           After the anti-dumping order imposed on  
13 China, they are trying to look for new supply source  
14 who can help supplement their limited production  
15 capacity.

16           Other than that, Hilex also request us to  
17 quote on bags that they do not produce, which have the  
18 cover inserted and handmade handle. It was clear to  
19 us that they didn't have the ability to make this bag  
20 type, and had to source it from a foreign source.

21           Hilex was trying to negotiate a lower price  
22 with us at that time, which we have stated in our  
23 message that we can't possibly lower our price to that  
24 extent. Moreover, our capacity for t-shirt bag is  
25 limited, and that it was full at that time, and we

1 can't supply to them.

2 In the end, Hilex didn't buy from us. In  
3 their message they claim that our price is too high.  
4 They thought we supply the same product to other  
5 customer with a lower price, but it is not true.

6 I hope this information has been helpful,  
7 and I thank you for the opportunity to present this  
8 testimony. I will be available to answer any  
9 questions you may have later. Thank you.

10 MR. LEE: I'd like to now address threat  
11 issues. The record evidence supports a finding that  
12 the domestic industry is not threatened with material  
13 injury by reason of subject imports, either on a  
14 cumulated or decumulated basis.

15 When the Commission considers each of the  
16 relevant statutory threat factors, the record does not  
17 support a finding that an increase in the levels of  
18 subject imports is imminent that would threaten to  
19 injury the domestic industry.

20 The Commission's threat analysis should  
21 start, should consider as a starting point how interim  
22 2009 data shows that the domestic industry is not  
23 vulnerable. A comparison of 2008 and 2009 data shows  
24 that domestic industry has had a remarkable turn-  
25 around. Staff reports that much of the turn-around,

1 from a \$4.6 million operating loss in interim 2008 to  
2 a \$24.6 million operating profit in interim 2009, was  
3 driven by a significant reduction in domestic  
4 industry's SGNA expenses, and a decrease in raw  
5 material costs that were greater than the decrease in  
6 sales.

7 We also note that Hilex emerged from  
8 bankruptcy in the summer of 2008. Hilex's press  
9 releases acknowledged that there was restructuring  
10 that helped Hilex reduce its debt-servicing  
11 obligations. So despite Hilex's protestations this  
12 morning, the data for Hilex, in interim 2009, we  
13 encourage the Commission to look at it closely and  
14 judge for yourself whether they are robust or not.

15 In light of the domestic industry's improved  
16 condition in interim 2009, an examination of the  
17 statutory factors show subject imports pose no real  
18 threat to the domestic industry. Staff report data  
19 show that capacity production of shipments for subject  
20 imports on a cumulated basis all increased over the  
21 POI, but the staff report also specifically noted that  
22 a significant portion of these increases was due to  
23 the fact that most of the responding Vietnamese  
24 producers only began producing in 2006.

25 On the reverse side, projections into 2010

1 show significant reductions in production capacity  
2 production of shipments to the U.S. The staff report  
3 again also notes that Vietnam will have decreases in  
4 projected capacity and production due to a number of  
5 facilities closing down.

6 Petitioners' threat arguments are based only  
7 on capacity. Other factors, however, show that the  
8 volume of subject imports is unlikely to increase in  
9 the imminent future. Most importantly, the volume  
10 data does not show, support a threat finding.

11 As noted earlier, the only period in which  
12 subject imports increased in absolute volumes was at  
13 the beginning of the POI, from 2006 to 2007. Again,  
14 this increase must be viewed, must be viewed in the  
15 context of the rapid decline of non-subject imports  
16 from China, Malaysia, and Thailand in the same period.

17 The significance of the increase of subject  
18 imports of this period is further diminished when you  
19 consider the amount of subject imports that domestic  
20 producers themselves were importing to compliment  
21 their more limited domestic production.

22 From 2007 to 2008, and in the most recent  
23 interim period, into 2009, cumulated subject imports  
24 have already decreased, and are projected to even  
25 decrease further. All of which are indications that

1 subject imports are not likely to increase in the  
2 foreseeable future.

3 As to pricing, as noted earlier, the staff  
4 report data shows a lot of over-selling, not under-  
5 selling, for the t-shirt bag pricing products that had  
6 the most volume, and account for a large share of the  
7 domestic industry's total production of shipments.

8 Domestic industry pricing correlates largely  
9 with resin pricing, and does not appear to correlate  
10 to any import pricing.

11 As noted in the staff report and discussed  
12 earlier, purchase decisions are not driven purely by  
13 price; but rather, non-price factors, such as quality,  
14 availability, logistics, the financial reliability of  
15 the supplier, the reputation of the supplier are all  
16 considered by the purchasers. And the lowest price  
17 often does not get the order, even though Petitioners  
18 try to describe this as commodity product.

19 Although Petitioners may perceive price  
20 competition, the staff report's data does not support  
21 that perception. Inventories of subject imports are  
22 insignificant either in the subject countries or in  
23 the United States. Bags are often printed with  
24 company-specific logos, and thus are not freely  
25 transferrable to other customers. As noted by

1 Petitioners earlier, the generic thank-you bag  
2 represents a very small segment of the U.S. market.

3 Given the absence of an overhang of  
4 inventory and the limited transferability of PRCBs,  
5 subject imports pose no imminent threat to the  
6 domestic industry.

7 Although we have demonstrated that subject  
8 imports on a cumulated basis do not threaten the  
9 domestic industry. We also ask the Commission to  
10 consider whether it should exercise its discretion to  
11 decumulate subject imports from Indonesia from those  
12 from Taiwan and Vietnam.

13 In deciding whether or not to cumulate  
14 subject imports for purposes of making a threat  
15 determination, the Commission traditionally has  
16 focused largely upon whether the volume and pricing  
17 trends are uniform. Here, the volume and pricing  
18 trends in Indonesia differ from the volume trends of  
19 Vietnam and Taiwan.

20 For example, Indonesia had the smallest  
21 increase out of the three countries over the POI,  
22 either in absolute volume or percentage increase.  
23 Indonesia also had a decrease of 17.1 percent in  
24 import volume from 2007 to 2008, while Taiwan's volume  
25 increased 14.7 percent, and Vietnam's volume remained



1 essentially flat, with only a 1.3-percent decline.

2 In terms of market share, Indonesian market  
3 share increased from 2006 to 2007, but only when U.S.  
4 market share also increased. In contrast, from 2007  
5 to 2008, when U.S. market share declined, Indonesia's  
6 market share also declined. However, Taiwan and  
7 Vietnam's market share increased during that period.

8 We will address projection for future volume  
9 in our post-hearing brief, as it will involve  
10 confidential information regarding each subject  
11 country. We, however, note here that we believe the  
12 Commission has sufficient coverage from its  
13 questionnaire responses for at least Indonesia, as the  
14 major Indonesian producer all have submitted  
15 questionnaire responses.

16 Petitioners have submitted, in their briefs,  
17 a number of internet pages from producers that they  
18 believe have not submitted questionnaire responses;  
19 but we submit that most, if not all, of these  
20 producers, especially for Indonesia, are not  
21 significant. We would point you to the Department of  
22 Commerce's mandatory respondent selection process to  
23 identify who the department identified as the major  
24 exporters from the respective subject countries.

25 Other factors support decumulation of

1 Indonesia from the other subject imports as well. For  
2 example, we note that Petitioners themselves, in their  
3 case brief, have singled out Taiwan and Vietnam, but  
4 not Indonesia, for significant increases in production  
5 capacity during the POI.

6 The Petitioners have also singled out the  
7 domestic producer, Intoplast, and asked the Commission  
8 to exclude Intoplast from the domestic industry  
9 because they are importers and/or related to Taiwan  
10 producers that accounted for a large portion of the  
11 subject imports from Taiwan.

12 Vietnam significantly increased their  
13 production capacity production and exports to the  
14 U.S., with sudden and significant increases during the  
15 POI, as many PRCB producers relocated to Vietnam after  
16 the orders were imposed on China, Malaysia, and  
17 Thailand in 2004.

18 Petitioners also singled out Vietnam in the  
19 articles that they showed in this morning's  
20 presentation, and they highlighted how Vietnam offered  
21 the lowest prices in the U.S. export market. Pricing  
22 patterns are different for Indonesia, whose prices  
23 tend to be higher than the other countries.

24 Indonesia also differs from Vietnam and  
25 Taiwan in that none of the Indonesian producers are

1 related to any U.S. producers, whereas many of the  
2 U.S. producers have affiliates in Taiwan and Vietnam.  
3 Indonesian factories, as noted by Ms. Lin earlier, are  
4 mostly established by native local investors, whereas  
5 many, if not most, of the Vietnamese factories are  
6 owned by foreign investors, primarily from China.

7 Indonesia's product mix includes a  
8 substantial amount of high-end specialty products,  
9 such as those produced by Super Exim, which results in  
10 different pricing patterns. In contrast, Taiwan is  
11 primarily in t-shirt bags, as noted earlier, because  
12 the labor costs in Taiwan make production of high-end  
13 bags not cost-effective.

14 Again, as Vietnam may have lower labor  
15 costs, but because of problems with labor in Vietnam,  
16 the quality of high-end bags in Vietnam has not been  
17 satisfactory. Thus, the volume of high-end bags for  
18 Vietnam is also not substantial.

19 Thus, given that Indonesian subject imports  
20 have different volume trends, pricing patterns,  
21 capacity trends, product mix, and differences in who  
22 owns them, these are all factors that clearly  
23 distinguish Indonesia from Vietnam and Taiwan. The  
24 Commission should therefore exercise its discretion to  
25 decumulate Indonesian subject imports.

1           We believe that Indonesia, considered alone  
2 on a decumulated basis, does not pose any threat of  
3 injury to the domestic industry.

4           In conclusion, we believe that the domestic  
5 industry is not threatened by reason of subject  
6 imports, either on a cumulated basis, and especially  
7 not by reason of Indonesian subject imports alone.

8           That concludes our direct presentation. We  
9 would like to thank staff for their efforts in  
10 compiling all of the questionnaire data and preparing  
11 the staff report. We appreciate the opportunity to  
12 present our testimony to you today, and we're  
13 available to answer any questions you may have.

14           Thank you.

15           CHAIRMAN ARANOFF: Thank you very much. And  
16 welcome to Ms. Lin. And Mr. Downing, we appreciate  
17 your traveling to be here with us today.

18           Let me start with where Mr. Lee ended by  
19 asking some questions about threat, which are follow-  
20 ups on the ones that I asked this morning.

21           We know that since the filing of the  
22 petitions in these investigations, a number of  
23 production facilities in subject countries have been  
24 idled. And there are some press reports that have  
25 linked the idling of some of those plants to this

1 case.

2 Are there any plants in Indonesia that have  
3 been idled since the beginning of this investigation?

4 MS. LIN: To our knowledge -- maybe I can  
5 start from our factory -- we do not idle any, our  
6 capacity, because basically, we still have a lot of  
7 non-PRCB business. We also support our home market.  
8 And then after the investigation start, we do, the  
9 U.S. customer do stop buying from us. But then we  
10 quickly fill up our capacity with our customer in  
11 Japan, and even from Australia, New Zealand, and  
12 Europe.

13 So basically, it's an impact to us, but not  
14 very severe, I will say. So as to Taiwan and Vietnam,  
15 I'm not quite sure about the detailed information.  
16 But the industry did have some information saying that  
17 they are waiting for new, for news. That's what I,  
18 that's what I know.

19 CHAIRMAN ARANOFF: Are you aware of any  
20 other companies that make this product in Indonesia,  
21 who may have shut down a plant or a production line?

22 MS. LIN: No, not to my knowledge.

23 CHAIRMAN ARANOFF: Okay, okay. For the  
24 record, if you do shut down a plant, and you have to  
25 do it for maintenance or other reasons some time, how

1 long does it take to bring it back up? And how costly  
2 is it?

3 MS. LIN: It's, actually it's a very weird  
4 question. Because from now and then, we also need to  
5 shut down some of the equipment, because, for example,  
6 you long to change the size of the bag or the  
7 thickness of the bag, then you have to shut down.  
8 It's not like the machine really runs all the time,  
9 non-stop. They will stop between the jobs.

10 And if we stop for a certain reason -- for  
11 example, we need to change a job -- then maybe take  
12 two hours to start a new one. Of course, you have to  
13 get the resin first, and then it's not a very big  
14 problem to start the production again.

15 CHAIRMAN ARANOFF: Okay.

16 MR. MORGAN: Madame Chairman, I'm just not  
17 sure that Ms. Lin understood the question about idling  
18 the facility versus shutting it down to make some  
19 adjustments.

20 I mean, have you ever idled your facility in  
21 the sense of, you know, shutting it down for an  
22 extended period of time?

23 CHAIRMAN ARANOFF: When you stop making  
24 resin.

25 MS. LIN: Sorry?

1                   CHAIRMAN ARANOFF:  If you stop the machinery  
2                   that makes the resin.

3                   MS. LIN:  Waiting for the resin?  You mean,  
4                   sorry?

5                   MR. LEE:  You're asking about whether you  
6                   had an extended stoppage in the production of the  
7                   PRCBs, right?

8                   MS. LIN:  No.  I, no, we never stop our  
9                   production.

10                  CHAIRMAN ARANOFF:  Okay, thanks.

11                  (Pause.)

12                  CHAIRMAN ARANOFF:  There has been some  
13                  extended discussion in this case about how to properly  
14                  define a high-end bag.  And let me ask you, Ms. Lin,  
15                  you showed us an example of what looked like a gift  
16                  shop bag for an aquarium, with graphics, colors all  
17                  over the bag.  That's a diecut bag, right?

18                  MS. LIN:  Right.

19                  CHAIRMAN ARANOFF:  Okay.  Of the diecut bags  
20                  that your company produces, approximately what  
21                  percentage of them contain, you know, graphics of that  
22                  sort?  Many strong colors covering the whole bag.

23                  MS. LIN:  I would say most of the, most of  
24                  our bag are with very complicated graphics, because  
25                  our own specialty is printing.  So the printer we have

1 can -- as I said -- that because we need to support  
2 industrial packaging. So the standard for the  
3 industrial packaging is very high, so the printers we  
4 have can make a florist photo-effect image.

5 So most of the bag we produce are actually  
6 to fulfill those kind of needs. So the bags like  
7 this, of course we also have bag that have a smaller  
8 portion of printing. But still, most of the time it  
9 still have very high-quality printing. Something like  
10 this. This is the minimum.

11 But the overall quality is very good. It's  
12 not only the printing, but how you feel about the  
13 film. And there's some value-added part, like for  
14 this one, this is a drawstring need to be attached  
15 with manual labor.

16 CHAIRMAN ARANOFF: So that drawstring is put  
17 in manually? That's not put in with a machine.

18 MS. LIN: That's right.

19 CHAIRMAN ARANOFF: Okay.

20 MR. LEE: Perhaps, Ted, if you want to, you  
21 can compare that.

22 MR. DOWNING: Hi. This particular bag was  
23 done domestically, so the handles can be put on by  
24 machine. And I had originally run this domestically,  
25 and the customer had a problem with the printing. So



1 we tested it in Indonesia. And I'll pass these up so  
2 you can kind of compare the difference between, I  
3 probably should write on here, domestic.

4 MS. LIN: So I will say the printing is not  
5 the most important factor when we say it is a high-end  
6 bag. But there is still a lot of bag that have very  
7 different components.

8 For example, this one. This is a rigid-  
9 handle bag. So this can only attached by hand, not  
10 like that bag. That can be made by a machine, but  
11 this one can only be put by hand.

12 And for you to put this kind of handle onto  
13 the bag, first you have to put the cardboard on the  
14 top, so that you can secure the handle onto the  
15 cardboard to support the weight that, the product you  
16 are going to put inside a bag.

17 So this is also something that we call a  
18 high-end shopping bag. And also things like this.  
19 This is a fold-over handle. And for a very similar  
20 bag, when the handle is smaller -- for example, this  
21 is also a fold-over handle. This can purely put by  
22 machine.

23 But if the customer want to have a, put a  
24 handle like this, so that you can carry the bag like  
25 this, this can't be made by machine. You have to

1 produce the handles separately, and manually attach  
2 the handle onto the bag one by one.

3 Yeah, and also this one have the cardboard  
4 bottom inside the bag. And no machine can do this  
5 job. You have to do that manually.

6 CHAIRMAN ARANOFF: So Mr. Morgan, Mr. Lee,  
7 having, I take it you have, I don't want to use too  
8 strong a word, abandoned your like-product argument  
9 essentially. But I guess my question is, since a  
10 number of these high-end bags, such as the ones that  
11 Ms. Lin has demonstrated for us, some of them or  
12 something close to them are made domestically, but  
13 some they are not, to the extent --

14 I guess my question to you is, are you  
15 making an attenuated competition argument that, you  
16 know, it's not that there is a different like product,  
17 but that products on the high end just don't compete  
18 that closely with the domestic like product? And if  
19 so, how much of the U.S. market do you think that, you  
20 know, protecting from direct competition with subject  
21 imports?

22 MR. MORGAN: I don't -- we are not making an  
23 attenuated competition argument. Ms. Lin feels very  
24 strongly about the bags, and we think that somewhere,  
25 in a future investigation, there is a basis of drawing

1 a line. But no, we're not. I mean, the percentage of  
2 imports that are accounted for by the high-end bags or  
3 what are truly high end are relatively minor.

4 So I think it's more just, there is another  
5 segment of the market out here. This is where Ms. Lin  
6 and Mr. Downing really participate. But we're not  
7 trying to make an attenuated competition argument.

8 MR. LEE: If I can add just briefly, there  
9 is a long evolution of this like-product issue in the  
10 case, and we recognize that. We're coming in kind of  
11 at this last phase; we weren't involved in the 2004  
12 investigations and the prelim of this case.

13 We do feel strongly that there clearly is a  
14 difference between t-shirt bags and a high-end  
15 shopping bag there. And that's why Super Exim did ask  
16 the Commission to collect data defining high-end bags  
17 with cardboard inserts and manually attached handles,  
18 because we felt that everyone could at least agree  
19 that those are definitely high-end bags.

20 I think the data came back in showing that  
21 well, people have different opinions of what else  
22 might be a high-end bag. And so I think that kind of  
23 blurred the lines there. China defined it as the  
24 highest end of the spectrum there.

25 We also recognize that the Commission

1 doesn't define like products by products that the U.S.  
2 industry doesn't make.

3           However, as the data did come in, we did see  
4 that there was a possibility that you could also draw  
5 the line at just t-shirt bags. Everyone knows what a  
6 t-shirt bag is; and thus, anything that's not a t-  
7 shirt bag could be put in the other side of the like  
8 product.

9           However, we also recognize that there is  
10 also information gaps that, you know, kind of limit  
11 our ability to make that like product argument at this  
12 time.

13           CHAIRMAN ARANOFF: Okay. I appreciate those  
14 answers.

15           MS. LIN: May I also add something? Sorry.

16           CHAIRMAN ARANOFF: Go ahead.

17           MS. LIN: No, I just say that actually, to  
18 us, it's really very clear that these are two very  
19 different product. But actually, we are, we know that  
20 we have tried several times to try to see how we can  
21 distinguish that product into a different segment.

22           But it seems to us that there is really  
23 difficulties, because a lot of producers produce  
24 different product, and they might have a different  
25 thought. So actually we have to say that we do not

1 agree that there is only one like product. And we are  
2 very disappointed that it's, we have to look this as a  
3 whole. But I think we also have to, just like Adam  
4 says that we also have to recognize that maybe there's  
5 a difficulty to define a line there.

6 But I think apparently everybody can tell,  
7 this is different.

8 CHAIRMAN ARANOFF: Okay, thank you very  
9 much. Vice Chairman Pearson.

10 VICE CHAIRMAN PEARSON: Thank you, Madame  
11 Chairman. Let me begin by passing the bags, if I  
12 could. Thank you.

13 Welcome to all of you. Those of you who  
14 have come from warmer places like North Carolina and  
15 Indonesia, I just would note that we have pretty well  
16 melted the snow that we had last month. It would have  
17 been a more impressive visit had you been here the  
18 second week in February. But you may enjoy Washington  
19 more in its current state.

20 Ms. Lin, you had indicated that Super Exim  
21 produces items other than polyethylene retail carrier  
22 bags. Can you clarify, either now or in the post-  
23 hearing, what percentage of your total production is  
24 accounted for by the retail carrier bags?

25 MS. LIN: Yes, I will certainly do that. I

1 will do in the post-hearing, yes.

2 VICE CHAIRMAN PEARSON: Okay, thank you.

3 And you also, I think, indicated that Super Exim  
4 doesn't have any intention to increase its production  
5 of t-shirt bags. Could you, you are making no  
6 investments or planning no investments that would --

7 MS. LIN: No, not at all. So our expansion  
8 plans in 2006 is mainly for high-end bag. For t-shirt  
9 bag, no, not at all. This is why we -- actually, when  
10 Hilex approaches us, we just give them a very general  
11 information to introduce our company, which is why we  
12 tell them that we have an expansion project. But once  
13 we realize that they want to buy t-shirt bag from us,  
14 then we have to tell them that we're sorry, that  
15 capacity is very limited, and that at that time we  
16 will not be able to support them.

17 VICE CHAIRMAN PEARSON: Okay.

18 MS. LIN: And also in a message we clearly  
19 say that we don't have any plan to increase capacity  
20 for t-shirt bag. Because, as you see, our specialty  
21 and our focus is high-end specialty bags, not t-shirt  
22 bag.

23 VICE CHAIRMAN PEARSON: And this also might  
24 be proprietary information, so if you prefer not to  
25 answer in public that's fine. But would it be correct

1 to assume that the margin that can be achieved on  
2 retail carrier bags, those t-shirt bags, is lower than  
3 the margins that could be made in the other products?

4 MS. LIN: Yeah, I think I will, I will  
5 address that in post-hearing.

6 VICE CHAIRMAN PEARSON: Okay. Someone had  
7 mentioned that -- oh, did you have something to say,  
8 Mr. Morgan?

9 MR. MORGAN: Just a point of clarification.  
10 When you say the margin on the t-shirt bags relative  
11 to other products, are you also including the  
12 industrial products, or just the high end?

13 VICE CHAIRMAN PEARSON: Right. No, I'd  
14 actually be interested in across the range of products  
15 made of polyethylene --

16 MR. MORGAN: Okay, sure.

17 VICE CHAIRMAN PEARSON: -- at Super Exim,  
18 kind of to get a sense of where the retail carrier  
19 bags might fall on a spectrum of relative  
20 profitability.

21 MR. MORGAN: Okay, great.

22 VICE CHAIRMAN PEARSON: Someone had  
23 mentioned that some facilities are expected to close  
24 in Vietnam. Could more be said about that? Are these  
25 some of the plants that may have been opened recently

1 by Chinese interests?

2 MR. LEE: That was a reference from the  
3 staff report. I can't really go into it, because it  
4 looked like it was derived from the questionnaire  
5 responses that the staff was going through.

6 VICE CHAIRMAN PEARSON: Oh, okay. So you  
7 don't have any independent knowledge of that.

8 MR. LEE: No.

9 VICE CHAIRMAN PEARSON: Okay, thank you. We  
10 have eight different pricing products in this  
11 investigation. Should we place more emphasis on some  
12 of them than on others? Ms. Maloney.

13 MS. MALONEY: Yes. I think as we made kind  
14 of clear in our prehearing brief, that we believe that  
15 the pricing data for the t-shirt bags in particular  
16 are more probative. And the pricing data for 6, 7,  
17 and 8, because they cover such a huge variety of  
18 products, that those data are less probative.

19 VICE CHAIRMAN PEARSON: Okay. So you're  
20 directing us primarily to products 1 through 5?

21 MS. MALONEY: Yes. Especially 1 through 4.

22 VICE CHAIRMAN PEARSON: One through 4, okay.  
23 Mr. Lee.

24 MR. LEE: I think we also note, just sort of  
25 in the context of the pricing products you guys looked



1 at in the 2004 investigation, the information-  
2 gathering process has sort of refined itself.

3 I believe in the 2004 investigations, you  
4 did have t-shirt bags, and the pricing products were  
5 defined a little bit more broadly. So there was input  
6 from the Petitioners, and also other participants.  
7 And I think the staff responded, and did in fact  
8 narrow the t-shirt bags.

9 Other products, such as 5, 6, 7, 8, I  
10 believe are different pricing products, and so I don't  
11 think the staff had as much experience knowing  
12 necessarily what is an appropriate range of  
13 specification that would narrowly define the products  
14 to get good comparability.

15 VICE CHAIRMAN PEARSON: Uh-huh. Well, as  
16 one of those commissioners who participated in the  
17 2004 investigation, I can assure you that the whole  
18 question of whether there is a dividing line anywhere  
19 in this product range is still of interest to me. I  
20 have said we're not looking for it now; we probably  
21 never will do another one of these cases, so we'll  
22 never have to consider it again. But it's, it's still  
23 unclear to me whether we could find a way to define  
24 it. But we may get that chance to consider again.

25 How do you respond to Petitioners' argument

1 that we should consider the direct imports by end  
2 users when we look at price effects?

3 MR. MORGAN: Well, I think that their point  
4 is that the pricing is lower for those imports. But  
5 in terms of the Commission's traditional pricing  
6 analysis, it's never been considered. Because the  
7 problem is the reason the prices are lower, as the  
8 staff report notes, one thing is that, you know, it's,  
9 I forget, there was a certain component that wasn't  
10 backed out, but there was no profit in that. There's  
11 no, I mean, when you collect pricing data comparing  
12 importers' prices and the domestic producers' prices,  
13 you're seeing what their margin is on those sales.

14 So this is the direct cost. This is  
15 basically what the importers' cost would be, from the  
16 foreign producer. And so it's at a completely  
17 different level of trade.

18 So unless you want to start engaging in some  
19 kind of Department of Commerce-level trade analysis, I  
20 suggest you reject that invitation from Petitioners  
21 vociferously.

22 But I think that's the primary problem; it's  
23 just an entirely different level of trade than what  
24 the Commission considers in its pricing comparisons.  
25 And so it's bound to be different, and it's bound to

1 be lower, because there's no profit.

2 MS. LIN: We noted earlier this morning,  
3 Petitioners did acknowledge that the role of the  
4 distributor is very value-added, providing door-to-  
5 store servicing, managing inventories at the  
6 administrative functions that they provide to a  
7 customer are very significant, and that does add value  
8 that the purchaser is willing to pay for. And if  
9 you're going direct to the retailer, you're cutting  
10 out a substantial distributor cost there.

11 We also note, and I think the staff report  
12 noted, that volumes to the direct importers tended to  
13 be very large. And so there is also the natural  
14 tendency that a much larger order is going to get a  
15 price discount to a much smaller order. Someone who  
16 is ordering a very big order is going to say hey, I'm  
17 ordering a lot, can you give me a cut on the price.

18 VICE CHAIRMAN PEARSON: So this is an  
19 industry, a domestic industry, in which the  
20 profitability has not been exactly outstanding. You  
21 know, you wouldn't make an argument that they're  
22 making just huge, huge piles of money. And imports  
23 are a significant consideration for the domestic  
24 marketplace. They, you know, they provide a  
25 meaningful share of apparent consumption.

1                   Why shouldn't we give Petitioners the  
2 benefit of the doubt, that there is something going on  
3 here, with the increase in imports from Indonesia,  
4 Vietnam, and Taiwan, for which they should receive  
5 relief?

6                   MR. MORGAN: I think in the premise, the  
7 notion of the domestic industry's performance, in  
8 absolute terms, whether it's an industry you would  
9 want to invest in, is a different question than the  
10 causation question. And I think that our point in  
11 showing the counter-trends, and there are a number of  
12 them, is that there is no causal relationship between  
13 that performance and the subject imports.

14                   And that's what the statute requires. It's  
15 not the presence of the subject import volumes; it's  
16 that they have caused the industry's condition to be  
17 in the state that it is.

18                   And given the significant presence of non-  
19 subject imports, added in with the counter-trends in  
20 terms of the volumes and the industry's performance, I  
21 don't think it really is even a question of giving the  
22 domestic industry in this case the benefit of the  
23 doubt. The record is clear. It shows over-selling,  
24 it shows lack of correlation in trends. And even  
25 setting aside the domestic industry's condition, the

1 subject imports have to have caused the adverse  
2 effects in the marketplace.

3 So not every industry that files a petition  
4 is entitled to relief. The statute makes it very  
5 clear that there has to be causation.

6 VICE CHAIRMAN PEARSON: Okay, thank you. My  
7 time has expired.

8 CHAIRMAN ARANOFF: Commissioner Okun.

9 COMMISSIONER OKUN: Thank you, Madame  
10 Chairman. I join my colleagues in welcoming you here  
11 this afternoon, particularly Ms. Lin and Mr. Downing,  
12 for traveling to be with us and answering our  
13 questions. I very much appreciate your presence here  
14 today.

15 Ms. Lin, let me start with you. You had  
16 indicated that when orders from the United States  
17 dried up after a petition was filed, that you were  
18 able to find other markets. And I think you had  
19 mentioned Japan and Australia.

20 I wonder if you could tell me, one, do you  
21 have demand projections for your other markets, first?  
22 And then also, if you could comment on the relative  
23 prices in other markets, besides the United States,  
24 for the product.

25 MS. LIN: I think the projection is not very

1 easy to make, because right now we do, you know, we  
2 are really under extension. So what we are trying to  
3 focus is on the industrial packaging.

4 And at the same time, we try to fulfill our  
5 capacity with other countries. So we are in a more  
6 starting stage, you know. So I think we probably can  
7 talk about some detailed information in the post-  
8 hearing information. Some information I probably have  
9 to go back and check with our marketing team leader.

10 COMMISSIONER OKUN: Okay. That would be  
11 very helpful, if you would have any of that global  
12 markets, both in terms of anything going on with  
13 demand, as well as with respect to pricing.

14 MS. LIN: Okay.

15 COMMISSIONER OKUN: Thank you. Just one  
16 follow-up on the demand question. I think, Mr.  
17 Morgan, you had probably already touched on it.

18 In terms of the U.S. market demand, is there  
19 anything else, any observations either Ms. Lin or Mr.  
20 Downing have, with respect to demand in the United  
21 States; whether, in fact, it's much impacted during  
22 the period of investigation, or looking forward by the  
23 reduction in the use of plastic bags, or the possible  
24 penalties, or any of the other things? If anything  
25 further on demand in the United States that differs

1 from what we've heard.

2 MR. DOWNING: Yeah, our business focuses  
3 more on the high-end bags. And what we've seen is  
4 over the past year or so, the demand has gone down  
5 some. But recently we're starting to see an increase  
6 in business.

7 COMMISSIONER OKUN: Okay. And you don't  
8 anticipate that being impacted by any of those various  
9 substitute ability of other bags, or --

10 MR. DOWNING: I don't.

11 COMMISSIONER OKUN: You don't, okay. Good.  
12 I thought that was clear from your testimony, but I  
13 just wanted to make sure that I understood that.

14 MS. LIN: Can I also say something about  
15 that?

16 COMMISSIONER OKUN: Yes, please.

17 MS. LIN: Actually, I don't, we didn't see  
18 any demand drop, either. But because there's a lot of  
19 discussion on the environmental-friendly things, so  
20 actually recently we have more requirement to put  
21 environmental-friendly additives into the bag.

22 For example, biodegradable or degradable  
23 bag. So still, or just the customer will ask us to  
24 put more recycled material into the bag. So we're  
25 still producing the bag, but in a different way, just

1 that we need to, to fulfill more environmental  
2 requirement.

3 COMMISSIONER OKUN: Okay. And then, Mr.  
4 Lee, you had, in your presentation on looking at  
5 whether to, whether the three countries should be  
6 cumulated for purposes of threat, I wonder if you, or  
7 Ms. Lin or Mr. Downing, could expand any further on  
8 any differences between Indonesia and Vietnam and  
9 Taiwan? Particularly with respect to, you know, the  
10 lack of a home market for Vietnam and Thailand --  
11 Taiwan, I'm sorry, thank you.

12 Anything else about those markets in  
13 particular, or any other changes going on there? Or  
14 is that not something you know?

15 MR. LEE: They can perhaps talk about the  
16 home market customers that Super Exim is servicing.  
17 My understanding is that they, basically any major  
18 retailer, restaurant in the metropolitan card area,  
19 anyone who needs a bag comes to Super Exim, especially  
20 ones with high-quality printing graphics.

21 MS. LIN: Yes. We have very strong home-  
22 market support actually. So most of the department  
23 stores and shopping malls, restaurant, bakery stores,  
24 they all buy from us. So basically we have a very  
25 large home market customer portfolio.



1           MR. LEE: In contrast, I think Petitioners  
2 highlighted some of the Vietnamese producers, perhaps  
3 some of the Taiwanese producers who are predominantly,  
4 if not exclusively, U.S. export-oriented; not just  
5 export-oriented, but U.S. export-oriented. I think,  
6 you know, we have a very strong presence in our home  
7 market.

8           MS. LIN: And again, besides PRCB, there is  
9 a lot of factories in Indonesia, like diaper, napkins,  
10 et cetera. So we also supply bag to them.

11           COMMISSIONER OKUN: Okay. Then I think  
12 turning back to you, Mr. Morgan, just with respect to  
13 the arguments with respect to causation. In exploring  
14 this issue this morning with Petitioners' panel and  
15 the relationship between non-subject, subject imports,  
16 and the performance of the domestic industry, I think  
17 one of the responses was it's not just enough to look  
18 at, you know, the small market-share the domestic  
19 industry had, but look at what, the correlation is  
20 really what the other factors, the employment I think  
21 was cited, as well as I think three other factors that  
22 I think Mr. Dorn ticked off.

23           Could you respond to that?

24           MR. MORGAN: I think that the chart that we  
25 had up earlier, from '06 to '07, which obviously we're

1 putting a lot of weight on because that is when the  
2 subject import volumes experienced the only absolute  
3 increase in quantities, the trends were in more than  
4 just operating income. It was in many of the  
5 performance indicators.

6 Now, in '07 to '08, admittedly there were  
7 declines in the performance indicators; but again, you  
8 have a change in the trend of subject imports coming  
9 in.

10 Now, I think the important thing to note  
11 about this chart is in terms of non-subject imports,  
12 what was going on during that, during that period,  
13 that '07 to '08 period. Well, in terms of market  
14 share, it's true subject imports gained 0.4 percentage  
15 points. But non-subject imports gained 3.3.

16 So in terms of attributing the change in the  
17 performance in that period, barring some explanation  
18 of which I'm aware, a change in market share of 3.3 is  
19 bigger than a change in 0.6. And if a change in 0.6  
20 can explain the deterioration in the industry's  
21 condition from '07 to '08, how is it that a change of  
22 only two percentage points over the interim periods,  
23 how does that explain the improvement in the domestic  
24 industry's condition in those periods?

25 So I think those are the fundamental

1 problems with the Petitioners' point that you can't  
2 slice and dice the data. I mean, that's what  
3 determining causation requires. If you just had an  
4 end-point-to-end-point comparison, that wouldn't  
5 explore causation at all. That would be attributing a  
6 cause to an effect, just based on a comparison of two  
7 end points.

8 I think the only way you can do a meaningful  
9 analysis, and the way the Commission has always done  
10 the analysis, is to look at the trends throughout the  
11 entire period. And here I believe they strongly  
12 support a finding of no causation.

13 COMMISSIONER OKUN: Okay. And then with  
14 respect to cost-price squeeze, and I know you have  
15 commented in your brief, we had a further discussion  
16 this morning in terms of what the producers had to say  
17 about what they saw in the marketplace in needing to  
18 keep prices down in order to keep customers; and that  
19 that is consistent with the data on the record with  
20 regard to shipments. How do you respond to that?

21 MR. MORGAN: I think my colleague may have a  
22 few points. But my first point overall is that in  
23 terms of the pricing data on the products that account  
24 for, you know, I mean, those are the bread-and-butter  
25 products of the domestic industry. There is over-

1 selling.

2           So how, in that environment, there is a  
3 cost-price squeeze caused by the subject imports, I'm  
4 not sure. I think some of the Commission's questions  
5 to the Petitioners this morning got to the idea that  
6 you've got a decline in demand during that period, and  
7 there has to be, I believe it was Chairman Aranoff  
8 who, there has to be an expectation of price  
9 increases. So in that environment, I don't know that  
10 you, the record shows that you had it.

11           And certainly, in most cases where there's a  
12 cost-price squeeze, you at least see an attempt by the  
13 domestic producers to raise their prices. In this  
14 record, I don't see that there was an attempt that  
15 failed. It's not a record that suggests import, or  
16 subject, or domestic industry prices are coming down  
17 to meet the subject imports at all, in fact.

18           So I think that the record evidence, as it  
19 stands right now, doesn't support the notion that it  
20 would be subject imports that are responsible for any  
21 cost-price squeeze.

22           COMMISSIONER OKUN: Would your argument in  
23 response be any different if there was record evidence  
24 that producers had to invoke, the release clause in  
25 contracts were, were invoked?

1           MR. MORGAN: Well, I suppose it depends on  
2 the degree. I mean, if they could prove that 80  
3 percent, you know, I can't put a number on it. But  
4 certainly as the record stands now, there hasn't been  
5 that showing. And based on the pricing data that you  
6 have, again with subject imports predominantly over-  
7 selling, whether that's attributable to subject  
8 imports.

9           And there is another question I think that  
10 is of concern to us, is attribution. I mean, was it  
11 because of non-subject imports? The Petitioners are  
12 very careful and honest, and they attributed lost  
13 sales and pricing pressures to imports, to Spectrum,  
14 to other -- but they can't necessarily know whether  
15 it's the subject imports in this case, or other non-  
16 subject imports.

17           So to the extent that the meet-and-release  
18 clauses were exercised as a result of import  
19 competition, I think that that would be a severe  
20 attribution problem to the subject imports.

21           COMMISSIONER OKUN: Okay. My red light has  
22 come on. I'll have a chance to follow up. Thank you.

23           COMMISSIONER WILLIAMSON: Thank you, Madame  
24 Chair. And I, too, want to express my appreciation to  
25 the witnesses for their testimony, especially for

1 those who had to travel a long way.

2 Ms. Lin, I was wondering, in your production  
3 or in the production of other producers of the bags in  
4 Indonesia, how much of a production is based on  
5 solvent-based printing compared to water-based  
6 printing?

7 MS. LIN: Oh, we only do rotogravure  
8 printing. We don't -- all solvent-based, not water-  
9 based.

10 COMMISSIONER WILLIAMSON: Okay. Now, are  
11 there a number of the -- you know, we only have  
12 limited data on other producers. Are there quite a  
13 few producers who do the water-based?

14 MS. LIN: In Indonesia?

15 COMMISSIONER WILLIAMSON: In Indonesia,  
16 correct.

17 MS. LIN: My knowledge is there is no water-  
18 based ink available in Indonesia right now. So they  
19 probably need to import that, and the price probably  
20 expensive.

21 COMMISSIONER WILLIAMSON: Okay. What about,  
22 you said there's a significant demand for these bags  
23 in Indonesia. Are other producers sort of targeting  
24 shall we say the t-shirt bag as a low-end bag?

25 MS. LIN: Yes, of course. There are, we do

1 have a local market that also needs t-shirt bag. So  
2 there are other local, small factories support  
3 Indonesian local market for a t-shirt bag.

4 COMMISSIONER WILLIAMSON: Okay. Do you know  
5 if any of those are also exporting? Any of those  
6 producers are also exporting?

7 MS. LIN: I know the other company who is  
8 also the major Respondent. Yes, Sedo Mawoon. They  
9 also export t-shirt bag, yes.

10 COMMISSIONER WILLIAMSON: Thank you. I was  
11 wondering, how long does it take to construct a plant  
12 to build the poly carrier bags?

13 MS. LIN: I will, I will say it should be  
14 very long time. But actually, I don't know about the  
15 real time for us to start a factory from nothing. But  
16 our factory is already over there; it's since 1991.  
17 So actually, it takes a lot of time for us to reach  
18 what we have right now.

19 COMMISSIONER WILLIAMSON: Okay. I don't  
20 know if you heard the Petitioners this morning when  
21 they characterized a lot of the, they said the  
22 factories in Asia were much simpler than here, and  
23 that there may be fewer lines.

24 And I was wondering, did you, or anyone  
25 else, do you share that view?

1 MS. LIN: You mean --

2 COMMISSIONER WILLIAMSON: The difference  
3 between the factories here and the factories, say, in  
4 Indonesia or Vietnam.

5 MS. LIN: You mean to move the machines?

6 COMMISSIONER WILLIAMSON: Well, more to be -  
7 - yes. You know, is it easier to move the machines in  
8 factories in Asia. The complexity, or shall we say  
9 the sophistication of the product lines in Asia. I  
10 know you said you use German, you have German  
11 equipment.

12 MS. LIN: Yeah, that's right. So our  
13 equipment is very giant, so I would say it is not easy  
14 to move these machines.

15 And the other thing is actually, we are  
16 doing this business in local, and we are native  
17 Indonesian. So it's not possible for us to move  
18 anywhere. So we are not foreign investor. So we have  
19 a long-term relationship with our local customer. We  
20 do have a very strong local demand, especially in the  
21 industrial packaging. And we also have a very long-  
22 term relationship with our bank. And also the  
23 government.

24 So to us, it's not, I will say it's not  
25 possible for us to move. So what we have to do is we



1 try to find new customer to fulfill our capacity. We  
2 are never considering moving.

3 COMMISSIONER WILLIAMSON: Okay, thank you.  
4 You mentioned that you're getting more demands for the  
5 production to be environmentally friendly. And I was  
6 wondering, in addition to using recycled material,  
7 what other changes might that have on the inputs? I  
8 mean, are you having to, are you still using the same  
9 amount of resins? Or are there other things, other  
10 kind of product have to be included?

11 MS. LIN: I think we have to put certain  
12 additive, like biodegradable or degradable additive.

13 COMMISSIONER WILLIAMSON: Okay.

14 MS. LIN: And we have to --

15 MR. LEE: But my understanding is I think in  
16 terms of the basic resin input, high-density, low-  
17 density resin. It's still the same amount, but you're  
18 just adding a tiny bit of an additive that helps  
19 degrade the resin once it's on. But it's still  
20 basically the same polyethylene bag that is being made  
21 previously.

22 COMMISSIONER WILLIAMSON: Okay. And so  
23 this, I guess it's relatively simple to add the  
24 additive.

25 MR. LEE: Yes. I mean, I think getting the

1 additive, I think people are trying to figure out do  
2 the additives really work, how much do they cost, how  
3 do I get the supply of the additives. So I think  
4 there are, the industry I think is still trying to  
5 figure out, you know, is this a viable way to, you  
6 know, make a more environmentally friendly bag, you  
7 know, for the future.

8 COMMISSIONER WILLIAMSON: Okay. Thank you.  
9 Mr. Lee and Mr. Morgan, given the paucity of data that  
10 we have on the producers in Asia, what is the, I mean  
11 briefly say what is your basis for arguing that we  
12 should decumulate Indonesia here?

13 MR. LEE: Well, I think in terms of the  
14 coverage, out of the three countries you do have  
15 adequate coverage for at least two of them, I would  
16 say. You know, I think, based on those two countries'  
17 responses when you compare the questionnaire response  
18 numbers there to the import stats, I think you do have  
19 enough coverage to have confidence in the production  
20 of, you know, going off of the questionnaire data, for  
21 threat purposes.

22 So that being said, you know, I think when  
23 you look at the mandatory respondents that the  
24 Department of Commerce selected, they did so based on  
25 the volume of imports coming in from the subject

1 countries.

2 The Department of Commerce was able to say  
3 these two or three or so respondents from each country  
4 are large enough to cover enough of the subject  
5 import, that we feel these are representative  
6 companies for each of the subject countries.

7 So to the extent the Department of Commerce  
8 was satisfied that they got enough coverage by  
9 selecting two or three respondents, we feel that if  
10 the Commission gets the questionnaire responses from  
11 those two or three respondents from each subject  
12 country, we show that you probably do have adequate  
13 coverage for threat purposes.

14 MR. MORGAN: And just one point to add to  
15 that is, you do have the import statistics, which are  
16 presumably entirely comprehensive in capturing the  
17 Indonesian imports and participation in the  
18 marketplace, how they have participated in the  
19 marketplace relative to the two other subject  
20 countries, what their market shares were, what their  
21 trends were. So you do have that data on which you  
22 can rely, as well.

23 COMMISSIONER WILLIAMSON: Okay. Even though  
24 we might not have data on Indonesian producers who are  
25 targeting producing the t-shirt bags, or targeting

1 low-end markets?

2 MS. LIN: I would say, you know, even just  
3 based on what Petitioners put in their post-hearing  
4 brief, I would characterize most of the companies  
5 listed, for Indonesia definitely, as really small guys  
6 who are not significant in any way in terms of  
7 exporting to anywhere. You know, even though they may  
8 have a web site out saying they're offering it,  
9 exports, given that we're not seeing them in import  
10 data here in the U.S., I just don't really think that  
11 it's credible to count them as a major player in the  
12 exports to the United States.

13 COMMISSIONER WILLIAMSON: Okay, thank you  
14 for that answer.

15 Do you agree with the Commission's gathering  
16 of price data on the basis of pounds rather than  
17 thousand bags, number of bags? Do you have a comment  
18 on that?

19 MR. LEE: I think we note that this is  
20 different from how the Commission collected the data  
21 in the last investigation. But I think in terms of  
22 sort of the trends in terms of pricing, I think it is  
23 a fair representation.

24 Pounds, the industry does use pounds. The  
25 industry does use 1,000 bags as a way to count their

1 bags.

2 COMMISSIONER WILLIAMSON: Okay, thank. And  
3 have you seen, what changes have you seen occur in the  
4 foreign industries since the filing of the petition  
5 last year?

6 MR. LEE: Specifically for Indonesia, I  
7 don't think there has been any significant changes for  
8 Super Exim. I think there may have been some more  
9 shifting towards other export markets, but other than  
10 that, no significant changes for them.

11 COMMISSIONER WILLIAMSON: Okay. Thank for  
12 those answers.

13 CHAIRMAN ARANOFF: Commissioner Pinkert?

14 COMMISSIONER PINKERT: Thank you, Madam  
15 Chairman; and thank all of you for being here and for  
16 helping us understand what's going on in this  
17 industry.

18 I noted in your presentation that you've  
19 attempted to demonstrate that the improvement in the  
20 industry's condition in interim 2009 was not the  
21 result of the filing of the Petition. But do you have  
22 a positive explanation for what did cause the  
23 improvement in the financial condition in interim  
24 2009?

25 MR. MORGAN: I believe that Adam has alluded

1 to it in his testimony. But it does involve  
2 confidential information. I don't know if you have  
3 the cite to our brief. It's probably best not to even  
4 try to discuss it here. But there is a definite  
5 explanation for it, and we can certainly address that  
6 for you in our post-hearing confidential brief.

7 COMMISSIONER PINKERT: Thank you; but it is  
8 your contention that the condition of the industry in  
9 interim 2009 was robust?

10 MR. MORGAN: Again, I suppose this somewhat  
11 goes back to the point that Commissioner Pearson and I  
12 were exploring earlier. Our contention is that  
13 there's not a correlation between the industry's  
14 performance and the subject imports.

15 And I think it gets to a point, too, about  
16 profitability. If a low level of profitability is a  
17 measure of whether an industry is entitled to get  
18 relief, then fairness would dictate that an industry  
19 with a high level of profitability -- even one that  
20 has seen that profitability decline throughout the  
21 period, throughout the interim comparisons, and as  
22 subject imports continue to increase throughout the  
23 period -- if the Commission starts getting into the  
24 game of making value judgments on whether  
25 profitability is somehow a measure, then that industry

1 would not get the benefit of the doubt.

2 So I think here, again, our point is not in  
3 terms of the robustness of the industry; but whether  
4 the industry's performance correlates to the subject  
5 import volumes.

6 MR. LEE: I think I mis-spoke in terms of  
7 describing them as robust. It was probably more  
8 adequate to, you know, make the point that we don't  
9 really feel that they're vulnerable. I don't know if  
10 we would go the other way to say, you know, to the  
11 extent that they're robust. I think it's just to  
12 respond to their characterization of vulnerability.

13 COMMISSIONER PINKERT: Along these same  
14 lines, you heard the argument that the subject imports  
15 are preventing the domestic industry from being able  
16 to invest and grow their domestic capacity in  
17 production and shipments. How do you respond to that?

18 MR. MORGAN: I think if you do take the end  
19 point to end point comparison, they did gain market  
20 share. Their shipments did increase. Investments  
21 seem to be down, and I think we could look at the data  
22 for you in a post-hearing and give a better  
23 explanation.

24 But this is an industry, I think, bearing in  
25 mind, that did go through a consolidation recently;

1 and to the extent that Hilex had acquired Vanguard,  
2 you know, in that environment, whether they were going  
3 to be looking to go out and gain even more capacity,  
4 you know, I think only they can answer.

5 But I think in terms of the trends, we can  
6 take a look at that for you in our post-hearing; and I  
7 think it might be more meaningful to do on a company  
8 by company basis.

9 MR. LEE: And if we do make this analysis  
10 on a company by company basis, I think we will be  
11 getting into the fact that the domestic industry has  
12 many members; and that many of these domestic  
13 producers are choosing to invest in foreign facilities  
14 overseas.

15 So to the extent they're choosing not to  
16 invest in their U.S. production facilities, I think  
17 it's important to consider whether these domestic  
18 producers are choosing to go offshore in setting up  
19 their own import supply sources.

20 COMMISSIONER PINKERT: Thank you; turning  
21 for a moment to the arguments about cumulation in the  
22 context of a threat determination, can you help me to  
23 understand why the AUVs for the Indonesian shipments  
24 are significantly higher than others -- just leaving  
25 it in those general terms?



1           MR. MORGAN: Well, this is a point that I  
2 will hate to concede right here. But our view is that  
3 AUVs in any way shape or form, for de-cumulation, for  
4 our threat argument -- I mean, the AUVs in this case  
5 are meaningless. So I don't know how I could explain  
6 it. But the fact is, I mean, even the Petitioners  
7 recognize the comparability of the pricing products,  
8 in their view, isn't comparable.

9           So to get to a level where you're comparing  
10 AUVs and saying that they have some kind of meaning --  
11 unfortunately, I don't believe it works in the context  
12 of comparing subject import prices to non-subject.

13           And here, where it clearly would benefit us  
14 to say AUVs are great because Indonesia is much higher  
15 -- I just unfortunately think that there's so many  
16 products included within that number, that it's just  
17 not credible to claim that that represents a valid  
18 data point in this industry and in this investigation.

19           So I've love to say that it's because we  
20 have such a predominant high end, high value bags and  
21 so on and so forth. But I just don't think that AUV  
22 data is a meaningful data point in this case.

23           MR. LEE: I think to the extent you are  
24 looking at AUVs, I would like to second Frank's point;  
25 that you really have to be very careful about how

1 significant those AUVs are; given the wide range of  
2 products that are in there.

3 I think it's also important, because I think  
4 in the prelim, staff did an analysis of the AUVs of  
5 non-subject imports. I think they did gather data.  
6 They did get Customs data that would identify the  
7 imports by which Chinese supplier, which Malaysian  
8 supplier, which Thai supplier.

9 So you'll see that even though they're  
10 saying non-subject imports had higher AUVs, I think  
11 the details of the Customs data showing which of these  
12 Chinese suppliers or Chinese imports were from  
13 excluded suppliers versus non-excluded suppliers shows  
14 that there's also a significant difference in the  
15 AUVs, as well; which further indicates in our minds  
16 that the AUVs really are not reliable, because you  
17 have the effect of individual suppliers coming into  
18 play, the products that they're shipping. You know,  
19 there are many other factors that would dilute the  
20 probative value of the AUVs.

21 COMMISSIONER PINKERT: Thank you; now how do  
22 you respond to the argument that the subject imports  
23 replaced the non-subject imports that were previously  
24 materially injuring the domestic, and thus, what we're  
25 seeing is just a continuing process of injury; rather

1 than, as you would have it, the lack of a trend during  
2 the period?

3 MR. MORGAN: I think the first thing is that  
4 the order has been in effect since 2004. So  
5 presumably, pricing of those previously subject or  
6 non-subject imports has had time to adjust to the  
7 current market conditions.

8 So to the extent that subject imports are  
9 entering, it's not at the immediate end of the injury  
10 period from the last investigation. You know, we're  
11 talking about 2006.

12 So they're coming in at prices, and if  
13 they're competing against now what I heard from the  
14 domestic industry is that these are fairly priced  
15 subject imports, they're gaining share from them at a  
16 price that's not at the previously injurious levels.

17 And I think if the subject imports were  
18 entering at injurious levels, you wouldn't see the  
19 level of over-selling that you do in products two and  
20 three, the bread and butter products. There is over-  
21 selling; and that would be a very different trend if  
22 these were coming in at the kind of just immediately  
23 post-order and just simply replacing the previously  
24 subject imports as a source of injury.

25 So I don't think the data actually supports

1 that notion that that's how the competition is  
2 occurring or the price level at which it's occurring.

3 MR. LEE: I also would like to make a  
4 point. You know, Indonesia, in particular, their  
5 imports into the United States -- I think if you go  
6 back to the 2004 investigation, you'll see that  
7 Indonesia at that point was treated as non-subject  
8 imports, and that the volume of their imports to the  
9 U.S. -- you know, they had imports coming into the  
10 U.S. So they've been in the market for a long time,  
11 even before this case, even before the China and  
12 Malaysia/Thai case.

13 My impression from what the Petitioners were  
14 arguing was that because the order on China, Malaysia,  
15 and Thailand was imposed, they were entitled to  
16 recover all of the share that the Chinese, Malaysia,  
17 and Thais had. You know, they seemed to acknowledge  
18 that they did improve a little bit and gain back some  
19 market share. But they just wanted more.

20 You know, what they did gain back in market  
21 share from the Chinese, Malaysia, and Thais were just  
22 not enough, and they wanted it all. You know, to me,  
23 that just comes off a little bit too greedy for what's  
24 actually happening in the market place.

25 COMMISSIONER PINKERT: Thank you; for the

1 post-hearing, if you could also supply an analysis of  
2 what would have happened with non-subject pricing and  
3 volume, had the subject imports exited the markets  
4 during the period under examination, I'd appreciate.  
5 Thank you, Madam Chairman.

6 CHAIRMAN ARANOFF: Sure; there was some  
7 discussion earlier in connection with the cumulation  
8 issue, for purposes of threat, about ownership of the  
9 producers in Indonesia; and I know, Ms. Lin, you told  
10 us that your company is Indonesian owned.

11 Are you or anyone on the panel aware of any  
12 substantial Indonesian producers that are not locally  
13 owned, that are owned by foreign investors; and  
14 particularly either from the U.S. or from the  
15 countries that are subject to order:

16 MR. LEE: We're not that sure of that. I  
17 mean, I think we can look into it. But I think, to  
18 our knowledge, all the major players are local  
19 invested. But we'll try to look into that a little  
20 bit more for you.

21 CHAIRMAN ARANOFF: I think that would be  
22 helpful to looking at this cumulation issue.

23 MR. LEE: Okay.

24 CHAIRMAN ARANOFF: So anything you can get  
25 on the record, we'd appreciate it.

1           We have some mixed data on our record with  
2           respect to the non-U.S. export markets that are served  
3           by Indonesian producers. I think there's a point in  
4           your brief where you argue that actually the  
5           Indonesian industry has third country markets that are  
6           larger than the U.S.; and there's some other evidence  
7           in the staff report that may be inconsistent with  
8           that.

9           What can you tell me, either about Ms. Lin's  
10          company or about the Indonesian industry as a whole,  
11          with respect to the relative size of U.S. versus third  
12          country markets for this product.

13          MR. LEE: The staff report noted that  
14          Indonesian export stats indicated that, in terms of  
15          rank, Japan was the largest export market and the  
16          United States was second. You know, that does seem to  
17          be inconsistent with how the questionnaire data is  
18          showing.

19          I'm not sure we can really reconcile that.  
20          They are both what they are. And in terms of Super  
21          Exim's ability in exports, I think the U.S. is a  
22          significant market; but other markets are also  
23          significant, too.

24          CHAIRMAN ARANOFF: In terms of threat, you  
25          know, some of the things that we might look at, for

1 example, are -- for Super Exim, if there are long term  
2 contracts or long term customer relationships with  
3 customers in third country markets, where you can  
4 establish that there's been a certain volume of  
5 product over some period of time; so that we wouldn't,  
6 for example, look at that volume as available to serve  
7 the U.S. market, that would be helpful information to  
8 have on the record.

9 Obviously, it's better if we have it for the  
10 whole industry. But it's good if we have it for  
11 whoever we have it from.

12 MR. LEE: We'll work on trying to get that  
13 for you.

14 CHAIRMAN ARANOFF: Okay; Ms. Lin, does your  
15 company participate in any Internet auctions in the  
16 U.S. market?

17 MR. LIN: No, we don't. Actually, for our  
18 export market, the customer will visit us. Then we  
19 will provide a quote to them. Then if they buy from  
20 us, then we export.

21 So for our export market, we don't directly  
22 sell to any end user. So we always work with traders  
23 -- work with importers like Mr. Downing. So we don't  
24 participate in any Internet auctions.

25 CHAIRMAN ARANOFF: Well, that's a good

1       segway to be turning to Mr. Downing and saying, you  
2       know, Mr. Downing, we haven't heard too much from you.  
3       How about you describe your business to us?

4               MR. DOWNING: We primarily sell to smaller  
5       retainer packaging distributors. You know, we sell  
6       not only plastic bags; but we sell tissue, paper bags,  
7       ribbon -- you know, just really a broad line of  
8       products. Our primary business though is paper and  
9       plastic bags -- probably equally.

10              You know, for us, again, we focus more on  
11       the high end, smaller runs. So, you know, maybe for  
12       us, a container load is a big order. For example,  
13       this type of business -- this would be a big order for  
14       us.

15              So, you know, as far as the Internet  
16       auctions go, I've never participated in an Internet  
17       auction for high end bags.

18              CHAIRMAN ARANOFF: Do you purchase all of  
19       the subject products that you purchase from imports;  
20       or you also purchase domestic products?

21              MR. DOWNING: Only on plastic imports --  
22       imports domestic.

23              CHAIRMAN ARANOFF: Okay, and how long has  
24       your company been in this business?

25              MR. DOWNING: Well, my father has been in it



1 about 40 years; and I've been in it for 13 years.

2 CHAIRMAN ARANOFF: And all that time, you've  
3 been dealing with imported plastic bags?

4 MR. DOWNING: That's correct.

5 CHAIRMAN ARANOFF: So you haven't  
6 participated in Internet bids. But have you  
7 participated in more traditional bidding processes?

8 MR. DOWNING: Yes, I would say yes, yes.  
9 Yes, I may have a distributor come to me and say, can  
10 you beat this price. But it's typically going to be  
11 another importer that I'm competing against. Again,  
12 most of this type of stuff you can't get domestically.

13 CHAIRMAN ARANOFF: And your customers that  
14 you would be negotiating with, it's the distributor,  
15 not the retailer, that's going to give away the bag.

16 MR. DOWNING: Correct; maybe 95 percent of  
17 the time, it's distributors.

18 CHAIRMAN ARANOFF: Okay, but the  
19 distributors are buying bags that are specific to  
20 specific retailers; or are they sometimes buying  
21 things that could be used by multiple retailers?

22 MR. DOWNING: Well, you may have a customer  
23 that will buy stock inventory of this type of bag, in  
24 many different colors; and they hot stamp or post-  
25 print the bag. So then they'll design their own sizes

1 for their program, put it in a catalog, put on the  
2 Internet, and sell it that way; and maybe sell a case  
3 hot stamped or post-printed to a small retailer.

4 CHAIRMAN ARANOFF: So you're saying they're  
5 going to do the finishing work on that themselves;  
6 okay.

7 MR. DOWNING: That's a big issue, as well;  
8 the stock -- shopping bags.

9 CHAIRMAN ARANOFF: So in that case, they  
10 would be getting the green bag without the other  
11 printing on it. Is that what you're describing?

12 MR. DOWNING: Maybe they have five or six  
13 colors in their line; and they'll buy maybe four sizes  
14 of shopping bags, along with maybe four sizes of  
15 merchandize bags, all matching colors.

16 CHAIRMAN ARANOFF: Okay, and then a customer  
17 might come to them and say, you know, we want this  
18 particular retail logo stuck on a blue bag.

19 MR. DOWNING: Correct.

20 CHAIRMAN ARANOFF: And they would take a  
21 blue bag out of inventory and print --

22 MR. DOWNING: Hot stamped it -- correct.

23 CHAIRMAN ARANOFF: Okay, I appreciate those  
24 answers, and I don't think I have any further  
25 questions. So let me turn to Vice Chairman Pearson.

1                   VICE CHAIRMAN PEARSON: Thank you, Madam  
2 Chairman.

3                   Let me ask you about ink and print quality,  
4 if I could. How large a factor is print quality in  
5 selling the retail carrier bags? Is that a big issue,  
6 in terms of satisfying customers?

7                   MR. DOWNING: It is a big issue. You know,  
8 for example, on something like this. This is very  
9 important to have a nice clean -- these are printed  
10 with metal plates. So you get a nice, crisp print.

11                  I had a couple of bags up there that you  
12 guys passed around to compare the different between a  
13 flexo and the roto gravure. The particular customer,  
14 of the sample, they were dissatisfied with the  
15 domestic print. So we had to go off shore in that  
16 situation. Because initially, they wanted to go  
17 domestic; and then they go the bags, and it was not  
18 good. So we ended up moving it off shore.

19                  VICE CHAIRMAN PEARSON: Okay, and the bag  
20 you just held up, that is with roto gravure printing  
21 in the solvent based ink?

22                  MR. DOWNING: Correct; all of what we do is  
23 roto gravure.

24                  VICE CHAIRMAN PEARSON: The aquarium bag  
25 that was circulated earlier -- which is obviously a

1 lovely bag and very eye catching -- would it be  
2 possible to print that with a water-based ink?

3 MS. LIN: I think it's possible; but the  
4 effect would be different. So I think we also have  
5 one sample here, which is produced domestically. So  
6 you can also compare the difference.

7 MR. DOWNING: We have some domestic versus  
8 Super Exim's bags here, if you want to take a look at  
9 that.

10 MS. LIN: So the solvent based ink is more  
11 sharper. And the water based ink is actually -- the  
12 Flexo printing is printed with rubber. So the rubber  
13 will wear out. So it will move. The roto gravure is  
14 metal printing. So no matter how many times you  
15 print, it will not wear out. So the quality will be  
16 very good.

17 VICE CHAIRMAN PEARSON: Okay, so the water  
18 based print is put on with a rubber roller?

19 MS. LIN: A rubber, yes.

20 MR. LEE: The flexo plates are essentially  
21 a plastic design that's etched into a plastic mold;  
22 and that mold is then attached to a roller that picks  
23 up the paint and then transfers it to the bag.

24 A metal roto gravure cylinder -- because  
25 it's metal, the imprint is much sharper and cleaner;

1 and that's one of the reasons why the printing is much  
2 sharper.

3 If you look at the two bags there --  
4 especially where the colors are intersecting there --  
5 you'll see that there is some bleeding and overlap in  
6 the colors of the one that used water based or the  
7 Flexo. Whereas, the other one, the dividing line  
8 between the two colors is much sharper and cleaner.

9 VICE CHAIRMAN PEARSON: It is a clearer  
10 dividing line with the roto gravure printing. You're  
11 correct. Finally, I've found a clear dividing line.

12 (Laughter.)

13 MR. DOWNING: That is, on the higher end  
14 bags, it's very important, at least to my customers --  
15 crisp, clean printing.

16 MR. MORGAN: Yes, but if you were to follow  
17 the Commission's precedent, and the U.S. producers  
18 weren't using that type of printing and you couldn't  
19 find a different like product, you would have to look  
20 to the most similar; and then you would be back to  
21 where you started. So that would, unfortunately, be a  
22 clear dividing line.

23 VICE CHAIRMAN PEARSON: Okay, that's fair  
24 enough, fair enough -- technical points here. Are you  
25 aware of any U.S. producer that utilizes roto gravure

1 printing and solvent based inks.

2 MS. LIN: No, I don't

3 VICE CHAIRMAN PEARSON: Did I understand  
4 correctly a comment, Ms. Lin, that you made earlier  
5 indicating that at least in Indonesia, it's less  
6 expensive to print with the solvent based ink than  
7 with water based ink?

8 MS. LIN: No, actually, I think that the  
9 water based ink is not available yet in Indonesia.

10 VICE CHAIRMAN PEARSON: I see, and do you  
11 have any knowledge of which process is more or less  
12 expensive? Perhaps Mr. Downing, you have some --

13 MR. DOWNING: No, I don't.

14 MS. LIN: I don't know, actually.

15 VICE CHAIRMAN PEARSON: Okay, are there any  
16 environmental concerns using solvent based inks?

17 MS. LIN: I'm not quite sure that is a  
18 concern. But actually, our end supplier does provide  
19 a lot of proof that sometimes our customer also asks  
20 us to provide; that the ink, for example, is full  
21 contact.

22 It's okay to have full contact because, you  
23 know, we also do food packaging. So it's okay that  
24 sometimes we produce back, that you put the potato or  
25 even sandwich, the bread, into the bag. So I don't

1 know so far that we have any issues.

2 VICE CHAIRMAN PEARSON: Okay, and no air  
3 quality issues in terms of the release of volatile  
4 organic compounds?

5 MS. LIN: In terms of ISO, yes, they have a  
6 relating regulation regarding when you set up your  
7 factory, how you should control the air in the room  
8 and how you should not only control, but clean the air  
9 before you release the air outside.

10 VICE CHAIRMAN PEARSON: Does that system  
11 allow the re-use of some of the solvent that otherwise  
12 would escape?

13 MS. LIN: Yes, something like that -- so you  
14 will have to have something like air cleaning. That's  
15 the ISO requirement. We have the ISO certification.

16 MR. LEE: We can look into trying to  
17 describe what kind of ISO standards would apply to  
18 environmental controls.

19 VICE CHAIRMAN PEARSON: Okay, thank you; I  
20 think the last question that I have is to try to get a  
21 sense of the price difference that applies to  
22 different printing approaches.

23 What would be the difference between, say, a  
24 very simple print job where you want to cover only  
25 five percent of the bag with just one color, and a

1 print in which you were going to cover 100 percent of  
2 the bag with six colors? Is there some difference in  
3 cost between those two?

4 MS. LIN: Yes, of course there's a  
5 difference, because the ink usage is different; and  
6 the production process is different. Because for one  
7 color, you only need to use one plate; but for six  
8 colors, you have to go through six plates. So the  
9 production is more complicated. That's related to  
10 color registration, the pre-registration. Then it's  
11 even more complicated. Because the other way, you  
12 have to monitor the registration. So the price is  
13 different. It's very different.

14 MR. DOWNING: Also, the printing plates are  
15 very expensive, as well.

16 MS. LIN: Yes.

17 MR. DOWNING: They're much more expensive  
18 than flexo.

19 VICE CHAIRMAN PEARSON: Okay, well, perhaps  
20 for post-hearing, you could provide a little  
21 additional guidance on the cost of printing, as you go  
22 from simple to more complex; just because I don't have  
23 any sense of what that involves. So I'd appreciate  
24 that.

25 Madam Chairman, I think I have no further



1 questions. So thanks very much to all of you.

2 CHAIRMAN ARANOFF: Commissioner Okun?

3 COMMISSIONER OKUN: Thank you, Madam  
4 Chairman; I think I have just a couple of things left  
5 for Mr. Morgan and maybe also from Ms. Maloney, as  
6 well.

7 With respect to going back to the pricing  
8 data and what weight to put on the different  
9 information that we've collected, just the first point  
10 -- and you may have responded somewhat to this.

11 But as I understand it, I mean, you're  
12 saying, you know, focus heavily on products one  
13 through four. We think they're very indicative of  
14 what's going on here. But don't pay attention to  
15 products five through eight. And I just want to make  
16 sure that I understand (a) if that's your argument,  
17 and then again why we discount half of our products  
18 and not the other half.

19 MS. MALONEY: We are asking you to  
20 concentrate more on those products. They are the  
21 bread and butter of the industry. They are where most  
22 of the volume is. There is where you have the best  
23 data coverage from the most suppliers in the industry;  
24 and the product specifications are the most narrow.

25 And so we just felt that the pricing data

1 for those products, in particular, were just of higher  
2 quality than the others.

3 MR. MORGAN: And just to add one point,  
4 looking at this from an outsider, it seems that those  
5 pricing products were developed at a time when the  
6 Respondents were trying to develop a like product  
7 argument; and that those products would really go to  
8 the kind of more high end bags, which do account for a  
9 much smaller part of the overall market.

10 But I think, as you can see from these bags,  
11 whereas products one through four should be quite  
12 narrow -- you know, Petitioners proposed them; they  
13 weren't a problem in the previous investigations --  
14 five, six, seven, and eight, as least to my  
15 understanding, are new to this investigation.

16 And it does seem that there are quite a wide  
17 range of products in there, so that the comparability  
18 is problematic. But on one through four, you've got  
19 the much more narrow ranges further refined by  
20 Petitioners in following the prelim.

21 So I think five, six, seven, and eight  
22 really were a product of trying to get some pricing  
23 data, if there had been two like products.

24 MR. LEE: The basis for our discussion of  
25 why the pricing products were problematic -- we've

1 submitted an exhibit, Exhibit 6, where there is a  
2 basic formula where you figure out what how resin are  
3 you going to need. That's basically you take your  
4 width, length, side dimensions, multiply it by the  
5 thickness, multiply it by the density of the resin you  
6 are making; and that will give you a good estimate of  
7 the weight of the resin to make that size bag.

8 And so because the size spreads for five,  
9 six, seven, and eight -- I mean, eight clearly has the  
10 widest spread in dimensions and thicknesses; and so  
11 that shows where the widest range of sizes, weights of  
12 the bags is.

13 When you go up to one through four, the  
14 ranges of the dimensions are much narrower; and so I  
15 think that's why the range of the weights of those  
16 bags. Although there is a range, I think it's much  
17 tighter than five, six, seven, and eight.

18 I mean, five does show over-selling for us.  
19 But even though it is to our benefit, you know, we  
20 acknowledge that it's just not defined very cleanly  
21 for comparison purposes.

22 COMMISSIONER OKUN: Okay, then I guess this  
23 is perhaps more of an observation or a request with  
24 respect to our pricing data, which is if your argument  
25 is that you think that we should be relying on our

1 pricing data or giving it more weight than the  
2 Petitioners will argue, I think one of the things that  
3 I would note in this record is we do not have major  
4 importers included.

5 And, you know, the more representative the  
6 pricing data is, the greater credibility it has, in my  
7 view. So I'll just note for the record.

8 The last issue that I think I have not  
9 covered with this is -- and if my colleagues have, go  
10 ahead and just tell me that -- I wanted to ask about  
11 duo sourcing in this industry, and whether you  
12 encounter it, and what it means in terms of prices in  
13 the market, if anything, more volumes.

14 So again, do customers want to duo source;  
15 and when they do that, does it have any impact on how  
16 much they're paying different producers.

17 MR. DOWNING: My customers do not do duo  
18 sourcing. It's generally just one. But again, it's  
19 relatively small quantities. So it wouldn't make a  
20 lot of sense to split up orders like that.

21 COMMISSIONER OKUN: Okay, thank you; and for  
22 the attorneys, if there's anything post-hearing that  
23 you'd want to submit on that with respect to the  
24 conversation we had with the Petitioners, I'd  
25 appreciate that, as well.

1                   Then I guess just the last one -- and again,  
2                   Mr. Morgan and Mr. Lee, just going back to causation  
3                   arguments -- I think one of the observations, we had  
4                   spent some time talking about the role of the non-  
5                   subjects in this market and what that means for our  
6                   analysis.

7                   I guess it responded a little bit to the  
8                   argument that, you know, you have large non-subjects  
9                   in the market. It took then a little while to leave  
10                  after the order. But in some ways, it's what I think  
11                  has been described in other cases. I don't think by  
12                  Mr. Dorn today; but in other cases, as a serial  
13                  dumping where you get an order in place on one  
14                  country, and then all of a sudden, a whole new  
15                  industry spouts up in other countries.

16                  You know, you can look at some information  
17                  here and say, well, isn't that what we have? You just  
18                  have them switching and you really didn't have a  
19                  domestic industry getting the benefit of an order. So  
20                  you can obviously expand on that post-hearing; but if  
21                  there's anything in particular you want to point out  
22                  today.

23                  MR. MORGAN: I have just two points; and I  
24                  did get into this. I believe it was with Commissioner  
25                  Pinkert earlier.

1           I mean, the two points to note are that non-  
2 subject share actually did increase from 2007 to 2008;  
3 whereas, subject share was relatively flat -- a 0.6  
4 percentage market share gain; but in absolutely terms,  
5 declined.

6           And the order was imposed in 2004. So it's  
7 not immediate. It was a two year period in between  
8 2006, the beginning of this investigation period, let  
9 alone 2007. So I think those are two important  
10 points, and we'll certainly explore it further in our  
11 post-hearing.

12           COMMISSIONER OKUN: Okay, with that, I have  
13 no further questions. But I want to thank you very  
14 much for being here and for all the responses you've  
15 given; thank you, Madam Chairman.

16           CHAIRMAN ARANOFF: Commissioner Williamson?

17           COMMISSIONER WILLIAMSON: Thank you, Madam  
18 Chairman.

19           I want to get back to the threat question.  
20 Our coverage of foreign injury to production and  
21 capacity is lower than our coverage of imports; and  
22 when I asked you about the third question earlier, you  
23 pointed to the data on imports.

24           But given that we have so little information  
25 on the foreign industry production, its capacity, and

1 the fact that in our third analysis, we have to look  
2 at the foreign industry's export potential, given this  
3 limited data, how can we perform that latter analysis?

4 MR. LEE: I think the staff report was  
5 based on the questionnaires that had been received as  
6 of the time that the staff report went to print.

7 I think, as Petitioners noted, there was  
8 questionnaire data from the prelim phase from certain  
9 Respondents that is available; and I believe in their  
10 briefs, they incorporated the questionnaire data from  
11 those producers that have not yet submitted a  
12 questionnaire in the final.

13 But we believe that the prelim questionnaire  
14 responses that they submitted are probably the best  
15 available information for them, and are usable. I  
16 believe the Commission has used prelim responses in  
17 the finals before.

18 We also note that, I think, since the staff  
19 report, there have been subsequent releases of  
20 additional foreign producer questionnaires,  
21 particularly of another country. So I think that  
22 country's response, the response of that new foreign  
23 producer questionnaire, does give that country enough  
24 coverage for there.

25 Of course, it's not going to be 100 percent

1 coverage. But in terms of the Commission's past  
2 practice of acceptable coverage levels, I think we're  
3 approaching that level with the questionnaire  
4 responses we have; both from the prelim and the post-  
5 staff report responses that have been submitted.

6 COMMISSIONER WILLIAMSON: Okay, I assume in  
7 post-hearing then that you will address this question  
8 of what this additional data show.

9 MR. LEE: Certainly.

10 COMMISSIONER WILLIAMSON: And also, I was  
11 wondering if you are aware of any public data on  
12 industries in foreign countries that we also could  
13 look at, that deal with these limited data.

14 MR. LEE: Yes, we will try. But I think  
15 our threat analysis was based largely on the staff  
16 report data and the subsequent questionnaires.

17 COMMISSIONER WILLIAMSON: Okay, thank you;  
18 my final question is, to what extent can you  
19 characterize the market and demand growth for public  
20 area bags in the three subject countries?

21 MR. LEE: You mean, demand trends in each  
22 of the subject countries?

23 COMMISSIONER WILLIAMSON: Yes.

24 MR. LEE: Perhaps Faye can talk about  
25 demand in Indonesia that she sees.



1 MS. LIN: I think the demand is quite  
2 steady. I think we didn't see any drop; and there's  
3 no very significant increase, either. So basically,  
4 we do supply a lot of different kinds of bags. So I  
5 think we have supported different kinds of customers.

6 So in terms of the demand in Indonesia, I  
7 think it's still very good to us. So just like when  
8 we stopped exporting to the U.S. after the  
9 investigation, it's very quickly that we can identify  
10 a lot of local customers, as well as export customers.

11 So for local customers, actually we do have  
12 a lot of shopping malls and department stores in  
13 Indonesia. And you know, there's actually also  
14 different people in Indonesia. The majority are  
15 Muslim; and also we have Chinese people there.

16 So there's a lot of events, for example,  
17 like Muslim holiday celebrations, Chinese holiday  
18 celebration, or even Christmas. So all these  
19 festivals we have, these are all our peak seasons. So  
20 in terms of demand, we are still in very good shape.

21 COMMISSIONER WILLIAMSON: Okay, and would  
22 you consider the most important determinant the future  
23 growth, the economic growth in the country and rising  
24 GDPs, or are there other factors we should take into  
25 account?

1 MS. LIN: For the future trend, I would say  
2 to our self, to our company, actually there are so  
3 many new shopping malls that have been built up. So  
4 we foresee that, you know, when people's income  
5 increase, then we suppose that the demand, of course,  
6 will continue to increase.

7 And there are also more production factories  
8 over there. What I mean by production is like either  
9 food packaging or industrial packaging is increased in  
10 Indonesia. So actually, we can also supply those  
11 factories for their needs.

12 COMMISSIONER WILLIAMSON: Okay.

13 MR. LEE: I think this morning Petitioners  
14 referred to environmental laws restricting the use or  
15 taxing the use of PRCBs in other countries. Indonesia  
16 does not have such laws.

17 MS. LIN: No.

18 MR. LEE: I think it didn't really make a  
19 lot of sense that if another country passes a law  
20 restricting PCB use, that's automatically going to  
21 pose a threat to increased exports to the United  
22 States.

23 I think the likelihood of the environmental  
24 laws being passed, either restricting or taxing, it is  
25 a work in process at best. I think it is on the

1 people's mind as to what extent that it's going to  
2 have an effect on future demand.

3 But I think in terms of the immediate impact  
4 on demand because of these environmental laws, I don't  
5 think anyone sees that it's having a significant  
6 impact right now in this year or next year; but  
7 perhaps down the road.

8 I think environmentally, people know that  
9 using the thin, cheap plastic bags is not a good  
10 thing. But just like we all should kind of reduce our  
11 gasoline consumption, we still go out and drive and we  
12 still go out and use plastic bags.

13 COMMISSIONER WILLIAMSON: And we still go  
14 out and shop, yes.

15 (Laughter.)

16 MR. LEE: I am guilty of that, too. You  
17 know, I often forget my re-usable bags when I go to  
18 the grocery store, too. So I think demand for PRCBs,  
19 it should remain stable going to the future, and  
20 should be driven in large part by the overall economic  
21 conditions.

22 COMMISSIONER WILLIAMSON: Thank you; to the  
23 extent you have anything on the demand commissions in  
24 the other two subject countries, if you could provide  
25 that post-hearing. With that, I have no further

1 questions; thank you.

2 CHAIRMAN ARANOFF: Commissioner Pinkert?

3 COMMISSIONER PINKERT: Thank you, Madam  
4 Chairman.

5 You will recall from the testimony this  
6 morning that we were talking about the reverse  
7 Internet auctions and situations when the lowest  
8 bidder doesn't win the bid.

9 I'm wondering if you agree with the  
10 characterization of the Petitioners that if there is  
11 that situation, the deviation of price from the lowest  
12 bid is relatively insignificant.

13 MR. LEE: I think our guys really aren't  
14 involved in Internet auctions, so I don't think they  
15 can really speak with any knowledge of that.

16 COMMISSIONER PINKERT: Right, but you did  
17 talk about the reverse Internet auctions in your  
18 brief.

19 MR. MORGAN: Yes, Commissioner Pinkert, if  
20 it's permissible, I think that's something we heard  
21 for the first time this morning. If we could think  
22 through that and present you with a considered  
23 response in our post-hearing, I think we'd probably  
24 want to do that, as opposed to trying to give you a  
25 response now that would just be off the cuff.

1 COMMISSIONER PINKERT: That would be great.

2 MR. MORGAN: Not that that's stopped me from  
3 saying anything throughout the course of this entire  
4 afternoon session.

5 COMMISSIONER PINKERT: Well, I'll hit you  
6 with another off the cuff question, which you may wish  
7 to address in the post-hearing.

8 You also heard that there may be some cost  
9 factors that would cause a bidder other than the  
10 lowest price bidder to win the reverse Internet  
11 auction. If you have any thoughts about those other  
12 factors, that would be very useful for you to put in  
13 the post-hearing; or you could make an off the cuff  
14 response now.

15 MR. MORGAN: I have absolutely no capability  
16 of doing that now. So if it's okay, we'll do that in  
17 our post-hearing --

18 COMMISSIONER PINKERT: Okay.

19 MR. MORGAN: -- unless one of my colleagues  
20 wants to take that question. I see no takers. So,  
21 yes, we'll do that for our post-hearing.

22 COMMISSIONER PINKERT: Okay, and with that,  
23 I have no further questions. I thank you for helping  
24 us, and I look forward to the post-hearing.

25 CHAIRMAN ARANOFF: Are there any further

1 questions from Commissioners?

2 (No response.)

3 CHAIRMAN ARANOFF: Do the staff have  
4 questions for this panel?

5 MR. DEYMAN: I'm George Deyman, Office of  
6 Investigations. The staff has no questions.

7 CHAIRMAN ARANOFF: Do the Petitioners have  
8 questions for this panel?

9 MR. DORN: No, we do not; thank you.

10 CHAIRMAN ARANOFF: Okay, time remaining --  
11 Petitioners have no time from direct and five minutes  
12 for closing. Respondents have 23 minutes left from  
13 direct, plus five minutes for closing, for a total of  
14 28 minutes. You are free to use all of it. We don't  
15 necessarily encourage that.

16 Absent objection though, we do usually  
17 combine the time and just proceed directly to a  
18 combined rebuttal and closing.

19 MR. MORGAN: We have no objection to  
20 combining the time.

21 CHAIRMAN ARANOFF: Okay, then Mr. Dorn,  
22 whenever you're ready. Let me thank the afternoon's  
23 panel, and I'll have you re-take your seats further in  
24 the back. We do appreciate all of your contributions  
25 to the hearing -- whenever you're ready, Mr. Dorn.

1           MR. DORN: Thank you; with respect to the  
2 volume of subject imports, there's no dispute that  
3 imports increased 114 percent during the POI, and they  
4 gained 8.1 percentage points in market share.

5           But for these increasing subject imports,  
6 the domestic industry would clearly have had better  
7 performance indicators and better financial  
8 performance during the period of investigation.

9           The only way that these imports came into  
10 the market so fast was through lower prices. You've  
11 heard testimony from three industry participants who  
12 had many years of experience. We've got no  
13 alternative explanation as to how imports from these  
14 three countries could more than double in absolute  
15 terms and in terms of market share.

16           And the only way they could take market  
17 share from the non-subject countries was by under-  
18 pricing those, which is entirely consistent with the  
19 AUV data, which we have cited to, which shows the  
20 subject imports under-selling domestic products and  
21 also being lower priced in the non-subject products.

22           Now the only dispute we have is, you know,  
23 is the temporal causation argument. I mean, they  
24 would have you believe that these imports that doubled  
25 from 2006 to 2007, first, didn't cause any injury in

1 2007; and then couldn't have had any effect in 2008.

2 But we know that from 2006 to 2007, there  
3 were significant declines in employment capital  
4 investment; and in fact, a plant closed in the United  
5 States. There was injury in 2007. Operating income  
6 was abysmal, as was return on assets.

7 Keep in mind that many bids were made in  
8 2007 against that surge in imports in 2007. Those  
9 bids are for business over the next 12 months, the  
10 next 24 months. They're not for business that's going  
11 to be executed that day. They're not for business  
12 that's necessarily going to be executed at all in  
13 2007; and most of it is not going to be totally  
14 executed in 2007.

15 To suggest that the doubling of imports in  
16 2007 had no impact on 2008 makes absolutely no sense;  
17 and certainly the doubling of imports in 2007 explains  
18 why Hilex had to close a plant in January of 2008.  
19 That wasn't due to what's going on in 2008. That  
20 decision was made in 2007.

21 With respect to under-selling, please ask  
22 the question, which importers are missing from the  
23 quarterly pricing comparisons? Are those missing  
24 importers described as downward price leaders in the  
25 U.S. market? Please look at that.



1                   Then look at the data in Appendix E, which  
2                   is the data for the large retailers who had their own  
3                   direct importing programs. Look at Exhibit 14 of our  
4                   pre-hearing brief. Look at our under-selling analysis  
5                   of the bread and butter products, the high volume  
6                   products. I would say that's very telling.

7                   Look at the average unit values of subject  
8                   imports versus domestic producers and apply common  
9                   logic. Why else would these imports have rushed into  
10                  the market so rapidly? And listen to the testimony of  
11                  these industry experts. There is no rebuttal  
12                  testimony. No one has come here who knows the market  
13                  for these bread and butter products of the United  
14                  States and has said, well, they gained market share by  
15                  over-selling and this is how they did it. There is no  
16                  explanation for that. It makes no sense at all.

17                  With regard to capital investment, why would  
18                  a U.S. producer invest in a plant in one of the  
19                  subject countries if that was only going to result in  
20                  imports that are going to over-sell his U.S.  
21                  production? It makes no sense. It's the low prices  
22                  and the unfair prices that are driving the market  
23                  share, and would give the incentive of a domestic  
24                  producer to have a blended program or to make  
25                  investments abroad.

1                   With respect to the increasing ratio of cogs  
2 to sales, it is not due to declining demand or  
3 decreasing capacity utilization. If you look at the  
4 pre-hearing report at 6-1, the increase in the spread  
5 or the increase in the percentage was driven by raw  
6 material cost, which offset declining other factory  
7 cost.

8                   So this isn't due to decreasing capacity  
9 utilization or decreasing demand. It's a pure cost  
10 price squeeze, which has no other explanation besides  
11 the price suppression.

12                   With regard to threat, yes, you should  
13 cumulate. There's no difference in the products from  
14 the three countries. Sidal Van Goon is a very large  
15 producer from Indonesia. It supplies Spectrum.  
16 Spectrum brings in identical products from all three  
17 countries, and it's a clear case for cumulation.

18                   And with regard to the state of the  
19 industry, keep in mind that it had a capacity  
20 utilization rate of only 76 percent in interim 2008.  
21 Resin costs are going up. Demand is flat. And the  
22 record shows that the foreign producers have excess in  
23 growing capacity, and the United States is their  
24 primary market; thank you.

25                   CHAIRMAN ARANOFF: Thank you.

1           MR. MORGAN: I think the entire room will be  
2 pleased to know that I have no intention of making any  
3 more than a short closing statement. I believe we  
4 addressed our rebuttal points, and we'll hit any  
5 others in our post-hearing.

6           Good afternoon again, Madam Chairman,  
7 members of the Commission, and Commission staff; I'm  
8 making these closing remarks on behalf of the  
9 Respondents.

10           If there was a theme to the morning  
11 presentation, it was trust us; subject imports injured  
12 us. But the data shows otherwise. Consider for a  
13 moment what the Petitioner's argument would be if the  
14 Commission analyzed the record on a end point to end  
15 point basis; but interim 2009 represented the end of  
16 the POI, instead of full year 2008.

17           Now I know this is not how the Commission  
18 typically looks at things. But I submit, it is a  
19 legitimate way to evaluate causation.

20           That comparison of 2006 to interim 2009  
21 shows the volume of subject imports increased on an  
22 absolute and relative basis over the POI; but the  
23 domestic industry's condition improved from an  
24 operating profit of \$4.9 million, to an operating  
25 profit of \$24.6 million. Other performance indicators

1 improved, as well. Where was the correlation  
2 between the subject imports and the domestic  
3 industry's performance?

4 From 2006 to 2007, the volume of subject  
5 imports increased, yet the domestic industry's  
6 condition improved. Where is the correlation? These  
7 products are produced to order. The target bag enters  
8 after it has been sold. There shouldn't be a lag, as  
9 the Petitioners are now suggesting, between the lost  
10 sale and the deterioration in the industry's  
11 condition.

12 I think another piece of record evidence  
13 corroborating the absence of this competition are the  
14 relatively small number of lost sales and lost revenue  
15 allegations that have been confirmed.

16 From 2007 to 2008, the volume of subject  
17 imports declined; but the domestic industry's  
18 condition deteriorated. Where is the correlation?  
19 Yes, the market share of subject imports did increase  
20 by 0.4 percentage points during that period. Non-  
21 subject imports increased by 3.3 percentage points,  
22 though.

23 But can the decline, in absolute terms, and  
24 a meager relative increase in market share really  
25 explain the magnitude of the decline in the domestic

1 industry's performance, when a 7.6 percentage market  
2 share gain from 2006 to 2007 had no adverse affect?

3 And if the continued presence of subject  
4 imports in the market at near POI peak levels explains  
5 the change in the condition from 2007 to 2008, how do  
6 the Petitioners explain the domestic industry's rapid  
7 improvement from the fourth quarter of 2008, compared  
8 to the first three quarters of 2009?

9 The filing of the petition -- but subject  
10 volumes increased after the petition was filed, and  
11 did not decline until September of 2009. Now the  
12 petition does not explain the rapid improvement in the  
13 domestic industry's condition. In short, the record  
14 establishes no correlation between the volume of  
15 subject imports and the domestic industry's  
16 performance throughout the POI.

17 In terms of pricing, the record establishes  
18 that the subject imports over-sold the domestic like  
19 product in bread and butter products. The record also  
20 establishes the few instances of confirmed lost sales  
21 and revenues, further corroborating this pricing data  
22 in the questionnaire responses. Finally, the record  
23 establishes the importance of non-price factors,  
24 especially quality to market participants.

25 So where is the link between the subject

1 imports and the domestic industry's performance?  
2 There isn't any. What of threat? I submit that if  
3 there was no causal relationship between the subject  
4 imports and the domestic industry during the POI, it  
5 is not likely that one will suddenly appear. There  
6 was no steady increase in the volume of subject  
7 imports throughout the POI, irrespective of any excess  
8 capacity that may have existed; suggesting that future  
9 increases driven by any excess capacity are not  
10 likely.

11 The subject imports did not drive down  
12 prices during the POI, and there is nothing on the  
13 record to suggest that they will do so in the future.

14 Finally, the domestic industry achieved its  
15 best financial results in the most recent period,  
16 demonstrating that it is not vulnerable. And as we  
17 discussed today and we will amplify in our post-  
18 hearing brief, we believe that there is a valid basis  
19 on which the Commission can and should de-cumulate  
20 Indonesia in a threat contest, and that Indonesian  
21 imports have not injured the domestic industry.

22 In view of the established lack of a causal  
23 relationship between subject imports and the domestic  
24 industry's performance, we ask the Commission to make  
25 a negative determination in this investigation; thank

1 you.

2 CHAIRMAN ARANOFF: Thank you to everyone for  
3 your participation in today's hearing and to the  
4 Commission staff for your work in helping us to  
5 prepare. We will look forward to reading the further  
6 submissions.

7 Post-hearing briefs, statements responsive  
8 to questions and requests to the Commission, and  
9 corrections to the transcript must be filed by March  
10 23, 2010. Closing of the record and final release of  
11 data to parties takes place on April 7, 2010; and  
12 final comments are April 9, 2010.

13 With that, I believe we have completed our  
14 business and the hearing is adjourned.

15 (Whereupon, at 3:53 p.m., the hearing in the  
16 above-entitled matter was concluded.)

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**CERTIFICATION OF TRANSCRIPTION**

**TITLE:** Polyethylene Retail Carrier Bags  
**INVESTIGATION NO.:** 701-TA-462  
**HEARING DATE:** March 16, 2010  
**LOCATION:** Washington, D.C.  
**NATURE OF HEARING:** Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

**DATE:** March 16, 2010

**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:** Tammy Brodsky  
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