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In Opposition to Continuation of Antidumping Duty
Order:

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P R O C E E D I N G S

(9:30 a.m.)

CHAIRMAN ARANOFF: Good morning. On behalf of the U.S. International Trade Commission I welcome you to this hearing on Investigation No. 731-TA-44 (Third Review) involving Sorbitol From France.

The purpose of this investigation is to determine whether revocation of the antidumping duty order on sorbitol from France would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

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 allocations should be directed to the Secretary.

Speakers are reminded not to refer in their remarks or answers to questions to business proprietary information. Please speak clearly into

1 the microphones and state your name for the record for
2 the benefit of the court reporter.

3 Finally, if you will be submitting documents
4 that contain information you wish classified as
5 business confidential, your requests should comply
6 with Commission Rule 201.6.

7 Madam Secretary, are there any preliminary
8 matters?

9 MS. BELLAMY: No, Madam Chairman.

10 CHAIRMAN ARANOFF: And all the witnesses
11 have been sworn?

12 MS. BELLAMY: All the witnesses have been
13 sworn.

14 (Witnesses sworn.)

15 CHAIRMAN ARANOFF: Thank you. Welcome,
16 everyone, to the hearing. We're very pleased to have
17 you here today. I believe this is the first third
18 review proceeding in which we have had both sides
19 represented and held a public hearing, so we are
20 especially pleased to welcome you here this morning.

21 Madam Secretary, we're ready to proceed with
22 opening remarks.

23 MS. BELLAMY: Those in support, the opening
24 statement is by Warren E. Connelly, Akin Gump Strauss
25 Hauer & Feld.

1 MR. CONNELLY: Good morning. For the
2 record, I am Warren Connelly, counsel for Archer
3 Daniels Midland Company and speaking on behalf of both
4 ADM and Corn Products.

5 We are here today seeking the retention of
6 what we recognize is an old order under which imports
7 have not been significant for many years, but those
8 two facts are not determinative, as the Commission has
9 frequently recognized.

10 Much more important is the fact that many of
11 the considerations that justified the material injury
12 finding back in 1981, as well as retention of the
13 order in 1999 and 2004 remain true today. For
14 example, crystalline sorbitol then and now is a
15 commodity, and it is sold primarily on the basis of
16 price.

17 Second, Roquette Frères was the world's
18 largest sorbitol producer when this case was
19 originally filed, and it remains the world's largest
20 producer today with significant operational
21 flexibility. Roquette Frères' publicly reported
22 capacity in France can by itself easily supply the
23 entire U.S. market, and it is export-oriented to a
24 substantial degree.

25 Third, in the U.S. market fixed price, fixed

1 term contracts continue to predominate among the
2 largest users, and just a few users account for a very
3 substantial proportion of total demand.

4 Fourth, in the U.S. market, Roquette
5 continues to use the most aggressive pricing strategy,
6 so the loss to Roquette of just one long-term, large
7 supply contract will have disproportionate effects
8 that can extend for a year or more.

9 The only real difference from the situation
10 in 1981 is that Roquette now produces sorbitol in the
11 U.S., so the question is whether the Commission ought
12 to accept Roquette's assertion that it will only
13 supply U.S. customers from its U.S. facilities rather
14 than from France. We submit that Roquette has not
15 provided a sufficient basis for the Commission to
16 accept that assertion, and a considerable amount of
17 evidence suggests just the opposite.

18 In its prehearing brief, Roquette carefully
19 qualified its claim that it would supply U.S. demand
20 from its U.S. facilities by stating only that "the
21 most likely expectation" is that Roquette would do
22 that. We think the Commission had the right to expect
23 a far more definitive statement than that.

24 Moreover, product shifting within Roquette's
25 U.S. and French facilities is not just possible, but

1 relatively easy to accomplish. In addition, the
2 prices that Roquette has charged for those small
3 volumes that it has exported to the U.S., especially
4 recently, do not support its claim of negligible price
5 effects.

6 Roquette is making a concerted effort to
7 supply each of the three major end users with 100
8 percent of their needs, and it is well along the way
9 to achieving that goal, but you will hear testimony as
10 to why Roquette is unlikely to be able to achieve that
11 goal without relying on imports from France.

12 Finally, there is an X factor in this case,
13 which is the second French producer, Syral. That
14 company operates two substantial production
15 facilities, but it has chosen not to appear here
16 despite the fact that it has exported to the U.S.
17 Syral, like Roquette, enjoys a protected European
18 market, and it is also export-oriented.

19 In view of Syral's size and its export
20 orientation, it would be appropriate for the
21 Commission to draw an adverse inference from Syral's
22 decision not to appear. Certainly Roquette had
23 significant concerns about Syral back in 2004 when
24 Roquette itself opposed revocation. Those concerns
25 are even greater today.

1 Finally, we recognize that this was a close
2 case for some Commissioners back in 2004, but the
3 condition of the domestic industry has deteriorated
4 since then, and there is now a significant cost/price
5 squeeze.

6 This is not a case in which two domestic
7 producers are concerned about the competitive behavior
8 of a third domestic producer. Rather, Roquette acts
9 globally, and it has the ability and the economic
10 motivation to once again ship its French output to
11 this country, and Syral is out there in the wings
12 waiting to see what happens.

13 For these reasons, and many more that our
14 witnesses will describe, we urge the Commission to
15 retain the order. Thank you.

16 MS. BELLAMY: Opening remarks in opposition
17 to continuation of the order, Eric Lindquist, Fox
18 Horan & Camerini.

19 MR. LINDQUIST: Good morning, Madam
20 Chairman, Commissioners. My name is Eric Lindquist
21 with the law firm of Fox Horan & Camerini.

22 Contrary to what we just heard from the
23 supporters' statement, there has been significant
24 change in the sorbitol market from 1982 to the
25 present. In 1982, sorbitol was a relatively new

1 product with a relatively undeveloped market. Since
2 that time, it has become a mature product with a
3 mature market and remarkably stable prices over the
4 last five years since the last review.

5 Another significant factor that has changed
6 is that there is now an excess of capacity in the
7 United States market. We heard from counsel a moment
8 ago that Roquette Frères could supply the U.S. market
9 using its capacity. What he didn't mention is that so
10 could Roquette America. There is no shortage of
11 capacity in our crystalline sorbitol market in the
12 United States.

13 A large part of the change in the sorbitol
14 market has resulted from Roquette Frères' commitment
15 to investment in the United States. Roquette Frères
16 has invested hundreds of millions of dollars in two
17 plants in the midwest that have a terrific capacity to
18 produce crystalline sorbitol, and there is no
19 commercial logic to the idea that Roquette Frères
20 would bet against its successful subsidiary and
21 compete in the United States market against a company
22 that it set up here at great expense and with great
23 success.

24 Counsel commented that the language used in
25 the opposition brief was not as strong as he would

1 have liked to see because we said that it was the most
2 likely expectation that there would be no significant
3 increase in imports from France.

4 And I certainly can use stronger language
5 than that. I think it is extremely unlikely, to the
6 point of being hard to comprehend, why Roquette Frères
7 would want to do that in opposition to its successful
8 subsidiary, but in any event that language, most
9 likely, is the language that you're required to apply
10 in making your determination.

11 Today, Roquette America imports only very
12 small quantities of sorbitol, crystalline sorbitol,
13 from France, and it does that to meet particular
14 customer needs. There are certain products that use
15 raw materials that are not available in the United
16 States, and there are products that have a very
17 specific profile that it is more convenient to produce
18 from Roquette Frères. Those products are a tiny, tiny
19 portion, taken together, of the market in the United
20 States. They have no material effect whatever.

21 The burden in supporting the continuance of
22 the order is to show that it is likely, in the sense
23 of probable, that material harm will result if the
24 order is lifted. All that the supporters have managed
25 to do in their prehearing briefs is to raise a series

1 of more or less improbable conjectures as to what
2 could happen with virtually no evidence to support
3 these conjectures.

4 The simple facts speak volumes against the
5 idea that the material harm is probable because we
6 have a market that is stable, we have an excess of
7 capacity, we have a very successful local industry,
8 and the real danger today, as our witness will
9 confirm, is not coming from Europe.

10 Five years ago, Roquette America took the
11 position that the continuance of the order was needed
12 because there were market supports in Europe that
13 created a risk. The experience of the past five years
14 has shown that that risk is not materializing.

15 In fact, the pressure on prices is coming
16 from the other side of the world, and it would make no
17 commercial sense for any European company to attempt
18 to dump in the United States in the face of severe
19 downward price pressure coming from Asia. When you
20 look at either Syral or the German producer, you can
21 see that they have not made that strategic decision.
22 Thank you.

23 MS. BELLAMY: Would those in support please
24 come up and be seated? Thank you.

25 MR. CONNELLY: So good morning once again.

1 We have today from ADM John Oakley, Allan Buck and
2 Fred Kenney, Jarrod Goldfeder from Akin Gump. From
3 Corn Products we have Jeff Billig and Michael Levy,
4 and Alexander Sierck, counsel from the Cameron law
5 firm. We have two speakers. John Oakley is going to
6 go first and then Jeff Billig will follow. We have
7 others here to take your questions.

8 We brought a couple samples. We brought two
9 samples of sorbitol, ADM's product. One is the coarse
10 powder. One is the granular product. You're free to
11 look at those. You can't quite tell the difference
12 from that distance, but there is some.

13 So without further ado, we'll start with
14 John Oakley.

15 MR. OAKLEY: Good morning. My name is John
16 Oakley, and I am ADM's Business Director for the
17 Specialty Products Group, which is part of our Corn
18 Business Unit. The production and sale of both
19 crystalline and liquid sorbitol fall within my direct
20 area of responsibility.

21 I have been employed by ADM since 1991, and
22 I have held my current position since 2008. As a
23 result, I am familiar with the nature of competition
24 within the domestic sorbitol business, as well as the
25 needs of our customers and potential customers.

1 To supplement my knowledge on the technical
2 aspects of the product and the production process, we
3 have Allan Buck, Director of Technical Services at
4 ADM, here to answer any questions you may have.

5 ADM has been in the crystalline sorbitol
6 business since 1994. Sorbitol in both crystalline and
7 liquid forms is produced from corn, as are many other
8 sweeteners. We use a portion of the production stream
9 from our corn wet milling operations in Decatur,
10 Illinois, to produce liquid sorbitol.

11 Producing liquid sorbitol begins with the
12 hydrogenation of dextrose. After adding a catalyst,
13 the dextrose solution is heated, reacted with hydrogen
14 at specific temperatures and purified to form liquid
15 sorbitol. We then concentrate the liquid sorbitol and
16 cool it to produce the crystalline form.

17 Today I want to cover four basic subjects.
18 First, the commodity nature of sorbitol; second, the
19 composition of the customer base; third, the nature of
20 competition that we are facing today, especially from
21 Roquette; and, fourth, what is likely to happen if the
22 order is revoked.

23 We have provided to the staff a lengthy
24 report prepared by SRI Consulting that provides
25 extensive information of the global sorbitol industry,

1 including the production processes, the end uses and
2 the capacity it produces around the world. This
3 report supports and confirms many of our factual
4 assertions on these subjects.

5 Crystalline sorbitol is a true commodity in
6 the sense that a significant number of global
7 producers are capable of making the types of products
8 that satisfy end users' needs. The products from
9 these producers are largely interchangeable by an end
10 user. For that reason, we have to compete primarily
11 on the basis of price, especially at our largest
12 current and potential accounts.

13 Roquette has claimed in its prehearing brief
14 that price is not the determining factor for U.S.
15 purchases of sorbitol. In our experience, that is not
16 the case. We are under constant pressure to reduce
17 our prices, and our competitors' bids are always used
18 as leverage against us.

19 Sorbitol is widely available in coarse
20 powder and granular forms. Chemically these two forms
21 are identical, but the granular product is coarser, as
22 the samples we brought with us today demonstrate.
23 Coarse powder is the most popular form because the
24 major sugar free chewing gum producers prefer it. The
25 granular product is more frequently used in tableting

1 processes for production of products such as mints.

2 Both ADM and its competitors make sorbitol
3 available in a variety of packages to suit the
4 preferences of our customers. However, regardless of
5 the form or the package type, our products all meet
6 the Food Chemical Codex or National Formulary
7 specifications for use in food products. Our
8 competitors' products also meet these specifications.

9 Sugar free confections such as chewing gum
10 and mints are by far the largest end use for
11 crystalline sorbitol in the U.S. The largest domestic
12 end users are Cadbury, Hershey and Wrigley, and all
13 three buy the products of these applications. We also
14 sell to a wide variety of other food producers and
15 distributors, but our sales to these smaller users,
16 while important, constitute a relatively small
17 percentage of our total annual sales.

18 We estimate that Cadbury, Wrigley and
19 Hershey purchased a very significant proportion of the
20 total amount of crystalline sorbitol consumed in the
21 U.S. during the last five years. The Big Three
22 customers are extremely sophisticated global
23 companies. They employ very experienced procurement
24 staff who are charged with the responsibility of
25 driving down their raw material costs.

1 This is especially true in the current
2 business environment where the growth in demand has
3 slowed and the economy is just beginning to recover
4 from the recession. Therefore, as ADM has experienced
5 firsthand, the loss of business from any one of these
6 customers has a sizeable effect on our financial
7 results.

8 The adverse conditions that we face are
9 directly reflected in the financial results that we
10 have reported in our questionnaire response,
11 especially for ADM's most recent fiscal year.
12 Complicating our situation is the fact that since 2004
13 our corn costs have increased significantly. The
14 entire industry has suffered from this problem.

15 We have not been able to raise our prices to
16 recover either the corn cost increase or the increases
17 that we have incurred in other manufacturing costs
18 such as energy, chemicals and labor. Although we are
19 not in the red, the situation has worsened over the
20 last several years.

21 In our current fiscal year, which began last
22 July, we have suffered an additional decline in our
23 profitability. Also, in 2009 and 2010 we have
24 experienced very significant price competition from
25 Roquette at our biggest account, and we see this

1 competition only intensifying in the future.

2 Cadbury, until 2007, was a long-time
3 customer of SPI Polyols. However, Roquette took that
4 business away from SPI in 2007, and it has supplied
5 Cadbury ever since. For one of the largest users of
6 crystalline sorbitol to make a change from one
7 supplier to another highlights a couple of important
8 points. First, crystalline sorbitol as between
9 competing suppliers is truly interchangeable. Second,
10 Roquette was willing to employ an aggressive pricing
11 strategy to gain market share.

12 Roquette has also captured a significant
13 portion of ADM's business at two other large customer
14 accounts because it has been willing to significantly
15 underbid us. The confidential details of our
16 experience at Cadbury are provided in our prehearing
17 brief.

18 Given what we estimate to be Roquette
19 America's supply obligations to all of its customers
20 in the U.S., Canada and Mexico, we believe that it is
21 now operating at or near capacity, so they likely
22 cannot continue to grow their market share without
23 relying on imports from the French plant. The
24 revocation of this order would make that option highly
25 likely.

1 In contrast, ADM has substantial spare
2 capacity available. Moreover, as Corn Products looks
3 to expand their presence in the market, this will add
4 further capacity to service the demands of the U.S.
5 customers.

6 When the Commission considers Roquette's
7 capacity, it is essential to understand how Roquette
8 is likely to use its production flexibilities if the
9 order is revoked. Right now, we don't believe that
10 Roquette can meet the demands of the Big Three
11 customers from its U.S. facilities and continue to
12 serve its other accounts in the U.S., Canada and
13 Mexico.

14 But by its most recent actions, Roquette has
15 demonstrated its intention to capture as much of the
16 business from the Big Three as it possibly can. Once
17 it has that business, it will have every incentive to
18 rely on its French plant to service a significant
19 portion of the U.S. market. This is precisely why
20 subject imports are likely to increase in the
21 reasonably foreseeable future.

22 In addition, Roquette's production
23 flexibility extends to both sorbitol and to the output
24 of other polyols that can be produced from a starch
25 stream. As a rational profit maximizer, Roquette can

1 first reduce its production of crystalline sorbitol in
2 favor of supplying liquid sorbitol for which there is
3 still substantial U.S. demand. Roquette is already a
4 significant supplier of liquid sorbitol, and it would
5 seek to capture more of this market.

6 Second, it can increase its production of
7 maltitol at the expense of sorbitol. Maltitol is
8 another sweetener that is available in crystalline and
9 liquid forms. Maltitol is also widely used in the
10 food industry, and Roquette is a major U.S. producer.
11 Maltitol consumption in the U.S. is growing at a much
12 faster pace than sorbitol, and it yields a higher
13 price.

14 In contrast, ADM does not have the
15 flexibilities that Roquette does. For example, there
16 are significant barriers to the export of U.S.
17 produced sorbitol to other markets such as Europe,
18 South America and Asia. We face prohibitive tariffs
19 in these markets. With this imbalance, if Roquette
20 ramps up its imports into the U.S. other U.S.
21 producers would have little choice but to reduce their
22 own production.

23 Roquette was a strong proponent of keeping
24 this order in the two prior reviews. It argued that
25 revocation would negatively effect the U.S. industry

1 generally and its own operations in particular. It
2 argued that revocation would lead to significant
3 French imports at injurious prices. It also said that
4 French producers had a protected European market and a
5 strong incentive to export due to its substantial
6 export subsidy.

7 But now Roquette has changed its position,
8 even though none of the facts that it relied on in
9 either 1999 or 2004 have changed very much, so
10 Roquette's turnabout must be due to at least one of
11 the following two possibilities. First, as I
12 previously mentioned, its U.S. sorbitol plants are at
13 or very near capacity, given its contractual
14 commitments, and, second, Roquette is concerned about
15 competition in the U.S. from Syral due to Syral's much
16 lower dumping margin.

17 Syral operates two French sorbitol plants
18 with significant capacity. Syral has established
19 itself as a significant global competitor, and it has
20 publicly stated its intention of entering new markets.
21 To this end, it has begun exporting to the U.S. As
22 Syral begins to increase its presence in the U.S.
23 market, the situation for the U.S. industry will
24 become far more precarious.

25 Two other events have occurred since that

1 have undoubtedly affected Roquette's position on
2 revocation. First, as I mentioned, Roquette captured
3 one of the largest domestic users of crystalline
4 sorbitol, Cadbury, beginning in 2007. This customer
5 alone, which has a major plant in Puebla, Mexico, as
6 well as in the U.S., has surely filled out much of the
7 capacity at Roquette's U.S. facility.

8 Secondly, Roquette has established large
9 scale production in China in 2005, which previously
10 was a big export destination for its French
11 production. Total French sorbitol exports to China
12 from France dropped by about 115 million pounds, or 95
13 percent, between 2003 and 2008. With this change,
14 significant French capacity is likely available for
15 dedication to the U.S. market.

16 In contrast, we do not perceive nonsubject
17 imports to represent any threat. In fact, we have not
18 experienced meaningful competition from suppliers
19 located in Indonesia, Germany or elsewhere at major
20 end user accounts. Rather, our own distributors
21 encounter some competition from these nonsubject
22 sources at smaller accounts.

23 The Commission has recognized in the past
24 two reviews that revocation would likely lead to a
25 significant increase in French imports, even though

1 imports have not been substantial. The fact that
2 Roquette Frères has not shipped that much to the U.S.
3 isn't a reliable indicator of what it might do in the
4 future.

5 Roquette has not been able to export to the
6 U.S. because it is subject to a 12 percent dumping
7 margin, but Roquette clearly has a continuing interest
8 in the U.S. market. Without the order, nothing would
9 stop it from shipping substantial volumes within a
10 short amount of time and at much lower prices in order
11 to continue to gain market share at our expense.

12 The U.S. market is the second largest global
13 market, and it still has a stronger growth rate than
14 Western Europe. Therefore, Roquette's incentive to
15 export remains every bit as great today as the
16 Commission found five years ago.

17 Roquette has continued to sell at prices in
18 the U.S. below those that we are able to offer.
19 Domestic sorbitol and French sorbitol are highly
20 substitutable, as the prehearing report confirmed, so
21 there is no commercial barrier that would prevent U.S.
22 customers from switching to French imports. As long
23 as the basic quality standards are met, the issue will
24 usually, if not always, be about price.

25 The underselling evidence in the prehearing

1 report documents our concerns about the pricing
2 behavior that we can reasonably expect from Roquette
3 if the order is revoked. There is every reason to
4 conclude, based on ADM's experience at several recent
5 contract negotiations, that Roquette will continue
6 with its aggressive pricing strategy, especially at
7 the major accounts that are critical to the long-term
8 viability of our business.

9 Given the current situation, revocation of
10 the order could have a devastating effect on ADM's
11 sorbitol business. This order is just as important
12 now as it ever has been. That concludes my remarks.
13 Thank you.

14 MR. BILLIG: Good morning. My name is Jeff
15 Billig, and I am the Business Director of the
16 Confectionary, Pharmaceutical and Personal Care market
17 segments for Corn Products. Included within those
18 responsibilities are general management and strategic
19 marketing of polyols, including crystalline sorbitol
20 in the United States.

21 I have over 20 years of experience in the
22 sale and marketing of crystalline sorbitol in the U.S.
23 Since graduating from college, I have worked with the
24 polyols business for Corn Products and the prior
25 owners of that business, SPI Polyols and ICI Americas,

1 which until recently had been based in New Castle,
2 Delaware.

3 In the course of my 20 years in this
4 business, I have had extensive commercial experience
5 with Roquette, both in the U.S. and abroad. Based on
6 this experience, I believe that I have a reliable
7 sense of Roquette's commercial objectives.

8 Although I have had limited experience
9 dealing with Syral, which is not participating in this
10 review today, I do have reliable information about
11 Syral's capabilities and stated intent for increased
12 sales of crystalline sorbitol in the U.S. market.

13 I can therefore attest firsthand as to why
14 Corn Products is so concerned about the perilous
15 future prospects for the domestic crystalline sorbitol
16 industry if the antidumping order on imports from
17 France were revoked.

18 In its questionnaire response and prehearing
19 brief, Corn Products has provided detailed evidence as
20 to the reasons for its concerns, particularly as to
21 why imports of crystalline sorbitol from France will
22 probably increase substantially if the order were
23 revoked. The detailed market study attached to Corn
24 Products' questionnaire response puts our company's
25 concerns in broader context.

1 In addition, Corn Products' specific 2010
2 market opportunity summary, also attached to the
3 questionnaire response, provides customer specific
4 information about the number of our specific sales and
5 marketing opportunities that will be in serious
6 jeopardy if the order were revoked.

7 In the 1999 and 2004 reviews, Roquette
8 America argued forcefully for the preservation of this
9 antidumping order, citing numerous facts. Today, even
10 though the underlying reasons for Roquette America's
11 prior sensible support for the preservation of the
12 order have not changed, Roquette is now vigorously
13 opposing preservation of this order.

14 Corn Products' filings to date have provided
15 ample documentation as to Roquette's and Syral's
16 probable plans to increase their shipments of
17 crystalline sorbitol to the U.S. market if the order
18 were revoked. In the remainder of my testimony this
19 morning, I will, based on the information in the
20 public domain, summarize why if the order is revoked
21 such a large increase in shipments from France is
22 probable and why Corn Products would be especially
23 vulnerable to material injury as a result.

24 First I will give some background about the
25 U.S. crystalline sorbitol market. Crystalline

1 sorbitol is a commodity product. Competition is based
2 primarily on price, and supply contracts are often for
3 12 month periods or longer. A principal use for
4 crystalline sorbitol is as the main ingredient for
5 sugarless chewing gum and mints. As a practical
6 matter, other products are not cost effective
7 substitutes for crystalline sorbitol.

8 In recent years, I have observed that U.S.
9 prices for crystalline sorbitol have remained steady
10 or actually declined. A tipping point for the price
11 decline was 2007 when Roquette significantly underbid
12 the SPI Polyols price to Cadbury by approximately 20
13 percent. At the same time, it is well known that raw
14 material costs have increased in recent years. This
15 classic cost/price squeeze situation is already
16 diminishing U.S. producers' profit prospects.

17 Imports of crystalline sorbitol from
18 countries other than France have been steady in recent
19 years. U.S. demand for crystalline sorbitol is now
20 relatively steady and is likely to remain so in the
21 years ahead. In any event, Corn Products has a
22 substantial amount of available production capacity to
23 meet future demand for crystalline sorbitol if demand
24 were to increase.

25 We believe Roquette is operating at or near

1 full capacity in the U.S. In order to continue their
2 aggressive approach to the U.S. market, Roquette must
3 export significantly more crystalline sorbitol from
4 France into the U.S. A substantial increase in
5 imports of crystalline sorbitol from France would
6 necessarily cause crystalline sorbitol prices in the
7 U.S. to decline sharply.

8 Corn Products has cited and documented
9 numerous facts, first in its questionnaire response
10 and then in its prehearing brief, indicating that it
11 is probable that imports of crystalline sorbitol from
12 France will increase substantially and soon if the
13 order were revoked. Some of those facts are
14 confidential. Others are not, and I can summarize
15 those now.

16 Roquette and Syral have already begun
17 aggressive marketing for liquid sorbitol in South
18 America and elsewhere throughout the world. They can
19 afford to do so because their home market, the entire
20 European Union, is protected from import competition
21 by a very high tariff wall and is therefore likely to
22 be highly profitable.

23 In particular, these high profits in the EU
24 will enable them to aggressively compete for 12 months
25 or longer U.S. supply contracts for crystalline

1 sorbitol as those contracts come up for renewal. In
2 November 2009, Syral expressed strong interest in
3 rapidly increasing its sales of crystalline sorbitol
4 to the important U.S. market.

5 Because major purchasers of crystalline
6 sorbitol, such as producers of sugarless chewing gum,
7 are located in the U.S., it is today a strategic
8 imperative for French producers to sell to such
9 customers in the U.S. in order to improve their
10 prospects of selling crystalline sorbitol to the non
11 U.S. plants of those same major producers. This is an
12 added industry-specific motivation for Roquette and
13 Syral to increase their sales to U.S. customers.

14 Because major purchasers of crystalline
15 sorbitol such as producers of sugarless gum have
16 production facilities in the U.S. and the EU, Roquette
17 will leverage its protected EU supply position to
18 expand its presence in the U.S. with these major
19 producers. Certainly Corn Products, and from my
20 perspective ADM as well, are highly vulnerable to
21 material injury from increased imports of crystalline
22 sorbitol from France if the order were revoked.

23 Corn Products, and presumably ADM, are
24 already in a painful cost/price squeeze as their raw
25 material costs have increased while per unit sales

1 prices have declined. The presence of a surge in
2 aggressive marketing by the two French producers if
3 the order were revoked will further disrupt the
4 current market.

5 Faced with this situation, Corn Products
6 will need to slash prices to keep its customer base,
7 but Corn Products may nonetheless still lose major
8 supply contracts to the French. In either event, the
9 further tightening of the current cost/price squeeze
10 will inflict devastating harm to Corn Products'
11 ability to serve U.S. purchasers' future needs for
12 crystalline sorbitol.

13 Corn Products plays a very important, pro
14 competitive role in the U.S. marketplace, and this
15 role extends beyond price competition. Corn Products
16 has a strong reputation for ongoing research and
17 development for new and better uses for polyol
18 products, including crystalline sorbitol.

19 Increased price pressure from increased
20 exports from France would greatly impair this valuable
21 contribution in the future. This completes my
22 testimony. Thank you.

23 MR. CONNELLY: So that's our presentation,
24 and we're happy to receive your questions at this
25 time.

1 CHAIRMAN ARANOFF: Thank you very much. I
2 want to welcome all the witnesses and thank you for
3 taking time away from your businesses to be with us
4 today to answer our questions.

5 We always find that talking to the industry
6 representatives directly is absolutely the best way to
7 fill out our record and have all our questions
8 answered, so we appreciate your being here. We're
9 going to begin the questioning this morning with
10 Commissioner Williamson.

11 COMMISSIONER WILLIAMSON: Thank you, Madam
12 Chairman, and I want to express my appreciation to the
13 witnesses for taking the time to come today.

14 Thinking about the domestic industry, why
15 has the ownership of production of the U.S. changed so
16 frequently since '82, and are these changes related in
17 any way to foreign competition or to changes in the
18 global production and our marketing patterns?

19 MR. CONNELLY: Do you want to give that a
20 shot?

21 MR. OAKLEY: I'll attempt to answer that
22 question. I can speak only from ADM's perspective as
23 to why we got into the business, and we were already
24 in the liquid sorbitol business starting about back in
25 1990.

1 The crystalline sorbitol business was a line
2 extension, and it made sense for our overall business
3 and the direction we were moving. At the time I don't
4 believe that it really had a lot to do with any
5 outside the U.S. forces.

6 COMMISSIONER WILLIAMSON: Okay. Do you
7 think the -- I'm sorry. Excuse me. Mr. Billig?

8 MR. BILLIG: I was just going to add that
9 the crystalline sorbitol product line is one of a
10 number of polyol products that have been sold by the
11 ICI Americas business and then subsequently SPI
12 Polyols, so as those whole businesses were sold hence
13 the assets moved along with the sale of those
14 businesses.

15 COMMISSIONER WILLIAMSON: Okay. So those
16 changes are not necessarily driven by the nature of
17 the product or the market for the product?

18 MR. BILLIG: Correct.

19 COMMISSIONER WILLIAMSON: Okay. Thank you.
20 Do you think the domestic industry is gaining an
21 advantage from these changes? Has there been more
22 consolidation? Has that benefitted the industry?

23 MR. BILLIG: There has been no
24 consolidation. I mean, the same three major players,
25 the same three players in the U.S. market, have

1 remained: Corn Products, whose name has changed
2 through the acquisitions, and Roquette and ADM.

3 MR. OAKLEY: And ADM purchased a former
4 existing ongoing concern. It really wasn't a
5 consolidation per se.

6 COMMISSIONER WILLIAMSON: Same boss with
7 just different owners?

8 MR. OAKLEY: Different owners.

9 COMMISSIONER WILLIAMSON: Okay. Thanks.
10 What are the primary factors driving demand for
11 sorbitol?

12 MR. OAKLEY: Over the years the primary
13 driver has been the trend towards lower sugar or no
14 sugar, and we've seen that strongly in the chewing gum
15 and mint category. In the '80s and '90s, there was
16 significant growth in that segment.

17 COMMISSIONER WILLIAMSON: Okay. And even
18 though it's made from corn, I guess there's no talk
19 about it not being healthy? You know, some of the
20 issues that have been raised about high fructose corn
21 syrup. I take it that doesn't affect sorbitol?

22 MR. OAKLEY: We've not seen that, no.
23 There's really no -- I mean, it's a completely
24 different product.

25 COMMISSIONER WILLIAMSON: Okay. What impact

1 has the recession had do you think?

2 MR. OAKLEY: Well, I think from our
3 perspective the recession affected many of our
4 businesses, including sorbitol to some degree. I
5 think what happened is the growth rates that we saw
6 were slowed to where now it's a much lower growth rate
7 that we're seeing in recent times.

8 COMMISSIONER WILLIAMSON: Okay. Mr. Billig,
9 do you want to add anything to any of my previous
10 questions?

11 MR. BILLIG: No. The previous question, Mr.
12 Oakley's answer was perfectly appropriate. I think we
13 would agree that the recession has slowed down demand
14 for all the polyols, including crystalline sorbitol.

15 COMMISSIONER WILLIAMSON: Okay. Do you
16 think it's affected U.S. exports any differently than
17 the domestic demand, or has it affected imports any
18 differently?

19 MR. BILLIG: The recession?

20 COMMISSIONER WILLIAMSON: Yes, and the
21 global recession.

22 MR. BILLIG: Yes. In our experience, we've
23 not seen a significant change in imports or exports as
24 a result of the recession.

25 COMMISSIONER WILLIAMSON: Okay.

1 MR. OAKLEY: Yes. I would agree with that.

2 COMMISSIONER WILLIAMSON: Okay. Is there
3 any seasonality in demand?

4 MR. OAKLEY: From my experience, there's no
5 significant seasonality. I mean, the biggest uses, as
6 we talked about, were chewing gum and mints, so people
7 are generally chewing gum all the time.

8 COMMISSIONER WILLIAMSON: Okay. What about
9 the exports? Are they used for the same end uses as
10 the sorbitol consumed in the U.S.?

11 MR. OAKLEY: Yes. From our perspective, we
12 export product out of the U.S. to subsidiary plants of
13 some of the major buyers in the U.S., and it is used
14 for the same applications.

15 MR. BILLIG: We do as well.

16 COMMISSIONER WILLIAMSON: Okay. Since I
17 guess the French product and the U.S. product are
18 pretty much interchangeable, I think both of you all
19 have mentioned that Roquette wants to both increase I
20 guess the demand in the U.S. or sales in the U.S., but
21 it also has contractual obligations in other markets
22 that will put pressure on its production here.

23 I don't quite understand. If they have that
24 pressure, why wouldn't they just export directly from
25 France to those markets?

1 MR. OAKLEY: I'm sorry. To which markets
2 are you referring to?

3 COMMISSIONER WILLIAMSON: I think Mexico and
4 Canada. I think those were the markets that you
5 raised.

6 I forgot whether, Mr. Billig, you had raised
7 the point that because of the contractual obligations
8 they want to get the duties lifted so that they can --

9 MR. OAKLEY: Yes. I think one potential
10 thought around that would be the logistical advantages
11 of being able to service those from the U.S. I mean,
12 you've got an easy truck transport or a train ride to
13 get from the U.S. manufacturing facilities to those
14 subsidiary facilities of the Big Three in Canada and
15 Mexico.

16 COMMISSIONER WILLIAMSON: Is it easier to
17 ship it to the U.S. from France than to ship from say
18 France to Canada or to Mexico?

19 MR. OAKLEY: Would you repeat that?

20 COMMISSIONER WILLIAMSON: Mr. Billig, I
21 think you were the one that was sort of saying
22 Roquette wants the order lifted because they have this
23 pressure that they can't meet their contractual
24 obligations from the U.S. production and also I guess
25 meet increased demand in the U.S. or have increased

1 sales in the U.S.

2 MR. BILLIG: Let me answer several parts of
3 your question.

4 COMMISSIONER WILLIAMSON: Okay.

5 MR. BILLIG: I would add to your question
6 about the U.S. and Canada that there are also no
7 duties from the U.S. to Canada or Mexico.

8 COMMISSIONER WILLIAMSON: Because of NAFTA.

9 MR. BILLIG: Which is a further advantage,
10 yes. To answer your question about why are exports
11 from France to Canada or Mexico different than exports
12 to the U.S., the reality is Roquette has
13 infrastructure in the U.S. to more easily accept those
14 shipments.

15 That infrastructure is not the same in
16 Canada and Europe and would put more burden on the
17 customers to manage inventory and have a more complex
18 supply chain than what they're accustomed to using
19 today. If I said U.S., I meant Canada and Mexico.
20 Sorry.

21 COMMISSIONER WILLIAMSON: Okay. So even
22 with drawback and things like that, you're still
23 saying that they really have to make those sales in
24 Canada and Mexico from the U.S.?

25 MR. BILLIG: I think it's far easier for

1 them to do it from the U.S. and more economical.

2 COMMISSIONER WILLIAMSON: Okay. And then
3 pay whatever duties on the U.S. product and bring the
4 product in from France directly here?

5 MR. BILLIG: Well, there is -- yes. Yes.

6 COMMISSIONER WILLIAMSON: Okay.

7 MR. CONNELLY: Commissioner Williamson, if I
8 could just add one point? We're aware at least of the
9 fact that there is a 10 percent duty going into Mexico
10 for French sorbitol.

11 COMMISSIONER WILLIAMSON: Okay. Okay.
12 That's fair. Okay. Thank you. Because at first I
13 just didn't understand. You know, that argument
14 didn't quite make sense to me.

15 Okay. My time is about to expire so I'll
16 come back to other questions. Thank you for those
17 answers.

18 CHAIRMAN ARANOFF: In your respective
19 briefs, both ADM and Corn Products argued that
20 sorbitol production is capital intensive and that
21 producers have a strong incentive to maximize their
22 capacity utilization in order to spread their
23 production costs over more units.

24 And so I wanted to start by asking do
25 domestic producers and French producers, Roquette and

1 Syral, all use the same basic production process, or
2 are some producers more capital intensive than others?

3 MR. OAKLEY: I guess I would prefer to
4 answer that question in our posthearing brief.

5 MR. BILLIG: I could make a general
6 statement that I would think that it is generally a
7 capital intensive process.

8 CHAIRMAN ARANOFF: Okay. Well, I'll show
9 you where I'm going with this in my next question.
10 Well, actually it'll be the third question. Let me do
11 one other question first.

12 In looking at Roquette Frères' capacity,
13 both of your briefs focus on 2009, the capacity
14 utilization level in 2009. Capacity utilization
15 levels in both the U.S. and France were at their
16 lowest during the period that we looked at here in
17 this review in 2009, presumably because of the
18 recession.

19 And so my first question is to what extent
20 should the Commission base its assessment of the
21 likely levels of capacity utilization in the
22 reasonably foreseeable future on the numbers from
23 2009?

24 MR. CONNELLY: Commissioner Aranoff, let me
25 try and answer that because obviously I have seen the

1 numbers. I'm not going to comment on the numbers, but
2 I think I'm probably better prepared to answer that
3 question.

4 We haven't taken issue with the reliance on
5 2009, the reported capacity or the actual capacity.
6 We have a very significant problem with the capacity
7 that Roquette America has reported. Without going
8 into confidential information, I will simply say that
9 the capacity that they have reported has been
10 calculated by assuming that the plant was run 24 hours
11 a day, seven days a week, 365 days a year for six
12 consecutive years.

13 We have a very significant problem with that
14 way of measuring essentially theoretical capacity. In
15 our posthearing brief we will give you a much more
16 detailed explanation of why it is that real capacity
17 is far lower than maximum theoretical capacity.

18 CHAIRMAN ARANOFF: Okay. And I welcome that
19 clarification. My question actually went to the
20 capacity of the French parent company. Basically my
21 question is your argument about the likely volume of
22 future imports to me depends absolutely on your
23 assertion that there is excess capacity at Roquette
24 Frères in France.

25 And I'm looking at the capacity utilization

1 data that they reported in their questionnaire
2 response, and in particular you focus on 2009, which,
3 as I said, was the year when everybody's capacity
4 utilization numbers were the lowest, and it makes it
5 look like there's excess capacity that you might not
6 see so much of in other years.

7 What I noticed is this: Roquette Frères'
8 lowest level of capacity utilization during the period
9 of review, so for all the years that they reported to
10 us, was much higher than the domestic industry's
11 highest level of capacity utilization during the same
12 period of years, and yet the domestic industry has
13 been consistently profitable over the period of
14 review.

15 And so what I'm trying to get from you is an
16 explanation for why Roquette Frères' level of excess
17 capacity creates an imperative that they absolutely
18 must export in order to get their capacity utilization
19 numbers up to a level that's going to cover their cost
20 because it looks to me like the domestic industry is
21 operating at a much lower level than that and doing
22 okay.

23 That's where all these questions were
24 leading, so that's the question. Does anyone want to
25 give it a try?

1 MR. CONNELLY: A couple of points. First, I
2 believe -- I believe -- that the level of capacity
3 utilization reported by Roquette was in fact lower in
4 2009 than in prior years. Secondly, we have talked
5 about the flexibilities that exist with respect to
6 capacity.

7 Third, with respect to the uses of capacity,
8 obviously you try and maximize your profits with
9 respect to where you ship your products, and we have
10 submitted that the U.S. market for several reasons is
11 a much more important market than other export
12 markets, so that's on the French side.

13 On the U.S. side, I would just go back to my
14 prior point. When you look at capacity, we urge you
15 to apply a great deal of skepticism to the number that
16 has been reported.

17 CHAIRMAN ARANOFF: Okay. Supposing that I
18 accept your argument that Roquette America has
19 overstated its level of capacity and that that is
20 resulting in an understatement of a level of capacity
21 utilization in the domestic industry as a whole. The
22 difference between the domestic number and Roquette
23 Frères' reported number is still sizeable, so I'm not
24 sure it gets rid of that gap.

25 As I understand the arguments that you're

1 making, the main reason that you give why we're going
2 to see an increase in imports from France in the event
3 of revocation is because there's excess capacity in
4 France and that there's some kind of business
5 imperative to fill up that excess capacity.

6 And I'm trying to figure out what that
7 business imperative is if everybody is running capital
8 intensive equipment where you'd prefer to produce more
9 than less and yet the domestic industry at some lower
10 level of capacity utilization was still doing pretty
11 well.

12 MR. CONNELLY: Well, if you assume that the
13 capacity figures look different in the domestic
14 industry between ADM and Corn Products on the one hand
15 and Roquette on the other hand then you do have an
16 imperative. In other words, if you have Roquette
17 America at or near capacity, and I think it's very
18 important for us to stress that this is a dynamic
19 process we're in with respect to the trajectory that
20 we see with respect to Roquette America.

21 Again without getting into the confidential
22 information, we've given you some information about
23 the most recent procurements, including the
24 procurements in 2010 with respect to Cadbury. So it
25 is in our view a very reasonable and likely scenario

1 that Roquette America either is now or extremely
2 quickly will be at capacity. There is spare capacity
3 in France.

4 There is also a business incentive to devote
5 additional capacity from France, which may be going to
6 another market, which would make much more sense to
7 send to the U.S. for various reasons, including price
8 and including what Jeff Billig remarked about
9 yesterday, the benefits you get when you supply global
10 companies liked Cadbury, if you can supply their U.S.
11 plants.

12 CHAIRMAN ARANOFF: Okay. So aside from the
13 argument that there's capacity in France and an
14 incentive to ship it here, which I think I understand
15 your argument better now. Your second argument is
16 that Roquette Frères has an incentive to shift away
17 from existing export customers outside of Europe, I
18 presume, and send that product to the U.S. because
19 it's a better or higher priced market.

20 Do we have information on the record that
21 supports that the U.S. market is going to be a better,
22 high priced market than some of the markets in Asia or
23 elsewhere where the product may be going?

24 MR. CONNELLY: Well, the only information on
25 the record is the average unit values of the shipments

1 that Roquette Frères has made to various markets. I'm
2 not sure that's summarized in the prehearing report.
3 I just don't recall, but I think it may be.

4 CHAIRMAN ARANOFF: Okay. I think I'm
5 getting close enough to the end of my time that I
6 don't want to go on to my next complicated question,
7 but I thank you for those answers and I'm going to
8 turn to Vice Chairman Pearson.

9 VICE CHAIRMAN PEARSON: Thank you, Madam
10 Chairman. Welcome to all the panelists. It's a great
11 pleasure to have a chance to talk about one of the
12 many, many products made from corn. I know something
13 about corn, you know.

14 Commissioner Williamson asked some questions
15 about demand. Did he raise the question of whether
16 there's any seasonality to demand for sorbitol?

17 MR. OAKLEY: Yes, he did.

18 VICE CHAIRMAN PEARSON: He did? Okay. I
19 just wasn't paying attention. And the answer was?

20 MR. OAKLEY: The answer was there's nothing
21 significant as to seasonality that we see.

22 VICE CHAIRMAN PEARSON: Okay. Thank you.
23 Mr. Oakley and Mr. Connelly, in ADM's prehearing brief
24 it was stated that demand is growing more slowly in
25 Europe than in the U.S. market.

1 We have indications. Of course, the
2 consumption in the U.S. market actually slowed quite
3 rapidly between 2008 and 2009. Do you have
4 information about current demand trends in the
5 European market?

6 MR. OAKLEY: The information that we were
7 relying on was in the SRI report listed out growth
8 trends and comparing the regions. So as to specific
9 information of what it was in '08 and '09, I don't
10 have that.

11 MR. CONNELLY: The SRI report. I think we
12 refer to it in our brief as the CEH report, but it's
13 prepared by SRI Consulting. That has demand/growth
14 projections for all the major markets and so we relied
15 on that as the best information we could find with
16 respect to demand or projected demand.

17 VICE CHAIRMAN PEARSON: And is the
18 expectation that the trend that we've seen between
19 2008 and 2009 will reverse and we'll see some growth
20 again?

21 MR. OAKLEY: We're hoping so. I believe
22 that there was some recessionary effect as we talked
23 about, so there would be an expectation that that's
24 going to reverse to some degree and demand might pick
25 up. I think the key was demand is still growing, but

1 it has slowed its growth rate.

2 VICE CHAIRMAN PEARSON: So we would expect
3 to see some growth both in Europe and in the United
4 States, or would we expect to see differential rates
5 of growth between those two markets?

6 MR. OAKLEY: Presumably. I have to qualify
7 that. We're not a player in the European market since
8 we're basically blocked from that market, so we don't
9 have a lot of specific information.

10 MR. CONNELLY: The SRI report did project a
11 slower rate of growth in Western Europe than it did in
12 the United States for the period 2007 to 2012.

13 VICE CHAIRMAN PEARSON: Okay.

14 MR. CONNELLY: Excuse me. I think that's
15 also true for the previous five years. I believe
16 they've analyzed demand growth for 2003 through 2007.
17 I think there was a slower rate of growth in Western
18 Europe there as well.

19 VICE CHAIRMAN PEARSON: Okay. Mr. Billig,
20 does CPI have any thoughts on this?

21 MR. BILLIG: We've done our own external
22 third party market research as well. We also don't
23 have any direct presence in the EU, but we would agree
24 with the general comments from Mr. Connelly and Mr.
25 Oakley that the demand rate in Europe is slower than

1 it is in the U.S.

2 The only thing that I would add is
3 historically the sugar free gum market in Europe was
4 there for a longer period of time and therefore is
5 more mature, which would likely be one of the key
6 explanations as to why that demand rate would be
7 slower in Europe than it would be in the U.S.

8 VICE CHAIRMAN PEARSON: Okay. Another
9 question for ADM. Going back to the prehearing brief,
10 on page 14 it indicates that nonsubject imports are
11 not a significant factor in the U.S. market.

12 I look at the raw numbers. We have
13 nonsubject imports roughly 10 times the size of
14 subject imports, so why are they not significant? Why
15 should we see the small amount as significant, if you
16 will, and not see the larger amount of nonsubject
17 imports as significant?

18 MR. OAKLEY: Well, I think our basic
19 assertions around nonsubject imports, we don't see
20 competition from them at the Big Three customers. As
21 we mentioned, Cadbury, Hershey and Wrigley constitute
22 the majority of purchases for this product in the
23 U.S., and we haven't run into competition from
24 nonsubject imports.

25 We tend to see them at smaller accounts that

1 our distributors may run up against, so that's why
2 we're kind of putting them in a category. They don't
3 represent threat because they're not going after the
4 major end users, and Roquette would be in a good
5 position to go after the major end users.

6 VICE CHAIRMAN PEARSON: Okay. But during
7 the period of review have imports from Roquette Frères
8 actually served to compete for the Big Three users, or
9 have those imports from Roquette Frères actually gone
10 to some of the smaller specialty users?

11 MR. CONNELLY: I'm not sure we can answer
12 that. I think that's probably a better question
13 directed to Roquette.

14 But there is a 12 percent duty on the French
15 product, and for a commodity that's a pretty
16 significant duty so in our view that is what's keeping
17 Roquette's product from France out of the U.S. market.

18 VICE CHAIRMAN PEARSON: So how large is the
19 demand in the United States for a GMO-free product,
20 which I think is at least some portion of the product
21 that's been coming in from Roquette Frères?

22 MR. OAKLEY: From our experience it's very
23 small. I think perhaps we see it on requests for
24 quotes that come in from customers, but we've
25 estimated that it's maybe less than 1 percent of the

1 market, so pretty insignificant.

2 VICE CHAIRMAN PEARSON: Is there any test
3 that can be done to determine whether a product was
4 produced from a feedstock that was non GMO, or is it
5 only through an identity preserved paper trail that
6 one establishes non GMO status?

7 MR. OAKLEY: I think Allan Buck might want
8 to handle that question.

9 MR. BUCK: Yes. It's really just a paper
10 trail. You can't analytically detect whether
11 sorbitol --

12 VICE CHAIRMAN PEARSON: Stand a little
13 closer to your mic there. Bring it closer to you if
14 you could please, Mr. Buck.

15 MR. BUCK: Sorry. I'm Allan Buck.

16 VICE CHAIRMAN PEARSON: That's much better.

17 MR. BUCK: The GMO issue really is a paper
18 trail to check for identity preserved raw materials.
19 Analytically you cannot detect whether European corn,
20 non GMO corn, was used to make sorbitol versus U.S.
21 GMO corn.

22 VICE CHAIRMAN PEARSON: Okay. But the
23 marketplace respects the IP certification and business
24 goes forward?

25 MR. BUCK: Yes.

1 VICE CHAIRMAN PEARSON: Okay. In your
2 presentations this morning you've described
3 crystalline sorbitol as being a commodity.

4 I note that there have been relatively
5 strong operating margins for U.S. production of
6 crystalline sorbitol through most of the period of
7 review, the margins being strong enough that it almost
8 looks to me as if crystalline sorbitol is being sold
9 as a specialty product rather than as a commodity.
10 Could you please address this apparent discrepancy?

11 MR. OAKLEY: Well, a couple of points on
12 that I guess. We sell a liquid and a crystalline
13 sorbitol and the crystalline sorbitol sells at a
14 higher price, but there are a lot of processing costs,
15 as I mentioned in the brief, that go into producing
16 that.

17 We talk about profitability. We have seen a
18 decline in profitability in our business over the last
19 couple years, and I would add that we have certain
20 expectations within ADM of each business unit. At the
21 current levels, crystalline sorbitol is not meeting
22 those financial return objectives.

23 VICE CHAIRMAN PEARSON: And this might be
24 more appropriate for the posthearing than for now, but
25 if you could probably elaborate a little further on

1 what ADM sees as an appropriate rate of return or an
2 adequate rate of return for a product like sorbitol?

3 MR. OAKLEY: Sure. We could do that in the
4 posthearing brief.

5 VICE CHAIRMAN PEARSON: I would guess that
6 CP could also provide that information posthearing.

7 MR. BILLIG: We could.

8 VICE CHAIRMAN PEARSON: Okay. Please do.
9 Thanks so much. Madam Chairman, my light is about to
10 change so I'll stop there. Thank you.

11 CHAIRMAN ARANOFF: Commissioner Okun?

12 COMMISSIONER OKUN: Thank you, Madam
13 Chairman. I join my colleagues in welcoming all of
14 you here this morning. I very much appreciate your
15 presence and your willingness to answer questions.

16 Let's see. In response to the Chairman you
17 had an opportunity to respond on what incentive RF has
18 to increase exports to the U.S. if the order were
19 lifted, and that focus was on their capacity
20 utilization numbers. I want also to just have you
21 explain to me a little better the argument on
22 incentive when I look around at the rest of their
23 markets.

24 You know, sometimes when we have a country
25 under order producing under an order in another

1 country you might see that they're about to be kicked
2 out of a market because of an order in place. Here of
3 course they have a protected market, and you all
4 acknowledge that.

5 So I guess my first question is when they
6 have a home market that's protected, does that
7 increase or decrease their incentive to export to the
8 U.S.?

9 And then second, if you could comment a
10 little bit more about Asia? Because as I understand
11 the record, this is not a market where they're being
12 kicked out of their Asian market. They've got
13 production facilities.

14 So in some ways I guess I'm looking at it as
15 it supports a regional approach to business. We have
16 our European operations. We're going to have Asia
17 operations. We have a North America operation that
18 will serve North America. Explain to me what about
19 this record would indicate that that's not the
20 strategy they'll pursue.

21 Obviously I'll have a chance to talk to them
22 about it too, but just from your perspective as
23 players in this business what makes this case not
24 support that idea that they're going to be regional
25 operators?

1 MR. OAKLEY: Let me address the French or
2 the France/EU portion first. The production capacity
3 that Roquette has exceeds what is needed in the home
4 market, so they likely are incented to export to some
5 markets so basically, as they try to maximize profit,
6 they're going to try to find the highest priced market
7 that they can go into.

8 Now, as with regards to Asia, that was a
9 significant destination for French sorbitol a number
10 of years ago. I think 2003 was probably the last very
11 high year, maybe 2004, but once production was
12 established there there's 115 million pounds that has
13 to go somewhere, and the market -- it's tough to
14 imagine that the market could just all of a sudden
15 take up all of that excess product.

16 So as you start production in these other
17 regional markets, your home base in France, you want
18 to continue to maximize your production out of that
19 plant, and you've got to put it somewhere. What we
20 believe is they have excess capacity now and they're
21 going to search out the highest priced market, which
22 is the U.S.

23 COMMISSIONER OKUN: Okay.

24 MR. OAKLEY: Does that answer your question?

25 COMMISSIONER OKUN: I understand the

1 response. I think there's some other things that are
2 interesting about the approach and where their
3 operations are and a little bit because listening to
4 Mr. Billig respond to why Roquette America would
5 continue to want to service Canada and Mexico for the
6 transportation logistical advantages that that affords
7 again in my mind gives merit to the argument that
8 their first sight is not on the U.S. market.

9 You know, again you'll have a chance I think
10 to respond more about the capacity utilization, Mr.
11 Connelly, and what we should be looking at with
12 respect to the French producer, and then also if
13 there's any other information about pricing in the
14 U.S. market that may increase its incentive to want to
15 go there I'd look at that posthearing as well.

16 On price competition, you have argued in
17 your brief and you've talked about today the price
18 competition you've seen from Roquette America as
19 support for your argument that post order there would
20 be increased price competition. I just wanted to go
21 back on that a little bit because I want to make sure
22 I understand your argument because this is not an
23 order where you're seeing lots of subject product
24 coming in under the order.

25 You've commented on that; that you think the

1 margin is high enough to keep out all but this GMO.
2 So when you talk about the price competition during
3 the period of review, you're talking about price
4 competition with fairly traded product, correct?

5 I mean, it's U.S. competitors banging heads
6 against each other. That's the price competition that
7 you're talking about in your brief. Is that accurate,
8 or are you trying to say that somehow by being a
9 global operator they have this advantage in going to
10 Cadbury, Hershey, Wrigley that you lack?

11 MR. CONNELLY: Let me try and respond to
12 that, Commissioner Okun. The evidence we have on
13 pricing consists of, first of all, ADM's actual
14 experience going head to head against Roquette
15 America.

16 Now, we believe Roquette America acts using
17 a strategy that is not simply Roquette America. It's
18 Roquette Frères as a global competitor. We don't
19 think these prices are independently determined. We
20 don't think that the decision to go after the Big
21 Three companies, who account for a vast proportion of
22 total demand, is Roquette America's decision. It's
23 Roquette Frères' decision, and Roquette America is
24 implementing it. So we have that. We have evidence
25 of very aggressive pricing that's intensifying

1 recently.

2 Now, with respect to the imports we've heard
3 the explanation about the unique characteristics of
4 the product that is being imported; that it services
5 particular needs, and yet for the only product --
6 Product 1 in the questionnaire -- where there is a
7 significant volume or the largest proportion of the
8 volume coming in from Roquette, in the last two years
9 there has been very significant evidence of
10 underselling.

11 Now, if this is a specialty product, whether
12 it's non GMO or it's something else, our question is
13 why is that evidence of underselling so significant in
14 the two most recent years?

15 The prehearing report, in our view, is an
16 accurate summary of the overall underselling results,
17 but when you get behind the 14 out of 37 instances of
18 underselling you see that the vast amount of
19 underselling is on the product which accounts for the
20 vast amount of the imports from Roquette, and the
21 overselling is on extremely small volumes and we don't
22 think it's representative.

23 So the only evidence we have about Roquette
24 Frères' pricing activity in the U.S. we think is
25 highly persuasive as to what its likely strategy would

1 be in the future.

2 MR. BILLIG: I would also add that Corn
3 Products in its posthearing brief can address this
4 issue in more specifics.

5 COMMISSIONER OKUN: Okay. I would
6 appreciate any additional information you can provide.
7 I appreciate that.

8 I think maybe in my next round I'll go back
9 to Mr. Billig on the CPI acquisition because I think I
10 need to ask a few questions about that, which I may
11 not have time to do in the time remaining, so let me
12 turn to something else and just make sure.

13 I didn't have a chance to go back and look
14 to see if this was clear, but the Big Three that you
15 talk about. Do any of them, and again if there's
16 anything that's confidential just say you'll answer
17 posthearing. Do any of them rely on a single source
18 of supply?

19 MR. OAKLEY: I can answer. In my
20 experience, I haven't encountered any particular
21 strategies around single supply or dual supply or
22 anything like that atypical. They are sending out the
23 requests for bids to all of the producers.

24 I can't comment in detail on the strategy,
25 but I haven't experienced any specific strategies one

1 way or the other.

2 COMMISSIONER OKUN: Okay. Mr. Billig?

3 MR. BILLIG: I think it varies by end user.
4 I think security of supply may be more important than
5 others, but I think the important issue to most is
6 having access to product from more than one facility,
7 which is where Roquette's position, having a plant in
8 France and product approved at French or I should say
9 European production facilities of their customers and
10 being able to move that product to the U.S. would be
11 an advantageous position.

12 COMMISSIONER OKUN: Okay. And then I think
13 both producers had mentioned the information that they
14 have provided. If you haven't already done so, can
15 you provide your company's business plans or any other
16 internal documents that would talk about expected
17 future market conditions for sorbitol?

18 I've understood you to say that you're not
19 looking to the European market, but if there's any
20 other future demand projections on which you base your
21 decisions? If we don't already have them, I'd
22 appreciate looking at those posthearing as well.

23 With that, my time has expired. Thank you,
24 Madam Chairman.

25 CHAIRMAN ARANOFF: Commissioner Lane?

1 COMMISSIONER LANE: Good morning. Welcome
2 to the Commission and thank you for the opportunity to
3 let us ask questions. I'd like to start with stating
4 that it's my understanding that you think that if the
5 orders were revoked subject imports would be likely to
6 increase to the pre-order level or greater. Would you
7 please explain to me again why you think that will
8 happen, and can you quantify what effect that would
9 have upon those prices, volume and the employment in
10 the domestic industry.

11 MR. OAKLEY: I guess as we've discussed, we
12 believe that there is a strategy on a global basis
13 Roquette to basically take over supplying the Big 3,
14 as we call them, and as we mentioned these are the
15 largest consumers in the market, and without that to
16 let's say baseload your facility, you would not be
17 able to survive in this --

18 COMMISSIONER LANE: And so do you think that
19 you can look at the information that you have prior to
20 the orders, look at what you think is happening now in
21 the market, and what you expect to happen if the
22 orders were revoked, and quantify the volume and price
23 effects, any effects it would have on employment in
24 your industries?

25 MR. OAKLEY: Sure. We can make an attempt

1 at that and put it in the post-hearing brief.

2 MR. CONNELLY: We will obviously have to
3 answer that in the post-hearing brief. We will have
4 to make a few assumptions, of course, but we will
5 explain what they are.

6 COMMISSIONER LANE: Okay, thank you.

7 Now, I know that Commissioner Pearson asked
8 this question sort of, but I have a different way of
9 asking it, can you give us information comparing the
10 U.S. price of the subject sorbitol to the price in
11 other markets, not just the average unit values, but
12 the actual prices? And I'm assuming that you might
13 want to respond in the post-hearing to that.

14 MR. CONNELLY: Yes, we will try and find --

15 COMMISSIONER LANE: But your basic argument
16 is that Roquette Frères will come to the United States
17 because the prices are better here, higher here than
18 that company would find in markets elsewhere, and I'm
19 assuming if that is true there ought to be someplace
20 out there that shows what they are getting for their
21 product and other markets, and then what they could
22 get if it came to the United States.

23 MR. OAKLEY: Yes. But I mean we don't have
24 a lot of direct experience with selling into the other
25 markets because as we mentioned a lot of those markets

1 are closed to us basically do to tariff margins.

2 COMMISSIONER LANE: But you must have some
3 idea if you are making this argument that the U.S.
4 market is so much more attractive than the rest of the
5 markets, or the rest of the world, that if the orders
6 came off Roquette Frères would come to the United
7 States.

8 MR. OAKLEY: And we also believe that they
9 have excess capacity in France, so it's not
10 necessarily just a switch from another country to the
11 U.S., but rather they can still -- further sell their
12 capacity available in France with shipments to the
13 U.S.

14 COMMISSIONER LANE: Okay, thank you.

15 If you could tell me that you wanted to
16 switch production from liquid sorbitol to crystalline
17 sorbitol, how much effort would that take?

18 MR. OAKLEY: If we wanted to go from liquid
19 to Crystalline?

20 COMMISSIONER LANE: Yes.

21 MR. OAKLEY: Well, as I mentioned, there is
22 a process that we produce the liquid first, and then
23 we take it to another line and we further process that
24 into crystalline, so it would be very easy to stop at
25 the liquid stage.

1 COMMISSIONER LANE: Okay. One importer
2 reported that sorbitol used in sugar-free bakery
3 products can be interchangeable. However, for
4 applications where the sorbitol is compressed
5 differences in product form, granulation, crystalline
6 structure to poor compression quality. What products
7 use compressed sorbitol, and how big a market is there
8 for that product?

9 MR. BUCK: Pretty much all crystalline
10 sorbitol is compressible. The main difference is
11 particle size, and the particle distribution.

12 COMMISSIONER LANE: Okay, thank you.

13 I know that you have said that the demand
14 for sorbitol is probably flat. You don't see a big
15 increase in demand, and why would you not see an
16 increase in demand when we are seeing all of this
17 emphasis and focus on people being overweight and they
18 need to live healthier, and I'm assuming that means
19 more exercise and less sugar? So why has that not
20 resulted in a bigger demand for your product?

21 MR. OAKLEY: Well, where crystalline
22 sorbitol is concerned its primary applications are
23 just going to be the chewing gum and mints and things
24 of that nature. So that's the huge market for us. So
25 the growth and demand for crystalline sorbitol is

1 going to be based on those products, what the demand
2 for those products are doing.

3 There are other polyols that can be used in other
4 baked goods or things like that where crystalline
5 sorbitol might not be the best product for that
6 application.

7 MR. BILLIG: Those products are typically
8 not considered as weight control or calorie reduction
9 type products. They are more for general oral health.
10 The way you see the polyols in baked goods where you
11 would have a larger consumption or a larger serving
12 where the weight control or the calorie reduction
13 would be a more prominent issue.

14 COMMISSIONER LANE: Okay, thank you.

15 Should the Commission draw adverse inference
16 against producer Syral who failed to submit a
17 questionnaire response?

18 MR. CONNELLY: Our position on that is
19 absolutely yes. I mean, we have a major competitor, a
20 major global competitor out there that has taken a
21 pass on this review, and I think the only appropriate
22 inference, and certainly a reasonable one is the
23 information they have and could supply would not be
24 favorable to them.

25 COMMISSIONER LANE: Okay, thank you.

1 MR. CONNELLY: Excuse me. I just want to
2 add something, Commissioner Lane.

3 That is the key difference here between this
4 review and the last review. You know, we have Syral
5 now operating two facilities, not just one, and so the
6 capacity has increased from this single competitor, so
7 we do think that's a significant additional factor.
8 And the Commission's review is essentially handicapped
9 here because it has chosen not to participate.

10 COMMISSIONER LANE: ADM and CPI described
11 the domestic sorbitol industry as vulnerable. In its
12 first and second review the Commission determined that
13 the domestic industry was not vulnerable. What has
14 changed that now renders the domestic industry
15 vulnerable?

16 MR. OAKLEY: There has been a significant
17 deterioration in the profitability. I will speak only
18 for ADM. There has been a significant deterioration
19 in the profitability of ADM revealed in the
20 questionnaire response at the same time we are seeing
21 a much more aggressive pricing approach from Roquette,
22 and at the same time we have demand which is not
23 increasing all that much. So in our view those facts
24 are probably the main ones that combine to make the
25 domestic industry much more vulnerable than it was

1 five years ago.

2 MR. BILLIG: I think we would certainly say
3 that the market prices have come down considerably. I
4 referenced the 2007 tipping point on the Cadbury
5 negotiation, and Roquette's action there as a
6 watershed moment in the market, and then on top of
7 that you have corn costs today that are two times what
8 they were three or four years ago.

9 COMMISSIONER LANE: Okay, thank you. I see
10 my time is up. Thank you, Madam Chair.

11 CHAIRMAN ARANOFF: Commissioner Williamson.

12 COMMISSIONER WILLIAMSON: Thank you, Madam
13 Chairman.

14 What are the ocean shipping costs for this
15 product as a percentage? What does it cost to bring
16 this product from Europe or from the Far East relative
17 to the total final cost percentagewise?

18 MR. BILLIG: I don't know specifically, but
19 I would say as a percentage of the final sales price,
20 15 to 20 percent potentially.

21 COMMISSIONER WILLIAMSON: So that's a fairly
22 significant -- so someone producing a product here
23 that's a percentage advantage over the product being
24 imported from Europe or the Far East, is that correct?

25 MR. BILLIG: I'm sorry. Say again?

1 COMMISSIONER WILLIAMSON: Someone producing
2 the product here in the U.S. and selling it in the
3 U.S. or in North America has that percentage advantage
4 over bringing it from Europe.

5 MR. BILLIG: That would be true unless --
6 but you would have to account for the European subsidy
7 that's provided to the European polyol producers which
8 would more than offset that slight differential.

9 COMMISSIONER WILLIAMSON: Okay. Okay, so
10 you're saying that's why Roquette Frères has an
11 interest in shipping from Europe rather than having
12 production in the U.S.?

13 MR. BILLIG: Yes, and Corn Products has
14 observed first-hand exactly that behavior with liquid
15 sorbitol in other parts of the world.

16 COMMISSIONER WILLIAMSON: Okay.

17 MR. BILLIG: And we can cite more details
18 with respect to that in our post-hearing brief.

19 COMMISSIONER WILLIAMSON: That would be
20 appreciated because it wasn't addressed the staff
21 report, that question of the shipping costs and the
22 relationship. Because I was also going to ask if the
23 duties were lifted what tariff would someone shipping
24 from Europe have to pay importing into the U.S.
25 market?

1 MR. BILLIG: I think it's 5 percent, 4.99
2 percent.

3 MR. CONNELLY: I think it's 4.9 percent, Mr.
4 Williamson.

5 MR. BILLIG: Yes.

6 MR. OAKLEY: I don't recall it exactly. I
7 think that's it.

8 COMMISSIONER WILLIAMSON: Okay. What? In
9 other words, what I'm saying is these costs as tariffs
10 go that's kind of high relative to a lot of tariffs
11 now.

12 MR. SIERCK: It's a lot less than the
13 tariffs imposed by Mexico upon --

14 COMMISSIONER WILLIAMSON: Yes, 5 percent
15 versus 10 percent.

16 MR. SIERCK: So product being shipped from
17 Europe to Mexico is subject to about a 10 percent
18 duty. Products being shipped from Europe to Brazil is
19 subject to a 20 percent duty. In that context, the
20 U.S. duty is 4.9 percent is relatively small.

21 COMMISSIONER WILLIAMSON: Okay. Thank you.
22 But I would appreciate in the post-hearing if you
23 would address how we should factor the tariff in.

24 Considering what it might cost to -- you may
25 answer this in the post-hearing -- what is the cost of

1 expanding the capacity by say 10 to 20 percent? What
2 does that mean in terms of investment?

3 MR. OAKLEY: We could certainly address that
4 in the post-hearing.

5 COMMISSIONER WILLIAMSON: I was wondering
6 about this relationship between liquid sorbitol and
7 crystalline. I understand that you produce the liquid
8 first. What type of users use liquid? I know there
9 are some customers who might -- could switch from
10 crystalline to liquid.

11 MR. BILLIG: Liquid sorbitol is what I like
12 to call the work horse produce of the polyol product
13 line. It's got a very diverse application base, with
14 the largest use would be in oral care, toothpaste,
15 mouth wash. Those customers would not switch to an
16 alternative form of product because of cost.

17 COMMISSIONER WILLIAMSON: Okay. And is a
18 producer likely to say, well, I'm sticking -- I'm just
19 going to produce liquid, or I'm going to produce this
20 percentage of liquid and this percentage crystalline,
21 or do they move back and forth on that?

22 MR. OAKLEY: I think it's going to depend on
23 what's happening in the market and what's going to
24 provide the best return into the overall business. So
25 I mean there is a lot of flexibility if you run liquid

1 through your plant or not, or you just sell it out as
2 liquid, so that may depend on what capacity levels you
3 are at and what opportunities you have to switch back
4 and forth.

5 MR. BILLIG: And as we both mentioned,
6 crystalline sorbitol trades by and large on 12-month
7 or longer term contracts, so that would limit some
8 flexibility if you are in the middle of one of those
9 contracts in terms of your ability to switch.

10 COMMISSIONER WILLIAMSON: Okay. Now does
11 the liquid also go by similar contracts?

12 MR. BILLIG: Liquid can trade on longer term
13 contracts as well, at least 12 months, yes.

14 COMMISSIONER WILLIAMSON: Okay. In your
15 prehearing brief you argue that Syral intends to
16 increase its sales in U.S. for both crystalline and
17 liquid sorbitol, and given that there is no
18 antidumping duty on liquid sorbitol and that the rates
19 for the crystalline sorbitol has been as low as 2.9
20 percent, what has prevented Syral from increasing
21 exports to the U.S. up to now?

22 MR. CONNELLY: I'm sorry. Are you referring
23 to CPI's briefs as opposed to ADM's?

24 COMMISSIONER WILLIAMSON: Yes, correct.
25 Right, on page 9 of CPI's brief.

1 MR. BILLIG: I don't know why Syral has
2 chosen to do what they have done so far. I don't know
3 the answer to that question.

4 COMMISSIONER WILLIAMSON: Okay.

5 MR. SIERCK: I can offer one suggestion.
6 Syral has never been through a review at Commerce of
7 its own actual margins. It benefits from the original
8 1982 2.9 percent margin rate. If today they were to
9 sharply increase their shipments to the United States,
10 domestic producers have the option of requesting
11 Commerce to do a specific annual review of their
12 imports and those margins might well be higher,
13 particularly given the fact that they, like Roquette,
14 operates in a home market that's protected from import
15 competition, and one must assume the home market
16 prices by definition are going to be higher than those
17 they could realize in the U.S. because it's a more
18 competitive market, and particularly if they wanted to
19 capture new business in the U.S. through what is
20 politely called market entry pricing, i.e., low prices
21 to capture markets.

22 COMMISSIONER WILLIAMSON: Okay.

23 MR. SIERCK: So I think the existence of the
24 order is a restraining factor even on Syral because of
25 the annual review process.

1 COMMISSIONER WILLIAMSON: Okay. So that's
2 why you don't think they would try to --

3 MR. BILLIG: Syral has also been going
4 through quite a bit of transition. They made a large
5 acquisition a few years ago that has occupied quite a
6 bit of their time, and now they have moved past that.
7 They have made some announcement recently about their
8 intention to significantly change the face of their
9 company and would be well positioned now that those
10 strategic issues are behind them to take a different
11 approach to the market.

12 COMMISSIONER WILLIAMSON: Would they likely
13 follow the same strategy as the Big -- you know,
14 Roquette or you folks in terms of going after the Big
15 3, and given their relative size production relative
16 to Roquette do they have the capacity to do that?

17 In other words, go after the Big 3 sales
18 which seems to be the focus?

19 MR. BILLIG: I would think given the amount
20 of the market that the Big 3 represents they would be
21 a logical target.

22 MR. OAKLEY: Yeah, absolutely I agree with
23 that. That would be a logical target for them to look
24 at. I mean, that represents the majority of the
25 market.

1 COMMISSIONER WILLIAMS ON: But given their
2 capacity, you may want to address this post-hearing,
3 relative to the capacity of the others, is that
4 feasible for them?

5 MR. SIERCK: We can only estimate their
6 capacity because they haven't participated in this
7 review, and provided the data that would help all of
8 us to determine their capacity situation.

9 COMMISSIONER WILLIAMSON: Looking at some of
10 the global production figures in the staff report, you
11 can get an idea of what the produce relative to
12 Roquette and all that -- I have to think about this
13 question. Oops, I'm sorry, I just realized it's gone
14 over my time. I can formulate it later but you can
15 look at some of the statistics and it just raises that
16 question, and I've gone over my time. Thank you.

17 CHAIRMAN ARANOFF: I want to ask a few more
18 questions about nonsubject imports. I know that my
19 colleagues have touched on this some.

20 Does anyone present today have any
21 suggestions as to what accounts for the fluctuations
22 in the volume and market share of nonsubject imports
23 during the period of review?

24 MR. OAKLEY: I would have to look at it in
25 more detail in order to offer any suggestions on that.

1 CHAIRMAN ARANOFF: Okay. If you have any
2 thoughts for the post-hearing, that would be welcome.

3 I'd also note that the largest source of
4 nonsubject imports is Indonesia. Have any of you
5 encountered Indonesian products and can you indicate
6 how it would compare with U.S. or French sorbitol in
7 terms of price and quality?

8 MR. OAKLEY: I can speak from my experience.
9 We have encountered them, as I mentioned, typically
10 through we sell to distributors our products that they
11 take out the smaller end users, and typically our
12 experience is our distributors will come to us and
13 tell us that they are running up against competition
14 in the products from Indonesia.

15 Typically we don't see the product. We just
16 understand there is a competitive nature here.
17 Typically it is lower priced product, and again that
18 could be kind of an entry, a market entry pricing
19 strategy, but I don't have a lot of information on the
20 product itself.

21 MR. CONNELLY: Commissioner Aranoff, let me
22 just add one other thing about this, and this comes
23 from the questionnaire responses so I will just
24 summarize it briefly. I believe that there were six
25 importer questionnaires received in addition to

1 Roquette America's imports. Of the six, there was one
2 questionnaire, we discuss this in our brief, that for
3 the vast majority of the nonsubject imports, we looked
4 at that questionnaire and we had some very serious
5 questions about the meaning and significance and the
6 accuracy of the data in that questionnaire, and there
7 seemed to be significant differences between what that
8 one importer was reporting and what the other five
9 were reporting, and it was from Indonesia.

10 So we are not quite sure what's going on
11 there, and all we could do is raise questions about
12 it, but certainly the patterns, the prices seem to be
13 very different and out of line. You know, they don't
14 identify who their customers are so it's very hard to
15 evaluate what's going on or the uses, so all we can do
16 is raise some questions about that.

17 CHAIRMAN ARANOFF: Okay. In your briefs
18 both companies argue that the protective conditions
19 under which companies in Europe operate and the
20 subject producers in France to export to the U.S. at
21 dumped prices, but there are also producers in
22 Germany, right, and that would have the same
23 protection with the European Union.

24 Do you see the German producer targeting the
25 United States with high volumes and low prices, and if

1 not, what is it that's different about the conditions
2 under which the subject producers or the German
3 producer might be looking at the U.S. market in the
4 event that the order were revoked and they were on an
5 even playing field?

6 MR. OAKLEY: From ADM's experience, we
7 haven't encountered the product from Germany in any
8 competitive manner. The difference between say a
9 French producer such as Roquette and Germany perhaps
10 is the existence of a U.S. subsidiary that has
11 essentially paved the way for product. I mean,
12 Roquette America exists here today. They are already
13 in with the major customers and have kind of a base to
14 work from. I can't speculate much more on the German
15 producer and what their plans are though.

16 CHAIRMAN ARANOFF: Okay, and if you look
17 back at a number of sunset reviews that the Commission
18 has done, I think you will find that our general
19 practice is to find if someone has gone to the trouble
20 of building a plant in the U.S. it really looks them
21 less likely to export significant volumes to the U.S.
22 after revocation than a producer who is otherwise
23 equally situated from a company that hasn't made the
24 investment in the U.S. That's been something that we
25 have found on a number of occasions in these kind of

1 reviews.

2 Yours is the opposite here, and I'm having a
3 little trouble understanding how that could be the
4 case.

5 MR. OAKLEY: And I would typically agree
6 that you are going to build productions where the
7 demand is, and you are going to service it from that
8 area, and I think our contention is the U.S. facility
9 has reached a point where it's at or near capacity,
10 but yet their apparent strategy, marketing strategy is
11 to continue to gain market share. So it's going to be
12 tough to do that when they are already up against the
13 capacity constraint here in the U.S.

14 MR. BILLIG: I would also like to make a
15 comment about the German producers. The German
16 producers manufactures product specifically for the
17 pharmaceutical industry. That is more of a specialty
18 product by a different process, serving a small subset
19 niche of that market that we would not expect that
20 market share to change dramatically.

21 CHAIRMAN ARANOFF: That's the majority of
22 what they service? They are not a small producer.
23 They seem to be big enough to serve more than a little
24 niche market.

25 MR. BILLIG: I can't speak to their

1 capacity, but the product that they manufacture is
2 specifically for that application.

3 CHAIRMAN ARANOFF: Okay. Okay. Mr. Billig,
4 in Corn Products briefs you argued that this
5 antidumping duty order has had a pro-competitive
6 effect on the U.S. market, and I was intrigued by that
7 because typically economists consider antidumping duty
8 orders to be anticompetitive by their very nature. So
9 I wanted to give you the opportunity to explain in a
10 little bit more detail how the order in this instance
11 has been pro-competitive, and then I might ask either
12 you or your counsel to explain as a legal matter
13 whether that is something we can give weight to in
14 making our determination?

15 MR. SIERCK: May I address first? The
16 merits is that the existence of the order enables ADM
17 and Corn Products to participate in the market even in
18 times when they are under a price squeeze. If the
19 order were revoked, certainly in regards to Corn
20 Products it would be highly difficult for them to stay
21 in this market. It certainly would be difficult for
22 them in the face of a price squeeze to spend any
23 dollars at all on any product development or product
24 innovation.

25 But I think it is important that -- it's no

1 secret that Corn Products has a smaller, much smaller
2 market share right now than the other two players, but
3 there is a pro-competitive influence in terms of --
4 because they are out bidding on projects for new
5 business.

6 As to the legal rationale for considering
7 this, it's just one of these almost infinite number of
8 conditions of competition that the statute permits the
9 Commission to consider.

10 CHAIRMAN ARANOFF: Okay. One more question,
11 and that is, I think you have done a good job in
12 explaining in both the briefs why under your theory of
13 revocation the order would be harmful to Corn Products
14 than to ADM, and your theory, as I understand it, is
15 that some combination of Roquette Frères and Roquette
16 America would significantly increase its market share
17 in the U.S. to the point of being a virtual monopoly,
18 and it would be very hard for either of your companies
19 to stay in business.

20 So supposing that I accept that as the
21 outcome that might occur, I guess my question is we
22 need to find that injury is likely to the domestic
23 industry as a whole and in that scenario Roquette
24 America, you know, comes out okay and maybe stronger
25 as part of the combined entity, and they already are

1 the largest U.S. producers, so how am I likely finding
2 injury to the domestic industry as a whole?

3 MR. CONNELLY: Well, I think, first of all,
4 we have to consider what the ramification is going to
5 be if the imports come in in the volumes that we would
6 anticipate if the order is revoked, so I don't think
7 we would concede that industry as a whole would not be
8 injured. I mean, we understand, I hope we have
9 explained the effect on production output that would
10 occur at ADM and Corn Products.

11 Also, I think it's within the Commission's
12 discretion to not -- I don't want to suggest a
13 producer-by-producer analysis of injury because I know
14 that is not permitted, but I certainly think that it's
15 permissible to consider Roquette as a global entity as
16 opposed to Roquette America being part of the domestic
17 industry and Roquette Frères being the exporter.

18 CHAIRMAN ARANOFF: Okay. Well, if my
19 colleagues will indulge me since my time is up, I want
20 to follow up on that and say to you, okay, you just
21 made an argument in favor of Roquette being a related
22 party and it would exclude them from the domestic
23 industry. You didn't make that argument in your
24 brief.

25 MR. CONNELLY: No, you're right because we

1 did read your opinions and we did feel like we could
2 not make that argument under the precedence you have
3 established.

4 CHAIRMAN ARANOFF: Okay, fair enough.
5 Thanks. Let me turn to Vice Chairman Pearson.

6 VICE CHAIRMAN PEARSON: Thank you, Madam
7 Chairman.

8 I think I am correct to say that Roquette
9 Frères has not asked the Department of Commerce to do
10 an administrative review on this order since 2000, is
11 that --

12 MR. SIERCK: That's correct.

13 VICE CHAIRMAN PEARSON: So it's been subject
14 to that slightly more than 12 percent dumping rate for
15 some number of years. Doesn't the fact that they have
16 not asked Commerce for a review indicate that they are
17 not terribly interested in the U.S. market?

18 MR. CONNELLY: That's probably what they
19 would say.

20 VICE CHAIRMAN PEARSON: And you would say?

21 MR. CONNELLY: I would say there is no
22 reason to assume that that is the case. You know,
23 there are simply different ways to look at what that
24 margin represents. We are obviously trying to gauge
25 what's likely to happen. I think our view would be

1 but for that margin it's quite possible that imports
2 would have increased, but the thrust of our case,
3 Commissioner Pearson, has to do with what's happened
4 here most recently.

5 What's happened here in 2009 and 2010? What
6 is it that we see here? And what we see here is a
7 growing imperative, I guess is the way to put it, to
8 use the French facility. I mean, let's keep in mind,
9 and I think we haven't yet really heard an explanation
10 of why it was that Roquette was so concerned about
11 keeping this order in 1999 and 2004. Everything it
12 said in the letter it submitted to the Commission in
13 2009 -- 2004 and 1999 -- all those conditions, all
14 those reasons why it was in favor of retaining the
15 order pertains today. There is nothing different
16 about the conditions today, except they are worse from
17 ADM's and Corn Products' perspective.

18 So it seems to us that whatever the margin
19 might be Roquette had a problem. It had a concern
20 about imports that caused it to want to keep those
21 duties in place.

22 VICE CHAIRMAN PEARSON: Okay. Well, we will
23 have an opportunity this afternoon to ask them more
24 about their change in thinking. Sometimes the world
25 adjusts.

1 MR. CONNELLY: Excuse me. Let me just add
2 that what I heard this morning in the opening
3 statement was that the conditions that they thought
4 might come about didn't come about. There wasn't any
5 real elaboration about what that was, but as far as
6 we're concerned Syral is still out there and has made
7 statements in the press about their intentions to
8 enter new markets. You know, we think this has to be
9 one of the new markets they intend to enter.

10 VICE CHAIRMAN PEARSON: Right, but Syral has
11 been subject just to this 2.5 percent duty for some
12 period of time, right?

13 MR. CONNELLY: Right.

14 VICE CHAIRMAN PEARSON: And if they really
15 wanted to come into the U.S. market, couldn't they
16 ship some product here at 2.9 percent and find some
17 buyers for some quantity? I mean, we just haven't
18 seen that, have we?

19 MR. CONNELLY: Well, let me just say that
20 they have had small imports at that 2.9 percent
21 margin, and we have requested an administrative review
22 to find out if that's the real margin or not. We
23 filed that request on April 30th, I think, the last
24 day in April that we could file it, so we're going to
25 find out what the true margin is in the administrative

1 review.

2 MR. SIERCK: I think it's also fair to note
3 that Corn Products requested a review of that same
4 order vis-a-vis Syral earlier in the month. The 2.9
5 all others rate was established in 1982 when the
6 currency ratio between the dollar and the euro was
7 totally different.

8 VICE CHAIRMAN PEARSON: The euro not
9 existing at that time.

10 MR. SIERCK: The French franc before it,
11 yes. But now the dollar is weaker against the
12 relevant European currency than it was way back then.
13 That in and of itself could probably, almost certainly
14 would turn small margins into very large margins.

15 VICE CHAIRMAN PEARSON: But aren't you on
16 the wrong side of that argument? As the dollar has
17 gotten weaker and the euro stronger it must be more
18 difficult financially to export from the European
19 Union to the United States.

20 MR. SIERCK: That might be true but for
21 Syral and Roquette's operation in the 500 million
22 person EU market without any import competition. It's
23 the functional equivalent of 40 to 50 percent import
24 fees levied on all imports, whether from China or from
25 the United States that are trying to get into the

1 European market. That enables them surely, unless
2 they are complete fools, to earn extraordinarily high
3 profits which then, in our judgment, enables them to
4 subsidize very aggressive market entry prices in other
5 markets, not just in the United States but for Brazil,
6 which is something documented in our prehearing brief
7 in regards to Syral.

8 VICE CHAIRMAN PEARSON: Well, perhaps but,
9 you know, the customer base available to the French
10 producers within the European Union has really
11 expanded dramatically since 1982, so many more people,
12 and so they can ship without tariff or antidumping
13 duty of any sort to however many -- what is it, 26
14 countries now in the EU?

15 MR. SIERCK: About 500 million people.

16 VICE CHAIRMAN PEARSON: Whatever the correct
17 numbers are. So you consider the changing conditions
18 to competition affecting those two producers since
19 this order went into effect. As they have had the
20 world at their doorstep with no serious competition as
21 you say, why would they want to bother trying to get
22 some modest quantity of shipments into the U.S. market
23 at a time when the -- until the recent weeks the euro
24 has been strengthening so much against the dollar and
25 hurting the economics of that whole export operation?

1 MR. SIERCK: Well, it's Corn Products'
2 assumption that Roquette and -- certainly Roquette has
3 excess production capacity. ADM has cast its eyes at
4 something like -- I forget -- 1.5 million pounds --
5 150 million, a huge amount of volume that Roquette
6 once produced to serve Asian markets, much of that
7 volume is gone, export volume is gone because Roquette
8 has elected to buy or build in both China and in
9 Korea. Bulgaria is not going to make up the
10 difference, in my view.

11 VICE CHAIRMAN PEARSON: Okay. I hear what
12 you're saying. Sorry go head.

13 MR. OAKLEY: Sorry to interrupt. Could I
14 add a little bit to this?

15 VICE CHAIRMAN PEARSON: Please.

16 MR. OAKLEY: I think what we're looking at
17 and especially since the last review of this, the 115
18 million pounds of exports to China I think is
19 significant. That was a significant market that was
20 available for export from France while they were still
21 serving the European market. So they were serving the
22 European market as they needed to because there was no
23 basically other import competition into that market,
24 plus exporting a significant amounts to other regions.

25 Now, in '05, that changed whereby they

1 established large-scale production in China, and as
2 you can see in the trade data those exports to China
3 started dwindling very quickly, so now they are faced
4 with this excess production. Growth and demand hasn't
5 taken up all of that volume, so now they have got to
6 look at where can that go now, where is my best
7 opportunity to ship, and to me that explains the
8 strategy of Roquette America to start making a bigger
9 play in the U.S. consumers starting in 2007 with
10 basically taking all of the business at one of the
11 major three customers, and aggressive pricing
12 strategies that we have seen here as recently as 2010
13 negotiations kind of support they've got a lot of
14 volume they need to place now.

15 VICE CHAIRMAN PEARSON: Perhaps. Of course,
16 another way of interpreting what Roquette has done in
17 China, building a production facility and then no
18 longer shipping -- no longer exporting to that market,
19 not dissimilar to what it's done in the United States,
20 building production facilities here and not shipping
21 here from the European Union except in very modest
22 quantities.

23 And so if we look at the corporate behavior
24 of Roquette, you can take that same fact pattern and
25 reach a somewhat different conclusion, I think.

1 MR. OAKLEY: But there is still a certain
2 capacity that I would think needs to be filled.

3 VICE CHAIRMAN PEARSON: We deal with lots of
4 businesses that have excess capacity and it just sits
5 there so I don't know how to interpret excess capacity
6 in this case relative to what we have seen in other
7 cases.

8 MR. BILLIG: I might add, I think we believe
9 that Roquette is at capacity in the U.S. So I think
10 the question is, is it more investment in the U.S. or
11 is it the utilization of existing assets out of France
12 which have substantial available capacity?

13 VICE CHAIRMAN PEARSON: Okay. Well, Madam
14 Chairman, my time has expired.

15 CHAIRMAN ARANOFF: Commissioner Okun.

16 COMMISSIONER OKUN: Thank you, Madam
17 Chairman. Just a follow up to the capacity
18 utilization arguments that I know you're addressing
19 post-hearing more with respect to why you believe
20 that, in particular, how Roquette America reported
21 capacity utilization. If you could also in that look
22 at Roquette Frères, how they reported their capacity
23 utilization, and if you were to do it in the way that
24 you would argue is more accurate, whether in fact
25 Roquette Frères would have as much excess capacity as

1 has been argued, so do those consistently for me if
2 you can making that argument.

3 And then I know the Chairman in her question
4 about injury to the domestic industry as a whole had
5 referenced in some of our prior reviews where we have
6 had a such domestic production. If you could in your
7 post-hearing also look at some of those cases,
8 Forklift Trucks among those, and compare the specifics
9 of this case onto those and what looks the same and
10 different to you, and how we should take that into
11 consideration.

12 Also for post-hearing, you know, there is a
13 lot of reference to Roquette America's position on
14 support versus opposition to the order. If you could
15 take a look at some of the cases -- Tropicana v.
16 United States being one -- instructing the Commission
17 to look at the level of industry support for the
18 petition is one factor, among many, and explain how
19 you would have us look at it in this case, and
20 obviously I will have a chance to talk to Roquette
21 America about that in the next panel, but if you could
22 take a look at that and some of the other cases we
23 have looked at, I would appreciate that.

24 And I think my final -- back on prices which
25 I don't think I've asked, I'm not sure I heard it,

1 which is in analyzing the cost/price squeeze, in terms
2 of these contracts that you have talked about and how
3 business is done in this industry, are there meet and
4 release clauses that are invoked with respect to the
5 raw material cost increase and decrease, and if so,
6 have they been involved during this period?

7 MR. OAKLEY: I can speak to ADM's
8 perspective, and we don't have any such clauses.

9 COMMISSIONER OKUN: Okay.

10 MR. BILLIG: That would be atypical.

11 COMMISSIONER OKUN: Atypical.

12 MR. BILLIG: Yes.

13 COMMISSIONER OKUN: Okay. And with that I
14 don't have any further questions, but I appreciate all
15 the answers and look for to the post-hearing briefs.

16 CHAIRMAN ARANOFF: Commissioner Lane.

17 COMMISSIONER LANE: I don't have any further
18 questions, and thanks to this panel.

19 CHAIRMAN ARANOFF: Commissioner Williamson.

20 COMMISSIONER WILLIAMSON: Just one question.
21 We have talked a lot about capacity. Capacity
22 numbers, is it the liquid and crystalline? How do the
23 two -- when we talk about capacity, how do the two
24 relate? I mean, are we talking just about the
25 crystalline capacity here?

1 MR. OAKLEY: Well, how do they relate, I can
2 speak more ADM and I think this is the case for most,
3 but there is a production of the liquid, and then
4 there is different equipment that further processes
5 that to produce the dry form, the crystalline form.
6 So when we're talking about capacity, I mean, when
7 we're talking about this product it's crystalline
8 sorbitol, so the ability to produce crystalline
9 sorbitol is what's at the heart of the matter here.

10 Now, crystalline sorbitol capacity is
11 generally different or could be different than your
12 capacity to produce liquid sorbitol, so they're not
13 necessarily related. The only thing you do need is
14 enough liquid to run through the process to produce
15 the crystalline. That's kind of the only requirement.

16 COMMISSIONER WILLIAMSON: Okay so --

17 MR. CONNELLY: But to answer, I think you're
18 asking had we reported our crystalline sorbitol
19 capacity and the answer to that is yes, we've reported
20 our crystalline sorbitol capacity.

21 COMMISSIONER WILLIAMSON: Okay. Does that
22 mean that most people have capacity to produce more
23 liquid sorbitol than what they use for crystalline
24 sorbitol?

25 MR. OAKLEY: Do most? I don't know. At ADM

1 we have more capacity to produce liquid sorbitol.

2 MR. BILLIG: Yes, typically Corn Products
3 produces other polyols as well. All the polyols are
4 run through the hydrogenation process. So your
5 hydrogenation capacity, which can be used to
6 manufacture different products, would exceed your
7 crystallization capacity.

8 COMMISSIONER WILLIAMSON: Okay. I was just
9 trying to make sure I understood that relationship.
10 Good. I have no further questions. Thank you, Madam
11 Chairman.

12 CHAIRMAN ARANOFF: Just want to go over one
13 more time something that we've talked about a bit to
14 frame the question again. So Roquette built a plant
15 in China and acquired a plant elsewhere in Asia, and
16 as best as I can tell from the record those were
17 investment decisions that had to have been made, you
18 know, pretty much a decade ago, close to a decade ago,
19 at least with respect to the kind of investment
20 because you said that started in 2003.

21 So at that time, you know, they had to know
22 that once they ramped up production in Asia that was
23 going to reduce exports to Asia from the facility in
24 France, and they had to have some sort of corporate
25 plan for what was going to happen with that capacity,

1 and, you know, we're talking about a period of time
2 that's quite a few years ago, so they may have hoped
3 this order would be revoked, but they couldn't make
4 their investment planning on it.

5 So I'm finding it a little bit hard to buy
6 the argument that there has been this sort of sudden,
7 unanticipated or unplanned for large drop in exports
8 from France to Asia that desperately need a home,
9 particularly in light of the fact that I know that the
10 gentlemen from the companies haven't seen the data
11 that came in on Roquette Frères' capacity utilization,
12 but you know, until the recession hits in 2009 I'm
13 just not sure the data supports the idea that there is
14 a hole where they have all this capacity lying around.

15 I don't know if there is anything more you
16 want to say about that now or whether you want to
17 tackle it during --

18 MR. CONNELLY: I think that we need to
19 tackle that in the post-hearing brief, and I think we
20 can do that.

21 CHAIRMAN ARANOFF: Okay. I appreciate that
22 very much, and I don't have any further questions.

23 Vice Chairman Pearson?

24 VICE CHAIRMAN PEARSON: I have just one and
25 it goes still to this issue of corporate behavior and

1 how Roquette might handle itself in different
2 situations.

3 It was indicated earlier that Roquette has
4 been pricing -- Roquette Frères now we're talking
5 about the French one -- has been pricing aggressively
6 into South America. Does Roquette have any
7 subsidiaries anywhere in South Central American, Latin
8 American?

9 MR. CONNELLY: Not to our knowledge.

10 MR. BILLIG: Not to our knowledge either.

11 VICE CHAIRMAN PEARSON: Okay. I'm just
12 wondering whether we should consider that they might
13 be handling their sales different in markets where
14 they do have an affiliate versus markets where they
15 don't, and so any thoughts on that would be welcome.

16 MR. CONNELLY: I don't think we have any
17 right now, Commissioner Pearson. We will have to
18 reflect on that and see and think about it.

19 VICE CHAIRMAN PEARSON: Okay. Well, thank
20 you very much.

21 Madam Chair, I have no further questions.
22 Appreciate the participation of the panel, and I will
23 turn it back to you.

24 CHAIRMAN ARANOFF: Are there any further
25 questions from Commissioners?

1 Do the staff have any questions for this
2 panel?

3 MR. MCCLURE: Jim McClure, Office of
4 Investigation. Chairman Aranoff, we have no
5 questions.

6 CHAIRMAN ARANOFF: Do counsel for
7 Respondents have any questions for this panel?

8 MR. LINDQUIST: No, thank you, Madam
9 Chairman. We will address anything in a post-hearing
10 brief. Thank you.

11 CHAIRMAN ARANOFF: Okay. Normally it would
12 be our practice after the first panel to go to a lunch
13 break, but as it is still a little early for lunchtime
14 and as one of my colleagues has an appointment later
15 today, I think we are going to go ahead and bring up
16 the second panel.

17 So I want to thank everyone on the first
18 panel very much for your testimony and your answers to
19 our questions this morning and for all the additional
20 information that we have asked you to provide in your
21 post-hearing briefs. We appreciate it very much and
22 we will ask you to take your other seats further back,
23 and please bring up the second panel

24 MR. LINDQUIST: Could I please ask for a
25 five-minute recess? Myself, I would like a bathroom

1 break, frankly, and I don't know about anyone else.

2 CHAIRMAN ARANOFF: That seems perfectly
3 reasonable.

4 MR. LINDQUIST: Thank you.

5 CHAIRMAN ARANOFF: We will hold off starting
6 for about five minutes. Anyone that needs the
7 restroom, please go ahead.

8 MR. LINDQUIST: Thank you.

9 (Whereupon, a short recess was taken.)

10 CHAIRMAN ARANOFF: Mr. Lindquist, are you
11 just about ready?

12 MR. LINDQUIST: Oh, thank you. I didn't
13 realize everyone was back. Thank you.

14 CHAIRMAN ARANOFF: I think we are all back.
15 Why don't you go ahead and begin.

16 MR. LINDQUIST: Thank you, Madam Chairman.
17 I would like to introduce Gina
18 Steffensmeier. She is our witness today, and Soo Jung
19 Han, who is taking all the notes and making sure I
20 don't forget anything, but Ms. Steffensmeier is going
21 to give us a brief statement, and then we will be very
22 glad to have your questions.

23 MS. STEFFENSMEIER: Good morning, Madam
24 Chairman and members of the Commission. My name is
25 Gina Steffensmeier, and I am the Director of Marking

1 for Roquette America, responsible for North America
2 business. I have about 15 years of experience and
3 direct involvement in the specialty side of the
4 business which includes polyols and crystalline
5 sorbitol.

6 It is Roquette's position that the
7 revocation of the order will not likely result in
8 material injury to the U.S. sorbitol industry. The
9 volume of imports will remain even if the order is
10 revoked.

11 Because Roquette America has production
12 capabilities in U.S., Roquette America only imports
13 small amounts of crystalline sorbitol for a very small
14 niche market. In addition, Roquette America has
15 available capacity to follow the domestic market
16 demand.

17 There is no commercial reason to import from
18 France other than imports of a very small amount of
19 demand of specific customer needs, which is of a
20 certain raw material quality. Even for this specific
21 purpose, the quantity is small and the French imports
22 never amounted to a significant quantity during the
23 2004 through 2009 year period. We also do not
24 anticipate any changes in the terms of availability in
25 U.S. produced sorbitol in the domestic market in the

1 future.

2 The second point is that French imports will
3 not have an adverse price effect even if the order is
4 revoked. Given the very small volumes of the French
5 imports, they do not have a negative impact on U.S.
6 prices especially as it is a specific grade which
7 meets a specific market need. In addition, we have
8 observed significant nonsubject imports at various
9 competitive pricing.

10 We do not anticipate any changes in the
11 availability of U.S. produced sorbitol in the domestic
12 market in the future. We also expect U.S. sorbitol
13 producers to have the ability to respond to the
14 demands and changes in demand and supply.

15 We strive to meet customer demand and
16 technical requirements which is why we import small
17 quantities of sorbitol powder from Roquette Frères
18 plants to meet market demand specific to the customer
19 needs.

20 The last point is that Roquette America has
21 made significant investments in the U.S. production
22 and will continue to follow through on these
23 investments.

24 Lastly, it is our opinion that the order to
25 revoke will not result in material injury to the

1 domestic industry and does not present unfair
2 competition. Thank you.

3 CHAIRMAN ARANOFF: Is that the conclusion of
4 your direct presentation?

5 MR. LINDQUIST: That's it. Thank you, Madam
6 Chairman, yes.

7 CHAIRMAN ARANOFF: Okay. That may be one
8 for the record books.

9 In any event, we appreciate your being here
10 today, particularly you Ms. Steffensmeier, we are
11 happy you could be here.

12 I am going to ask the first question but I
13 imagine that it's a question that any of my colleagues
14 would have asked if they were asking the first
15 question, and that is, in the first and second reviews
16 Roquette America opposed revocation of this order but
17 now supports revocation in this third review.

18 Can you tell me what accounts for that
19 seemingly change in position?

20 MS. STEFFENSMEIER: Our concerns that we had
21 in the past are not relevant today and so therefore we
22 see no need to have the duties still imposed.

23 CHAIRMAN ARANOFF: Do you want to flush that
24 out a little bit of what the concerns were in the
25 past?

1 MR. LINDQUIST: Yes. In both 1999 and 2004,
2 the main concern was for the company that was then
3 Amylum France, which is now Syral, and they were
4 acquired somewhere in there by Tate & Lyle, that's the
5 English sugar company. They were from Roquette
6 America's point of view a very formidable potential
7 competitor in the United States that might have been
8 expected to take any advantage it could of the
9 European Union subsidy system.

10 The company's view of Syral is just
11 different. It doesn't seem to be taking a very
12 aggressive approach even though it apparently could,
13 and what Roquette America has found is creating
14 downward pressure on prices is not competition from
15 France but competition from Indonesia and of any of
16 the companies that are creating downward pressure from
17 the outside, they are nonsubject importers; namely
18 from Asia.

19 And so the only effect that Roquette
20 perceives in having the order remain is that some of
21 its niche products are artificially elevated in price,
22 and Roquette Frères and America would like to see that
23 situation end. We feel that it's not fair to the
24 customers and it's not justified any longer.

25 CHAIRMAN ARANOFF: Okay. Well, then me turn

1 to some of the arguments that Corn Products and ADM
2 have raised, both this morning and in their briefs.
3 And in particular, they argue that Roquette Frères in
4 France has a sufficiently high level of excess
5 capacity, either because of the substitution of Asian-
6 produced products for French-produced products, or for
7 some other reason that the economics of the French
8 plant create a very strong incentive for them to
9 significantly boost their exports to the U.S. if this
10 order were revoked.

11 And I realize, Ms. Steffensmeier, that you
12 represent the U.S. company and not the French company,
13 but I don't know if there is anything that you can
14 tell us about that.

15 MS. STEFFENSMEIER: The only point that I
16 would like to make is that Roquette America has
17 capacity available in the United States to support a
18 North American market, and that it makes most business
19 sense versus importing from Europe and causing extra
20 cost in the supply chain to do so.

21 MR. LINDQUIST: With regard to Roquette
22 Frères, the main point, I think, is that the responses
23 in the questionnaires were calculated on the same
24 basis for both Roquette America and Roquette Frères.
25 And they do -- as the instructions to the

1 questionnaire provided, they are done on a 24/7/365
2 basis. But as I understand from Ms. Steffensmeier --
3 and she can confirm this now, I think -- that did take
4 into account some degree of downtime for maintenance
5 and the like. So we can address that more fully in
6 post-hearing briefing, if that would be helpful.

7 But otherwise, the questionnaire speak for
8 themselves in terms of what the available capacities
9 have been. The real issue, I think, is how accurately
10 do they speak in terms of 24/7, or is it, as someone
11 said, theoretical, or is it realistic. We'll address
12 that in post-hearing briefing.

13 CHAIRMAN ARANOFF: Okay. Can you tell me
14 within the bounds of confidentiality -- I mean, how
15 big an investment has Roquette Frères made in its U.S.
16 production operation, Roquette America?

17 MS. STEFFENSMEIER: Roquette Frères has made
18 substantial investments in North America over the last
19 10-15 years. And therefore, it speaks for itself.
20 But we were to produce and utilize those investments
21 that we have put forward. As far as giving you an
22 actual dollar amount, I don't think I can provide
23 that. But they're substantial, and therefore the goal
24 is to utilize the life of those investments through
25 their course.

1 CHAIRMAN ARANOFF: Okay.

2 MR. LINDQUIST: In my opening remarks, I
3 think I did go through part of it to say that there
4 was an investments of hundreds of millions of dollars.
5 And I think that's probably not going to come as a big
6 surprise to Roquette's competitors. We can be more
7 specific in the post-hearing briefing.

8 CHAIRMAN ARANOFF: Okay. Now it's my
9 understanding that Roquette America operates two
10 production facilities?

11 MS. STEFFENSMEIER: We do.

12 CHAIRMAN ARANOFF: Okay. And one of them
13 when were the two different facilities acquired?

14 MS. STEFFENSMEIER: The first facility is in
15 Gurnee, Illinois, and it was acquired in 1982.

16 MR. LINDQUIST: It was built.

17 MS. STEFFENSMEIER: Built. And then the
18 second facility was acquired in the early '90s, and it
19 was Hubbing, which is located in Keokuk, Iowa.

20 CHAIRMAN ARANOFF: So the first was the
21 green field investment, and the second was an
22 acquisition.

23 MR. LINDQUIST: The second was an
24 acquisition of a corn wet-miller that did not produce
25 polyols, and now it does.

1 CHAIRMAN ARANOFF: Okay. Now I don't want
2 to get into confidential information, but there are
3 some arguments in the domestic producers's briefs
4 about the relative level of investment in both those
5 two facilities and the relative level of sort of the
6 extent to which they represent state-of-the-art
7 production technology, and whether there might be an
8 incentive that sort of one of them is, you know, not
9 worth as much as the other, to look at -- I don't know
10 if you want to respond to that now or if you want to
11 do that post-hearing.

12 MS. STEFFENSMEIER: We could probably answer
13 that in post-hearing, but both facilities are very
14 important and critical to our business.

15 CHAIRMAN ARANOFF: Would you describe the
16 status of both facilities as being state-of-the-art
17 production facilities which have received recent and
18 ongoing investment to keep them up-to-date?

19 MS. STEFFENSMEIER: Absolutely, yes.

20 CHAIRMAN ARANOFF: Okay. And if there is
21 any information that you could put on the record that
22 would help us to document that, that would be very
23 helpful.

24 MR. LINDQUIST: Thank you.

25 CHAIRMAN ARANOFF: On page 6 of your pre-

1 hearing brief, you state, and this a quote, "The
2 Roquette has now firmly established that its policy is
3 one of investments in Roquette America, with all of
4 the benefits for research and development, employment,
5 and capital investment that that policy implies," and
6 that because of that you argue that Roquette Frères
7 wouldn't have an incentive to significantly increase
8 its imports from France in the event of revocation,
9 and that has certainly been your argument.

10 Does either Roquette America or the parent
11 company have business plans that would set out its
12 global production and marketing strategy so that those
13 could be provided to the Commission, and we could see
14 them? That's something that we frequently rely on
15 very heavily, you know, review like this, in assessing
16 what someone's global marketing plan is relative to a
17 U.S. subsidiary and how far it can --

18 MR. LINDQUIST: The two companies do have
19 business plans. They are highly confidential in a
20 very competitive and concentrated industry. And I
21 will certainly go back to them to ask that they
22 revisit the question of producing them.

23 CHAIRMAN ARANOFF: I mean, obviously, we
24 have a protective order in place, and documents can be
25 submitted to the Commission in confidence so that they

1 can't be shown to competitors in the market. I guess
2 I would suggest to you that you impress upon your
3 clients that it's within their interest, strongly
4 within their interest, to provide documentation to
5 support what at this point is an assertion in the
6 brief that that is their business plan.

7 MR. McCLURE: Thank you, Madame Chairman.

8 CHAIRMAN ARANOFF: Thank you very much.
9 With that, I'll turn it over to Vice Chairman Pearson.

10 VICE CHAIRMAN PEARSON: Thank you, Madame
11 Chairman. Welcome to the almost afternoon panel.
12 It's almost noon now. Ms. Steffensmeier, I am curious
13 about the relationship between Roquette Frères and
14 Roquette America. Roquette America has grown from not
15 much production some years ago to being now a very
16 substantial player. Has there been any shift in
17 gravity within the company to where Roquette America
18 -- is it becoming the center of the universe for
19 Roquette, or is Roquette Frères in France still clear
20 the headquarters of the global operation?

21 MS. STEFFENSMEIER: Roquette Frères is the
22 headquarters of our global operation. Roquette
23 America is responsible for the North American
24 business.

25 VICE CHAIRMAN PEARSON: Okay. And this

1 might be confidential, so in that case, after a post-
2 hearing. But Roquette America, I believe, is a fully-
3 owned subsidiary of Roquette Frères?

4 MS. STEFFENSMEIER: Uh-huh.

5 VICE CHAIRMAN PEARSON: The operations that
6 Roquette has in other countries, for instance, in
7 China, is that also a wholly-owned subsidiary of
8 Roquette Frères, or is it a subsidiary perhaps of
9 Roquette America?

10 MS. STEFFENSMEIER: It's of Roquette.

11 MR. LINDQUIST: I believe they're all -- I
12 think they are all defined subsidiaries, or
13 subsidiaries of Roquette Frères, with the possible
14 exception of Roquette Mexico.

15 VICE CHAIRMAN PEARSON: Okay. Thank you.
16 At least these corporate relationships should be very
17 interesting, and I'm just curious because, you know,
18 companies evolve over time, and things happen. So I
19 appreciate that clarification. Now you had mentioned
20 earlier Syral and its former affiliation with Amylum
21 and then Tate and Lyle. In its current status, is
22 Syral a smaller company than Amylum or Tate or Lyle?

23 MR. LINDQUIST: I think I'll answer that, if
24 I may. Yes, Syral is the smaller company. The polyol
25 production is now larger than Amylum France was. I'm

1 not sure whether -- I'm not prepared to compare Amylum
2 Group polyol production to Syral polyol production
3 with the two plants in France now. I don't know the
4 answer to that.

5 But I would say that speaking only of
6 France, I think it's correct to say that Syral's
7 production is larger than Amylum France's ever was.

8 VICE CHAIRMAN PEARSON: Okay. And did Tate
9 and Lyle not keep the sorbitol business long after
10 acquiring Amylum? Did they spin that off fairly
11 quickly?

12 MR. LINDQUIST: Within a few years. I think
13 it was within three, four years, something like that.

14 VICE CHAIRMAN PEARSON: Okay. Well, the
15 reason I'm asking this, I'm trying to understand if
16 Roquette is less concerned about competition globally
17 from Syral because of its current corporate structure
18 compared to the corporate structures that existed in
19 the past.

20 MR. LINDQUIST: I think the answer to that
21 is yes. It's the experience of the past five years,
22 and Roquette's judgment of Syral's apparent approach
23 leads Roquette to conclude that whatever the threat
24 is, it's not coming from France. In other words, the
25 problem of having in place a duty that affects certain

1 niche customers is a bigger problem than the threat
2 that Syral presents.

3 VICE CHAIRMAN PEARSON: And since I know
4 basically nothing about Syral, can you tell me, does
5 it produce products other than polyols?

6 MR. LINDQUIST: I don't know. I don't think
7 so, but I don't know. I'm not certain. We will
8 certainly look into that.

9 VICE CHAIRMAN PEARSON: Well, for purposes
10 of the post-hearing, if you could help us understand a
11 little bit more about Syral and its corporate
12 structure, the scope of its production. I mean, if it
13 is simply a French producer of polyols, that's perhaps
14 different than if it is a part of a major global
15 company that has sales networks for some product
16 around the world and an ability to move product
17 easily. I mean, the conditions of competition that we
18 could expect from Syral in the one case are quite
19 different than what we might expect in the other case.
20 So anything you can show in there could be helpful.

21 MR. LINDQUIST: Thank you. I will certainly
22 consult those who know.

23 VICE CHAIRMAN PEARSON: Okay. Now,
24 Mr. Lindquist, in your opening statement, I believe it
25 was, you referred to existing market supports in

1 Europe that in 2004 had made you concerned about --
2 had made Roquette concerned about the order and that
3 those supports no longer exist or are no longer a
4 concern. Can you elaborate on that, please?

5 MR. LINDQUIST: The latter. It isn't that
6 they no longer exist. And counsel for the supporters
7 of the order are correct in saying that the conditions
8 that Roquette cited at that time have not changed. In
9 other words, we are not saying that the European
10 Union's subsidy system has changed. What we're saying
11 is we're not as concerned about it in 2010 as we were
12 in 2004.

13 VICE CHAIRMAN PEARSON: The reason being?

14 MR. LINDQUIST: The reason being that we
15 just do not expect that there will be European
16 competitors who are going to make a concerted effort
17 in the United States to take market share under the
18 current market conditions, where the price is quite
19 flat, and there is downward pressure on price for
20 certain products coming from Asia. Roquette has
21 plenty of capacity and is able to out-compete Roquette
22 America, that it's able to dominate the market and has
23 enough capacity to keep on doing that, we expect. And
24 we think that the conditions for a company to come in
25 from France or anywhere else in Europe and pose a

1 significant challenge are not enough of a concern to
2 justify carrying on with the order and having this
3 nuisance tariff on certain niche products.

4 VICE CHAIRMAN PEARSON: The subsidy program
5 that we're talking about, is it the common
6 agricultural policy processing subsidy that's at work
7 here? Explain to me more of the nature of the
8 subsidy, if you could.

9 MR. LINDQUIST: To be quite frank with you,
10 I have not looked into that personally. I didn't
11 prepare those materials several years ago. The
12 citations are given in the letter from 2004. My
13 understanding is that there is a subsidy that provides
14 -- I think it's \$125 a ton to support shipping costs
15 so that -- to give European producers an incentive to
16 ship despite the increased costs of doing that. I
17 can't really add much beyond that.

18 VICE CHAIRMAN PEARSON: For purposes of the
19 post-hearing -- now you've made me more curious. Help
20 me understand whether this is an export subsidy that
21 would be prohibited under the Doha Round commitments
22 that have been made to this point if the Doha Round
23 should ever conclude.

24 MR. LINDQUIST: I think that's an excellent
25 question that I will investigate.

1 VICE CHAIRMAN PEARSON: Yes. I have some
2 knowledge of processing subsidies that the common
3 agricultural policy has had in place for some products
4 over some time frames. But I just don't know exactly
5 what is going on here, and it would be helpful to me
6 to know whether this is a processing subsidy, and if
7 so, how structured, or is it an export subsidy.

8 MR. LINDQUIST: I look forward to becoming
9 educated on that subject.

10 VICE CHAIRMAN PEARSON: Okay, thanks. One
11 of you also mentioned that importing to the United
12 States from France involves extra costs as opposed to
13 just sourcing from Roquette's U.S. plants. Can you
14 provide some elaboration on that and perhaps some
15 quantification of what those costs would be, either
16 now or in the post-hearing?

17 MR. LINDQUIST: Certainly we can in a post-
18 hearing. And I think any quantification should be
19 done under the protection of the order. Maybe there
20 is a general -- some general comment that could be
21 made. Certainly it is better, it's more efficient, to
22 serve a market from within than to serve it from
23 without. And maybe, Gina, you can elaborate on that.

24 MS. STEFFENSMEIER: Yes. And so from our
25 standpoint, always it's better to serve locally your

1 customers on your response time to them, in ability to
2 supply inventory purposes and then just shipment costs
3 across the board. It's better to do that. And any
4 time where you ship from another country, you're
5 imposing additional costs across the supply chain.

6 VICE CHAIRMAN PEARSON: Okay. Well, my time
7 is about to expire, so I thank you for those answers,
8 and we'll turn now to Commissioner Okun.

9 COMMISSIONER OKUN: Thank you, and I join my
10 colleagues in welcoming you here this afternoon now.
11 I appreciate your willingness to come and testify and
12 answer our answer our questions.

13 On the theory that hearing something from
14 more than one of us might impress upon your clients
15 the importance, I will reiterate the chairman's
16 request about business plans. We certainly receive
17 them in many other cases with highly competitive
18 industries, and I'm sure staff can help you understand
19 that we do protect them. But again, when you're
20 making a statement about the intent of the companies,
21 I think it would be particularly helpful for us to be
22 able to look at business plans, and we will protect
23 them accordingly. So I will reiterate the request.

24 MR. LINDQUIST: Thank you.

25 COMMISSIONER OKUN: But I wondered,

1 Ms. Steffensmeier, if there is anything you can say in
2 a public session in terms of how you relate to your
3 parent company. Some of the allegations made from
4 this morning's panel is that with respect to these big
5 customers -- and I understand that they're very
6 important in the industry -- that a global operation
7 like Roquette Frères has an advantage. And so I don't
8 know if you can talk at all in a public session about
9 how you operate when approaching customers in these
10 negotiations vis-à-vis the parent company.

11 MS. STEFFENSMEIER: From a global
12 perspective, when you're dealing with customers that
13 are also global in nature, it seems that you approach
14 them in a similar manner because they also are global.
15 For Roquette America, we operate for the North
16 American market independently. But again, at the same
17 time, it has to be taken into consideration if the
18 needs are equitable from their perspective.

19 COMMISSIONER OKUN: Could you comment on
20 whether that would go to pricing or volume
21 considerations in a contract that exists in North
22 America?

23 MS. STEFFENSMEIER: Yes. It would involve,
24 and it could involve, volume and pricing, depending on
25 the customer.

1 COMMISSIONER OKUN: Okay. I appreciate
2 those answers. Then the Chairman did ask the first
3 which of course we all would have asked about, the
4 change in position, but I just wondered if you had
5 mentioned in particular just this change in how they
6 viewed the other French producer, Syral. There were
7 several other things mentioned in that letter, the
8 expansion in capacity and the slow growth demand and
9 the protected nature of the market, and the strength
10 of the euro compared to the dollar. Was your response
11 that I heard earlier just that you recognized that all
12 those conditions are the same?

13 MR. LINDQUIST: Well, now that I hear you
14 recount the list, we may want to sort of reserve the
15 right in the post-hearing brief to look at those and
16 see if we feel that some are different in a
17 significant way.

18 COMMISSIONER OKUN: Okay.

19 MR. LINDQUIST: The point was made this
20 morning, for example, that the euro is not looking as
21 good as it was a couple of years ago. And there may
22 be other points that I was perhaps too sweeping in
23 saying that. Really what I had in mind is the
24 condition of the European Union's policies.

25 COMMISSIONER OKUN: Okay.

1 MR. LINDQUIST: IN support of industry.

2 COMMISSIONER OKUN: Okay. So post-hearing
3 then, if you could look at those other points and
4 respond to them, I think that would be helpful. I
5 don't know whether you can here or in post-hearing
6 respond with greater detail with respect to what the
7 operations -- Roquette Frère's operations in China, I
8 guess the acquisition of a production facility there
9 and in other parts of Asia mean for the global
10 strategy. Is there anything you can talk to publicly
11 here?

12 MS. STEFFENSMEIER: I think it would
13 probably be better to do that post-hearing.

14 COMMISSIONER OKUN: Okay. And if you, when
15 you're doing that -- and this would be for
16 Mr. Lindquist. When you look at the information that
17 we have received with respect to where Roquette
18 Frère's exports were going prior to the Chinese
19 facilities coming online, the Asian facilities, and
20 then where product went after that, and how -- the
21 capacity utilization numbers after that point, the
22 2005, and see whether that supports the argument we
23 heard this morning that there is increased capacity
24 available in Europe to come to the United States.

25 MR. LINDQUIST: Thank you, Commissioner. We

1 will be sure to do that.

2 COMMISSIONER OKUN: Okay. And then I think
3 I heard in response to other questions about capacity
4 utilization that you would be talking about that post-
5 hearing as well to make sure we understand how it was
6 reported and what is theoretical versus real, and then
7 also if you could look at what was done for Roquette
8 Frère and see how that argument applies to their
9 operation.

10 MR. LINDQUIST: We will, Commissioner.
11 Thank you. Excuse me for talking over you.

12 COMMISSIONER OKUN: No. That's okay.

13 MR. LINDQUIST: We did -- I just want to
14 point out, too, that it was reported in accordance
15 with the instructions given in the questionnaire.

16 COMMISSIONER OKUN: Right, right. Yes, I
17 understand that. And then so what you'll address in
18 terms of down time and other things that were not
19 included in there.

20 With respect to future demand in the United
21 States and globally, we had talked with the panel
22 earlier this morning about the information they were
23 able to provide in their brief about in particular
24 focusing on whether the United States had a better
25 growth rate versus western Europe. Do you take issue

1 with any of those demand projections, or is anything
2 different for what you see are your internal
3 projections for demand in the U.S. market?

4 MS. STEFFENSMEIER: Because of the healthy
5 market trends continuing in the U.S., particularly
6 reduced sugar, sugar-free, we expect a continuance of
7 gradual growth.

8 COMMISSIONER OKUN: Okay. And if that is
9 contained in either business plans or other internal
10 business documents that we could verify that with,
11 that would be great. And if you have that with
12 respect to your markets in Canada and Mexico, anything
13 you can report on that I would also like to see.

14 I asked the earlier panel, and I'll ask you
15 for post-hearing as well, to look back at two things
16 with respect to legal issues. One is those reviews
17 where we have seen instances where a subsidiary
18 establishes a production in the United States after an
19 order is imposed, and how the facts of this case may
20 or may not look like some of those earlier cases, and
21 how we should take that into account in looking at the
22 incentive of the parent company to resume exporting to
23 the United States in larger volumes at adverse prices.
24 And then also if you could look at the domestic
25 support argument, in other words, what the courts have

1 said to us and what the Commission has said about
2 looking at how we should take into account your
3 opposition now to the order vis-à-vis earlier support
4 and whether it makes a difference that you have
5 changed your position.

6 MR. LINDQUIST: Thank you, Commissioner. We
7 will do that.

8 COMMISSIONER OKUN: Okay. And you have
9 mentioned the presence of non-subject imports. And
10 what I heard the panel -- the producers, the other two
11 producers this morning, say is that they really only
12 encountered the non-subjects either at the
13 distribution level or really with regard to smaller
14 accounts. Is that your experience as well?

15 MS. STEFFENSMEIER: No. We encounter them
16 directly and also through distribution.

17 COMMISSIONER OKUN: And when you say you
18 encounter them, is it Asian versus another? I mean,
19 is there any one in particular that you find both on
20 pricing or on volume is particularly competitive?

21 MS. STEFFENSMEIER: Asian, in particular
22 Indonesian.

23 COMMISSIONER OKUN: Okay. And if there is
24 any information you have or could submit post-hearing
25 with respect to the pricing levels of non-subject

1 imports vis-à-vis your pricing, I'd appreciate seeing
2 that as well.

3 I had asked the question earlier about
4 whether customers, and I guess in particular the big
5 customers, have a strategy of dual- versus sole-
6 sourcing. I didn't know if you had any comments on
7 that based on your experience in this market of
8 whether --

9 MS. STEFFENSMEIER: In our experience, we
10 would have the same view.

11 COMMISSIONER OKUN: The same view, so it
12 doesn't really come into play. Okay. And the earlier
13 panel had also focused on what they have seen as a
14 cost-price squeeze during the period that we've looked
15 at. Can you talk to me a little bit about your
16 experience with raw material where prices have
17 changed? Has Roquette America been able to seek price
18 increases, and why or why not?

19 MS. STEFFENSMEIER: Yes, we have seen the
20 costs of our materials increase. At the same time, we
21 also have to respond to the market conditions and the
22 prices that we see from the non-subject importers. So
23 we have to strike a balance in both of those. And we
24 also tried to do across our business -- be cognizant
25 of what is going on with the cost increases. So

1 therefore, yes, we would try to pass that along.

2 COMMISSIONER OKUN: Okay. My red light has
3 come on, so I can follow up with that on my next
4 round. Thank you very much.

5 CHAIRMAN ARANOFF: Commissioner Lane.

6 COMMISSIONER LANE: Good afternoon. I just
7 have a few questions. Ms. Steffensmeier, you are the
8 director of marketing for Roquette America. Is that
9 correct?

10 MS. STEFFENSMEIER: Yes, that's correct.

11 COMMISSIONER LANE: Do you have any
12 responsibilities with Roquette Frères?

13 MS. STEFFENSMEIER: Yes. I would be the
14 representative for North America from a global aspect
15 when global planning is done.

16 COMMISSIONER LANE: Okay. Can you tell us
17 about those interactions that you have with the parent
18 company in looking at various markets and developing
19 the strategy for both Roquette America and Roquette
20 Frère?

21 MR. LINDQUIST: I'm sorry. Excuse me. Are
22 you referring to the process for developing the
23 strategy, or are you asking a substantive question?
24 In which case, I think we would prefer to address in
25 post-hearing.

1 COMMISSIONER LANE: I think maybe I'm asking
2 for substantive. Do you have a plan, a concerted
3 plan, a coordinated plan between Roquette America and
4 Roquette Frères on your marketing strategy worldwide?

5 MR. LINDQUIST: I think you can answer the
6 question, as far as it goes.

7 MS. STEFFENSMEIER: Yes. And we are
8 responsible for North America, which we then
9 coordinate with their group strategy.

10 COMMISSIONER LANE: Okay. So maybe in post-
11 hearing, you can go into a little bit more specificity
12 as to how you coordinate your efforts and what goes
13 into deciding whether or not you're going to go after
14 a particular market. In looking at our staff report
15 -- and some of the information is business proprietary
16 -- it is very clear that Roquette America and the
17 other two participants in the morning panel are all
18 competitors. Do you have a strategy that you go after
19 the same customers that the other two producers also
20 go after? I mean the same customers.

21 MR. LINDQUIST: Let me ask if I can clarify
22 the question.

23 COMMISSIONER LANE: Okay. I'm sorry. Do
24 you and Corn Products and ADM all go after the same
25 customers?

1 MS. STEFFENSMEIER: Yes, we would compete at
2 the same customer.

3 COMMISSIONER LANE: I asked this question of
4 the morning panel. Can you provide post-hearing
5 global prices, what you were seeing in other markets
6 for the product, especially what the product is
7 getting in the Asian markets, European markets, and
8 other markets?

9 MR. LINDQUIST: Thank you, Commissioner.
10 Yes, we will.

11 COMMISSIONER LANE: And then I think that
12 you referred to niche products, and those were the
13 products that were coming in from Roquette Frères.
14 What are those niche products?

15 MS. STEFFENSMEIER: It would be the product
16 grade that is required for specific customers when,
17 for example, non-GMO-based raw materials are needed to
18 make the sorbitol powder.

19 COMMISSIONER LANE: Okay. If I understand
20 the process, the product is first a liquid, and then
21 it becomes -- you do something else, and it becomes
22 crystallized. Does Roquette America ever import from
23 Roquette Frères the liquid product?

24 MR. LINDQUIST: Do you want to address that?

25 MS. STEFFENSMEIER: Yes, but rarely, as

1 importing liquid or water -- liquid type would not be
2 the most economical choice.

3 COMMISSIONER LANE: But it does occur?

4 MS. STEFFENSMEIER: It could occur, yes.

5 MR. LINDQUIST: Right. It has occurred.

6 MS. STEFFENSMEIER: And it has occurred in
7 the past.

8 COMMISSIONER LANE: Can you in post-hearing
9 quantify how much of that is imported and why? You
10 referenced that your raw material costs are
11 increasing. Is the same true for Roquette Frères,
12 that that company is also seeing the same increase in
13 raw material costs?

14 MS. STEFFENSMEIER: Yes. It's dependent on
15 the country and their cost of the grains. But, yes,
16 they would see the same time of increase.

17 COMMISSIONER LANE: Okay. And I just want
18 to make sure that I am clear. Roquette Frères would
19 have its own director of marketing separate from you?

20 MS. STEFFENSMEIER: Yes.

21 COMMISSIONER LANE: And how much -- are
22 there overlapping employees from both Roquette America
23 and Roquette Frères?

24 MS. STEFFENSMEIER: Overlapping with group
25 responsibility?

1 COMMISSIONER LANE: Yes.

2 MS. STEFFENSMEIER: Yes.

3 COMMISSIONER LANE: Okay. And perhaps in
4 your post-hearing, you can further explain that. In
5 ADM's brief, it references the individual dumping
6 margins for Roquette Frères. In its last
7 administrative review, Commerce calculated a dumping
8 margin for Roquette Frères of 12.07 percent, but the
9 margin calculated by Commerce in the third review is
10 2.9 percent. Please explain the legal and practical
11 significance of these different margins.

12 MR. LINDQUIST: I find myself challenged
13 beyond my ability.

14 CHAIRMAN ARANOFF: Your microphone, please.

15 MR. LINDQUIST: Thank you. I find myself
16 challenged beyond my ability to do that here and now.
17 I honestly don't understand it.

18 COMMISSIONER LANE: Okay. Then you can do
19 it post-hearing. That will be fine.

20 MR. LINDQUIST: Thank you.

21 COMMISSIONER LANE: Can you provide what
22 Roquette Frères's capacity utilization rate has been
23 in the first quarter of 2010, and what do you
24 anticipate it will be going forward this year?

25 MS. STEFFENSMEIER: We would prefer to do

1 that in a post-hearing.

2 COMMISSIONER LANE: Yes, okay. Thank you.

3 And can you also quantify the overall -- the
4 transportation costs between France and the United
5 States?

6 (No audible response.)

7 COMMISSIONER LANE: Okay, thank you. Madame
8 Chair, that's all I have.

9 MR. LINDQUIST: Thank you, Commissioner.

10 CHAIRMAN ARANOFF: Commissioner Williamson.

11 COMMISSIONER WILLIAMSON: Thank you, Madame
12 Chairman. I too want to express my appreciation to
13 the witnesses who have come in today. In response to
14 Commissioner Lane's last question, when you look at
15 the transportation costs between the U.S. and France,
16 could you also explain to what extent the EU subsidies
17 are offsetting that -- and in a sense responding to
18 the supporters's argument that all of that is so great
19 that you still would ship product from France. And
20 particularly the question is -- they made a lot this
21 morning of this idea that because of capacity
22 constraints in the U.S., if the orders are missed that
23 Roquette Frères would be importing quite a bit to meet
24 demand in the U.S., to meet commitments in Canada and
25 Mexico. And so I'm trying to get your view of those

1 arguments.

2 MR. LINDQUIST: Yes, Commissioner. The
3 first one, we will be glad to address that.
4 Clarifying again that our argument -- the thrust of
5 our argument is not that the European Union system has
6 changed in a way that affects our position. And we do
7 understand there are such subsidies, as we have said
8 in a previous submission. And with regard to the
9 latter part of your question -- I have lost track of
10 what the latter part of your question is.

11 COMMISSIONER WILLIAMSON: I guess the
12 question is that their orders are met that you would
13 be -- significant imports would come into the U.S. in
14 order that Roquette Frères could meet commitments in
15 Canada and Mexico, and also gain additional market
16 share in the U.S., using imported products.

17 MR. LINDQUIST: In the post-hearing brief,
18 we can address it with more specific numbers, but I
19 think I can certainly -- and Gina can put more flesh
20 on the bones probably. But the position is that there
21 is no anticipated need for Roquette Frères to serve
22 the North American market, apart from the niche
23 product.

24 COMMISSIONER WILLIAMSON: Okay. Of course,
25 reasons why. Did you agree with the supporter of

1 continuation that your primary target in the big three
2 -- you actually may have already answered this --
3 rather than the other persons in the U.S. market?

4 MS. STEFFENSMEIER: I think we approach the
5 market wholly, and we try to be in front of all
6 customers to promote crystalline sorbitol. So to say
7 that we're just targeting certain segments would not
8 be necessarily the case, that we target all of the
9 segments in the U.S., Canada, and Mexico. And so I
10 guess I would agree that I would also state that it's
11 just not -- we have a holistic view of the market.

12 COMMISSIONER WILLIAMSON: Okay, thank you.
13 I asked the panel this morning about what would it
14 cost to increase production by 10 to 20 percent? You
15 know, what kind of investment would you make? And I
16 was wondering if you could also address that post-
17 hearing. So in order to increase your U.S. production
18 by 10 to 20 percent, what kind of investment would
19 that need.

20 And I just raised the question about
21 capacity to produce, you know, liquid sorbitol in the
22 capacity you produce the crystalline form. Do you
23 have a much larger capacity to produce the liquid than
24 you do the crystalline? Now we're talking making
25 liquid for other uses in addition to crystalline

1 sorbitol.

2 MS. STEFFENSMEIER: Yes. We produce liquid
3 for other purposes to serve other markets, just like
4 the crystalline sorbitol.

5 COMMISSIONER WILLIAMSON: Okay. Maybe post-
6 hearing you can give a percentage number in post-
7 hearing. On the non-subjects, do you know whether the
8 imports from Indonesia are coming in under the GSP
9 duty free?

10 MR. LINDQUIST: I don't know.

11 COMMISSIONER WILLIAMSON: Okay. I was
12 wondering because you do say that's the biggest
13 threat, and I was wondering to what extent --

14 MR. LINDQUIST: Maybe you can explain, Gina,
15 why we say that.

16 MS. STEFFENSMEIER: There are particular
17 markets where we see products come in. And my
18 recollection is, yes, that is duty free. But I prefer
19 to give you additional details post-hearing.

20 COMMISSIONER WILLIAMSON: Okay. To what
21 extent that is a factor in their competitive position.
22 Okay. I think for -- oh, there is another one. I
23 know from the discussion earlier about Syral's
24 production and what we have in the staff report about
25 their production compared to Roquette Frères's global

1 production, and I was just wondering what does that
2 say about their capacity to serve the U.S. market.
3 Would they also be going -- would you anticipate that
4 they would be going after the big three? Or just what
5 role would they play in the U.S. market?

6 MR. LINDQUIST: I'm not sure we have an
7 answer to give right now. We would probably want to
8 consult with Roquette Frères to see what their view
9 is. I don't think it's an issue that Gina has given
10 her consideration probably.

11 COMMISSIONER WILLIAMSON: Yes. I mean, in a
12 sense you said that you don't think they would be a
13 problem. You wouldn't be concerned about them in this
14 market. And I'm trying to get a better understanding
15 of why you say that.

16 MR. LINDQUIST: Well, what I have been given
17 to understand is that the concerns that were felt in
18 2004 looking forward looked more dire, as if there was
19 more of a threat coming from Amylum France or Tate and
20 Lyle, and now the position is that they changed their
21 point of view. They don't see Syral as posing a
22 particular threat, and it really is more of a concern
23 just to sort of clean up the tariff that is inflating
24 the price of some of the niche products. And the
25 concern that was earlier felt that there might have

1 been sort of an onslaught from Amylum France or Tate
2 and Lyle is -- they're not perceiving that now.

3 But certainly we can submit more information
4 on that in post-hearing briefs, when it's not the
5 lawyer talking but the party. I'm not sure exactly
6 how we make it a factual addendum to do that, but we
7 can consult with the staff to find out what the
8 appropriate way of doing that is.

9 COMMISSIONER WILLIAMSON: Okay. Thank you.
10 That would be very helpful to this issue of whether or
11 not the imports from France are going to be a problem
12 in the future if the orders were lifted.

13 MR. LINDQUIST: We will do that,
14 Commissioner. Thank you.

15 COMMISSIONER WILLIAMSON: Okay. I think
16 those are all the questions I have for now. Thank
17 you.

18 CHAIRMAN ARANOFF: I think generally we need
19 to make a factual submission on behalf of a corporate
20 office. It would be an affidavit. And the other
21 thing that we rely on -- and we've talked about it
22 some -- are corporate documents that are prepared in
23 the ordinary course of business. Those are probably
24 the two favorite forms.

25 I think I recall Commissioner Lane asked you

1 about whether Roquette Frères is sending liquid
2 sorbitol to the U.S. market, but didn't ask about
3 Syral. Ms. Steffensmeier, when you're selling liquid
4 sorbitol in the U.S. market, are you in competition
5 with any imports from Syral?

6 MS. STEFFENSMEIER: Not to my awareness, no.

7 CHAIRMAN ARANOFF: Okay. I'm assuming that
8 -- correct me if I'm wrong, but there is a significant
9 difference in transportation costs between shipping
10 liquid sorbitol versus the crystalline form because of
11 all the water.

12 MS. STEFFENSMEIER: Sure, yes.

13 CHAIRMAN ARANOFF: So it would be how much
14 more expensive?

15 MS. STEFFENSMEIER: You would have to --
16 because the liquid is typically at a 70 percent dry
17 substance, you would have that additional cost for
18 shipping 30 percent water from your dry products that
19 you would be shipping -- would be less shipping a
20 liquid.

21 CHAIRMAN ARANOFF: Okay. And you talked a
22 little bit with Commissioner Williamson about imports
23 from Indonesia. Is there any difference in quality
24 that you observe between Indonesian product and your
25 own product?

1 MS. STEFFENSMEIER: There is some quality
2 differences, but for some grade there are the exact
3 same quality claims that can be made, such as the non-
4 GMO claim that the product is of that quality.

5 CHAIRMAN ARANOFF: So Indonesian product
6 qualifies as non-GMO. Okay. And food grade?

7 MS. STEFFENSMEIER: Yes.

8 CHAIRMAN ARANOFF: Okay. The ADM and Corn
9 Products testified that where they see the Indonesian
10 product in the U.S. market is competing for sales to
11 distributors, that they are too small, or customers.
12 Is that also where you're seeing that product in the
13 market?

14 MS. STEFFENSMEIER: Yes. We see it there,
15 but we also see it in the direct sales basis. So
16 where our salespeople are calling directly on the
17 customer. We run into that as well.

18 CHAIRMAN ARANOFF: Do you see it in the big
19 three and mint accounts, or are these still smaller
20 accounts?

21 MS. STEFFENSMEIER: I believe that it would
22 be primarily on the smaller accounts, but also to mid-
23 size accounts.

24 CHAIRMAN ARANOFF: Okay. In the second
25 review, the Commission majority found that there was a

1 potential for French producers to engage in product
2 shifting, that is, to increase their production of
3 crystalline sorbitol at the expense of their
4 production of liquid sorbitol. And the Commission
5 relied on that as one of the reasons why they thought
6 that an increase in imports from France was likely.

7 So one of the questions that I had for you
8 is -- and you may have to ask Roquette Frères this
9 question. Are there any physical limits on the
10 ability to switch from liquid to crystalline, in
11 particular -- I mean, the crystallization capacity
12 itself would be a constraint, but I don't know whether
13 they're using all of that right now, or whether plants
14 are constructed so that it's actually easy to make
15 that shift.

16 MR. LINDQUIST: Thank you, Commissioner. I
17 would prefer to consult with an expert before I
18 attempted that.

19 CHAIRMAN ARANOFF: Okay.

20 MR. LINDQUIST: Is there anything you'd like
21 to say about that, Gina?

22 MS. STEFFENSMEIER: No. We can provide that
23 information in the post-hearing.

24 CHAIRMAN ARANOFF: Okay. I mean, I think
25 it's an important issue that came up in the last

1 review that we would want to be able to address this
2 time around because the Commission has made that
3 finding, I think, in the second review and maybe also
4 in the first review. So it has been on the record
5 there for awhile, and if they are facts that are
6 contrary to that, it would be helpful to have those on
7 the record.

8 MR. LINDQUIST: We will certainly look into
9 that. I think it's safe to say that it's sort of a
10 zero sum game unless you add capacity, in the sense
11 that if you're going to increase your crystalline at
12 the expense of your liquid, then you are reducing your
13 liquid capacity. You're reducing the amount of liquid
14 that you can sell to customers.

15 CHAIRMAN ARANOFF: Right. But you're doing
16 that, and then you're selling a higher margin product.

17 MR. LINDQUIST: Correct, correct. But the
18 question then is are you still able to serve the
19 market that you have that is looking for liquid, and
20 at what point does it make sense to add capacity as
21 opposed to sacrificing one to another.

22 CHAIRMAN ARANOFF: Yes. No. I understand
23 that. And I think on a theoretical level, I
24 understand that there is -- you know, assuming
25 capacity is constant, you have to choose between one

1 or the other. But the Commission did find that there
2 would likely be this shift in the past, that there
3 were incentives to shift from liquid to crystalline
4 because it is higher priced, a higher margin product.

5 So if you don't want us to make that finding
6 again, we're looking for facts on the record that
7 would tend to suggest why that wouldn't happen. And
8 one of those might be evidence that there are
9 established customer relationships on the liquid side
10 that it wouldn't make sense for one reason or another
11 to leave behind. But that's something that we would
12 frequently look at, but we usually -- we usually don't
13 want it asserted. We usually want it documented.

14 MR. LINDQUIST: Understood, Commissioner.
15 Thank you.

16 CHAIRMAN ARANOFF: Okay. When selling to
17 customers in Canada or Mexico, are those sales made by
18 Roquette America, Roquette Frères, or both? Who
19 organizes those sales efforts?

20 MS. STEFFENSMEIER: Roquette America
21 organizes those sales efforts.

22 CHAIRMAN ARANOFF: And are you selling both
23 your domestically produced product and the French
24 product, or are you selling only the U.S.-produced
25 product?

1 MS. STEFFENSMEIER: The U.S.-produced
2 product is typically what we sell to both of those
3 markets, as logistically it makes more sense to do so.

4 CHAIRMAN ARANOFF: Okay. Is the non-GMO
5 sorbitol -- is that a growth market in the U.S.?

6 MS. STEFFENSMEIER: It's a small market.
7 And I would agree with what has been said prior, that
8 the growth expected for that probably is not a
9 significant amount. But it is there, and to serve the
10 customer we import product from -- to meet the
11 customer's needs, and that could be in the U.S.,
12 Canada, and Mexico.

13 CHAIRMAN ARANOFF: How much of the U.S.
14 market demand do you think is accounted for by non-GMO
15 product?

16 MS. STEFFENSMEIER: Less than 1 percent
17 probably.

18 CHAIRMAN ARANOFF: Okay. And when you say
19 you see small growth in that, you're talking about,
20 you know, going from 1 to 2 percent or something like
21 that, or 5 or 10?

22 MS. STEFFENSMEIER: Yeah, very minimal, so
23 probably less than your standard population growth
24 rate.

25 CHAIRMAN ARANOFF: So your market research

1 does not suggest that U.S. consumers are at some point
2 soon going to start demanding non-GMO products in
3 large quantities.

4 MS. STEFFENSMEIER: Probably not.

5 CHAIRMAN ARANOFF: Okay. And finally, this
6 goes back to some questions that we have asked before
7 about the relationship between Roquette America and
8 Roquette Frères. In your corporate structure, who
9 gets to decide what Roquette Frères products get
10 imported into the United States and in what volumes?
11 Is that your decision or is that the corporate
12 parent's decision?

13 MS. STEFFENSMEIER: For the North American
14 market, we set the production plan for all of the
15 North American business. When, for example, we have a
16 product that is required that we cannot produce, such
17 as the non-GMO, then we request to import it from
18 Roquette Frères. So only in specifics needs would we
19 be required to do so. But we set the production plan
20 for our plants here, for our customers.

21 CHAIRMAN ARANOFF: Okay. Mr. Lindquist, for
22 purposes of the post-hearing, I would direct you to
23 the recent litigation in the Nucor Steel case that
24 came out of the Commission's hot rolled steel sunset
25 review. That was a case where the issue was whether a

1 large U.S. producer, Mittal Steel, which also was a
2 large subject producer of the hot-rolled steel, would
3 be able to shift large quantities of product from the
4 subject country into the U.S. after revocation. And
5 the Commission said we didn't think it would because
6 it had this big U.S. investment, and the court
7 remanded that to us twice, saying that the proof was
8 insufficient, and that we really needed to have
9 documentation from Mittal that in the corporate
10 structure that they had the absolute right from the
11 U.S. subsidiary to say no to imports from the
12 affiliated company.

13 So that's kind of what I was getting it in
14 my question.

15 MR. LINDQUIST: Thank you very much, Madame
16 Chairman. We will address that.

17 CHAIRMAN ARANOFF: Okay. With that, I don't
18 have any further questions, but I do want to thank you
19 very much for your answers and turn to Vice Chairman
20 Pearson.

21 VICE CHAIRMAN PEARSON: Thank you, Madame
22 Chairman. I'll just follow up on a couple of topics.
23 The Chairman was asking some GMO-related questions.
24 Can you clarify, is all of the production of Roquette
25 Frères in France from non-GMO feedstock? Or does that

1 plant shift back and forth between feedstocks?

2 MS. STEFFENSMEIER: For that question, I
3 would prefer to get specifics and provide that to you
4 in post-hearing information.

5 VICE CHAIRMAN PEARSON: Okay. That's fine.
6 The non-GMO product from Indonesia, what is the
7 feedstock there? Sugar, molasses, cassava?

8 MS. STEFFENSMEIER: I believe a good portion
9 of it is tapioca.

10 VICE CHAIRMAN PEARSON: Okay. So different
11 than from cassava, okay. And would it be feasible to
12 produce non-GMO sorbitol at one of Roquette's North
13 American facilities?

14 MS. STEFFENSMEIER: Probably not feasible,
15 just because of the -- as stated earlier, there is
16 strict recordkeeping and documentation to prevent
17 contamination. So probably not, no.

18 VICE CHAIRMAN PEARSON: Difficult to clean
19 out the corn storage and then document the movement
20 through. Is there something about the configuration
21 of Roquette Frères's facilities in France that make
22 that more feasible? That would kind of be an
23 elaboration on the earlier question. They're handling
24 GMO all the time, and if they're not, how do they
25 switch back and forth. Then shifting gears -- do you

1 have any idea why we have not seen significant imports
2 of sorbitol from China into the United States?

3 MS. STEFFENSMEIER: From other --

4 VICE CHAIRMAN PEARSON: From anyone. I
5 mean, you know, the United States is pretty good at
6 importing stuff from China. And so far, to the best
7 of my knowledge, we're not seeing sorbitol show up.

8 MS. STEFFENSMEIER: We do see some imports
9 from Asia overall, in particular Indonesia. But from
10 China in particular, I think that we have a good --
11 Roquette America has a good knowledge of the market,
12 and we are able to compete against the Asian
13 producers. However, there is downward pressure,
14 competitive pressures, on the imports.

15 VICE CHAIRMAN PEARSON: Okay. What
16 circumstances might induce Roquette to import product
17 from its facility in China into the United States?
18 Are there circumstances that you can envision in which
19 we might see some of that?

20 MS. STEFFENSMEIER: It's possible to do so,
21 yes. So just as if we were able to -- and, of course,
22 their product is non-GMO, so, yes, certainly we could
23 envision importing there versus Europe.

24 VICE CHAIRMAN PEARSON: But more likely for
25 a niche purpose for non-GMO.

1 MS. STEFFENSMEIER: For a small -- for only
2 the non-GMO purpose, yes.

3 VICE CHAIRMAN PEARSON: Okay. Well, I think
4 that is all of the questions I had, so I want to thank
5 you very much for taking this day to be with us and
6 help us understand the industry better.

7 CHAIRMAN ARANOFF: Commissioner Okun.

8 COMMISSIONER OKUN: I think most of what I
9 wanted to cover I was able to ask. At the very end of
10 my first time, we were just talking about pricing in
11 the U.S. market and whether or not you were able to
12 obtain price increases relative to what happened with
13 raw materials. So I think we had -- I'm not sure you
14 were able to supply all the information on that, like
15 was it non-subject. What is the pressure in the
16 market that you've seen on pricing?

17 MS. STEFFENSMEIER: Okay. And I think we
18 would be very comfortable sharing that in the post-
19 hearing.

20 COMMISSIONER OKUN: Post-hearing, okay,
21 okay. Thank you very much. With that, I don't have
22 further questions. Thank you, Madame Chairman.

23 COMMISSIONER WILLIAMSON: Just briefly, I
24 don't know if this was asked already, but do you have
25 the -- what are your projections for demand in the

1 Mexican and Canadian markets?

2 MR. LINDQUIST: Do you want to answer that
3 post-hearing?

4 MS. STEFFENSMEIER: Yes. I think we can
5 answer that post-hearing as part of our business plan.

6 COMMISSIONER WILLIAMSON: Okay. Thank you.
7 The other quick question is out of curiosity. The
8 demand for the non-GMO sorbitol, is that for products?
9 Is that used in products being shipped to Europe where
10 there is larger demand? Is that a major factor for
11 it?

12 MS. STEFFENSMEIER: Yes, that is a factor.

13 COMMISSIONER WILLIAMSON: Okay. I was just
14 wondering. Okay. I have no further questions. Thank
15 you.

16 MR. LINDQUIST: Thank you.

17 CHAIRMAN ARANOFF: Are there any further
18 questions from commissioners for the panel?

19 (No audible response.)

20 CHAIRMAN ARANOFF: Do the staff have any
21 questions for this panel?

22 MR. McCLURE: Jim McClure, Office of
23 Investigations. Chairman Aranoff, staff has no
24 questions.

25 CHAIRMAN ARANOFF: Do counsel on behalf of

1 the producer industry have any questions for this
2 panel?

3 MR. CONNELLY: No questions.

4 CHAIRMAN ARANOFF: Thank you. That brings
5 us to rebuttal and closing. And I must say, everyone
6 has lots of time left. Those in support of
7 continuation of the order have 35 minutes remaining
8 from your direct presentation, plus 5 minutes for
9 closing, for a total of 40 minutes. Those in
10 opposition to continuation of the order have 56
11 minutes from their direct presentation and five
12 minutes for closing for a total of 61 minutes.

13 What we normally do absent any objection is
14 just combine those two time periods and have you each
15 do a combined rebuttal and closing. I don't hear any
16 objections. Okay. So then what I'll do is thank the
17 second panel very much for your testimony, and ask
18 that you please go back to your other seats. And
19 then, Mr. Connelly, whenever you're ready, you can
20 come forward for a rebuttal and closing.

21 MR. CONNELLY: Thank you, Madame Chairman.
22 Well, I can certainly assure you I'm not going to take
23 all the time, far less. When the Commission considers
24 how likely it is that Roquette and Syral are going to
25 reenter the U.S. market with what we would regard as

1 injurious volumes of French sorbitol, we think there a
2 just a few questions, a few key questions, that you
3 ought to consider.

4 First of all, is it likely that Roquette is
5 now seeking to supply 100 percent of the sorbitol
6 purchased by Cadbury, Wrigley, and Hershey? We think
7 the answer to that is unquestionably yes. We heard
8 testimony from both sides that there is no dual-source
9 policy at any of these customers. The evidence is
10 going to show, the record is going to show, that that
11 is true right now. And so we don't think there is any
12 question that Roquette has embarked on a course and is
13 achieving that course to supply 100 percent of the
14 three dominant purchasers in this market.

15 Now the next question is, is it likely that
16 Roquette is going to engage in aggressive pricing
17 tactics to capture the big three? The answer there
18 again is unquestionably yes. That is what they are
19 doing. We heard about the tipping point in 2007, when
20 Roquette first acquired Cadbury, and it supplies all
21 of Cadbury's needs, and still does.

22 So we don't think that there is any
23 question, and I don't think we heard anything this
24 morning, that would indicate that that is not their
25 strategy. The evidence is all to the contrary.

1 Now the third question -- this is, I think,
2 the big question before the Commission. Is it likely
3 that Roquette America is going to be capacity
4 constrained in its U.S. facilities if it is obligated
5 to supply the big three in the U.S., plus its other
6 customers, plus the demand that it is satisfying or
7 seeking to satisfy in Canada and Mexico? Now here we
8 certainly have a dispute. But in our view, the answer
9 is unquestionably yes, that they either are now or
10 soon will be constrained.

11 Now the question then is if they are
12 capacity constrained, where is the excess supply going
13 to come from? Well, it can only come from one of
14 three sources. It can only come from France, Korea,
15 or China. And we think it is unquestionably the case
16 that if it's going to come from anywhere, it has to
17 come from France, not China or Korea.

18 The next question is, is it likely that
19 Syral is going to come into the U.S. market if this
20 order is revoked? Again, we haven't heard any
21 evidence that would indicate that that is not likely.
22 The analysis I heard this morning from Roquette
23 America that Amylum is somehow different from Syral I
24 didn't feel was anything more than an opinion. It
25 certainly wasn't supported by the record. And Syral

1 -- I think the one thing we did hear from Roquette was
2 that Syral is bigger. Their crystalline sorbitol
3 capacity is bigger than Amylum. So it seems to us
4 that there is a very significant incentive there for
5 Syral to come into the U.S. market.

6 And I guess the final question would be, is
7 there any question that Syral and Roquette have
8 production flexibilities that would allow them to
9 shift significant volumes from France? And again,
10 there is no question here that they do. And I don't
11 think we heard anything different from Roquette
12 America today.

13 So in summary, we simply think that there is
14 a very high likelihood, based on the record, that
15 there is going to be a substantial volume of French
16 sorbitol shipped to this market in the event of
17 revocation. The dynamics of the market, the
18 conditions of competition, are essentially the same as
19 they were in 2004 and 1999, and for that matter even
20 in 1981. Yes, we understand Roquette America is a
21 significant producer, but they are embarked on a
22 course of action that suggests that the ultimate and
23 the logical next step is to export from France to the
24 U.S. if the order is revoked.

25 We didn't see anything to the contrary today

1 in their presentation that indicated a lack of
2 likelihood. We heard assertions. We would have
3 preferred to have heard from someone who represented
4 the French parent. That's no disrespect to
5 Ms. Steffensmeier, but she, I think, talked about her
6 role. It would have been very nice to think that
7 Roquette France would have been here today.

8 Basically, that summarizes our position. We
9 obviously have a lot of work to do in our post-hearing
10 brief. We appreciated the questions you have asked
11 us. We will do our very best to answer all of them.
12 Thank you.

13 CHAIRMAN ARANOFF: Thank you very much.
14 Mr. Lindquist, whenever you are ready.

15 MR. LINDQUIST: I expect I will challenge my
16 brother counsel's brevity in my own remarks. And I do
17 think that a convenient place to start is with
18 answering some of the questions that he asked. And I
19 think that a lot of what is to come will come in the
20 post-hearing briefing. But what we saw today, if
21 anything, tips the scale further in the direction of
22 revocation of the order.

23 The question, is it likely Roquette is
24 seeking to do business with Hershey, Cadbury, and
25 Wrigley, and do 100 percent of the business -- and the

1 answer to that question is -- I think it is yes. But
2 we should be clear we're talking about Roquette
3 America is doing business in America with those
4 companies, and that Roquette Frères is governing the
5 global business that is done with those companies, in
6 the normal way, and there is nothing sinister about
7 it, and there is nothing anti-competitive about it.
8 It's good competition that Roquette has been
9 successful with in the United States.

10 Is Roquette likely to engage in aggressive
11 pricing? Well, Roquette America has been getting
12 business, a larger share of the business than the
13 supporters of the petition, and part of the reason for
14 that is because their prices are good. And again,
15 that is good for the consumer and not bad for the
16 industry.

17 And the big question, is it likely that
18 Roquette is going to be capacity constrained in the
19 U.S. -- that's a good, clean, factual question. And
20 the positions are already diametrically opposed on
21 that. We have made it clear that Roquette believes it
22 has all of the capacity it needs for the foreseeable
23 future, and we believe that the staff report supports
24 that.

25 And the next question is if we did have a

1 capacity constraint, would we supply it from China,
2 Korea, or France. And the answer was just, it must be
3 France. And that is certainly not evident on its
4 face. We think it's a hypothetical question or an
5 academic question. But if there were a need for
6 capacity, there is no reason that I'm aware of why it
7 couldn't be filled from a non-subject country.

8 So having answered the counsel's questions,
9 I just want to conclude by observing that it appears
10 the big issue that has come out of the hearing today
11 is the question of capacity. Is there a reason to
12 think that Roquette America is going to be beyond its
13 capacity in the foreseeable future, any time soon?
14 That will be addressed. That will certainly be a
15 focus in the post-hearing briefing. And we think the
16 answer is going to be a clear no. There is no reason
17 to think that Roquette is going to exceed its capacity
18 in the foreseeable future in America.

19 And so the bottom line that we're left with
20 is we have an order in place that has long outlived
21 its usefulness. The result of the order was to
22 encourage Roquette to make to make very large
23 investments in the United States, and has benefitted
24 the United States economy. And the result is that
25 Roquette has been successful in America using an

1 American company. There is no reason in light of
2 Roquette's behavior around the world or in the United
3 States to think that it is suddenly going to change
4 horses in midstream and decide to go back to an export
5 policy.

6 We heard speculation that Roquette was going
7 to suddenly need to increase its capacity in America
8 and that there was only one way it could do that, and
9 that was from France. But that is always heard as
10 speculation. It is much more concrete and much more
11 believable to say that Roquette has made a very large
12 investment in two plants in the United States, and
13 that it has continued to invest in those plants, and
14 it is much more likely to think that it will continue
15 to do so in the future than to think that it will
16 compete France against the United States within the
17 same group of companies.

18 That's all. Thank you.

19 CHAIRMAN ARANOFF: Thank you very much. We
20 repeat the thanks on behalf of all of the Commission
21 to everyone who participated in today's hearing. Very
22 efficient timewise, but also very informative. Post-
23 hearing briefs, statements responsive to questions in
24 the requests of the Commission and corrections to the
25 transcript must be filed by May 19, 2010. Closing of

1 the record and final release of data to the parties
2 will take place on June 3, 2010. And final comments
3 are due on June 7, 2010.

4 With that, we don't have any further
5 business before us today, and the hearing is
6 adjourned.

7 (Whereupon, at 1:06 p.m., the hearing in the
8 above-entitled matter was adjourned.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: SORBITOL FROM FRANCE
INVESTIGATION NO.: 731-TA-44 (Third Review)
HEARING DATE: May 11, 2010
LOCATION: Washington, D.C.
NATURE OF HEARING: Public 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: 5/12/10

SIGNED: Raymond Vetter
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: Micah J. Gillett
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

SIGNED: Christina Chesley
Signature of Court Reporter