

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)
) Investigation Nos.:
1,1,1,2-TETRAFLUOROETHANE) 701-TA-509 and
FROM CHINA) 731-TA-1244 (Preliminary)

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Tuesday,
 November 12, 2013

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

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

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On behalf of the International Trade Commission:Staff:

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 PETER SULTAN, ATTORNEY

APPEARANCES: (Cont'd.)

In Support of the Imposition of Antidumping and
Countervailing Duty Orders:

On behalf of Mexichem Fluor, Inc.:

PETER GEOSITS, Americas Commercial Director,
Mexichem Fluor, Inc.
JOHN PACILLO, Americas Operations Director,
Mexichem Fluor, Inc.

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Washington, D.C.

On behalf of E.I. DuPont de Nemours & Company (DuPont):
(DuPont's position on the petitions is still under
consideration)

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Fluorochemicals Global Products and
Fluorochemicals Monomers, DuPont Chemicals and
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In Opposition to the Imposition of Antidumping and
Countervailing Duty Orders:

On behalf of AutoZone, Inc.:

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Inc.
JOHN LAMMARS, Director of Merchandising, AutoZone,
Inc.
KRISTEN COLLIER WRIGHT, Vice President, Assistant
General Counsel and Assistant Secretary,
Customer Satisfaction, AutoZone, Inc.

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APPEARANCES: (Cont'd.)

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

On behalf of Juhua Group Corporation; Jiangsu Bluestar
Green Technology Co., Ltd.; Sinochem Environmental
Protection Chemicals (Taicang) Co., Ltd.; Zhejiang
Juhua Co., Ltd.; Zhejiang Samei Chemical Industry Co.,
Ltd.; Zhejiang Pujiang Bailan Chemical Co., Ltd.; China
Chamber of Commerce for Minerals, Minerals and
Chemicals Importers and Exporters (CCCME); and China
Association of Fluorine and Silicone Industry (CAFSI):

ROBERT COX, President, Global Consolidated
Trading, Inc.

MATTHEW J. McCONKEY, Esquire
JING ZHANG, Esquire
KEVIN BAKER, Esquire
LYNN HOLEC, Esquire
Mayer Brown, LLP
Washington, D.C.

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P R O C E E D I N G S

(9:31 a.m.)

MS. DeFILIPPO: Good morning, and welcome to the United States International Trade Commission's conference in connection with the preliminary phase of antidumping and countervailing investigation Nos. 701-TA-509 and 731-TA-1244 concerning 1,1,1,2-Tetrafluoroethane From China.

My name is Catherine DeFilippo. I am the Director of the Office of Investigations, and I will preside at this conference. Among those present from the Commission staff are, from my far right, Elizabeth Haines, the supervisory investigator; Chris Cassise, the investigator; to my left, John Henderson, attorney/advisor -- oh, gosh. Oops. Hi, Peter. Peter Sultan, attorney/advisor; Amelia Preece, the economist; Jennifer Brinckhaus, the accountant/auditor; and Jeffrey Clark, the industry analyst.

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

1 the court reporter.

2 All witnesses must be sworn in before
3 presenting testimony. I understand that all parties
4 are aware of the time allocations. Any questions
5 regarding time allocations should be addressed with
6 the Secretary. Are there any questions?

7 (No response.)

8 MS. DeFILIPPO: Hearing and seeing none, Mr.
9 Secretary, good morning. Are there any preliminary
10 matters?

11 MR. BISHOP: Yes, Madam Chairman. With your
12 permission, we will add Kristen Collier Wright, Vice
13 President, Assistant General Counsel and Assistant
14 Secretary, Customer Satisfaction, AutoZone, Inc., to
15 the witness list, and all witnesses have been sworn.

16 (Witnesses sworn.)

17 MS. DeFILIPPO: Thank you very much, Mr.
18 Secretary.

19 With that, we will begin with our opening
20 remarks. Good morning, Mr. Schagrin. Please proceed
21 when you are ready.

22 MR. SCHAGRIN: Thank you very much, and good
23 morning, Ms. DeFilippo and members of the Commission
24 staff. For the record, my name is Roger Schagrin of
25 Schagrin Associates, and we are counsel to Petitioner

1 Mexichem Fluor, Inc.

2 In many ways this is a typical China case
3 before this Commission. 1,1,1,2-Tetrafluoroethane,
4 known as R134A, is a refrigerant gas that is basically
5 the only refrigerant gas for vehicle air conditioning
6 systems and an important refrigerant gas for building
7 AC systems and other uses.

8 A decade ago, China had little capacity to
9 make this product, but had demand growing quickly as
10 auto consumption and building in China were both
11 expanding rapidly. What happened next was par for the
12 course for the China, Inc. that we all know. Lots of
13 large, new plants opened in China with loans from
14 government owned banks. China's capacity has more
15 than doubled in recent years, and capacity utilization
16 fell.

17 China became a big exporter with this excess
18 capacity as more and more Chinese producers and
19 exporters started fighting for share in export
20 markets, including the United States. Prices were
21 cut, and the Chinese have penetrated and gained
22 significant market share, first particularly in the
23 aftermarket for these products through both
24 distributors and the massive national auto parts
25 chains. While initially the U.S. industry has had

1 some price protection from rapidly falling Chinese
2 prices through contracts with OEM customers, all of
3 those OEM customers will soon, as they always do, want
4 the China price.

5 In this case, all of the negative trends are
6 present in the indicia of injury over the POI. The
7 Chinese have been gaining market share at the domestic
8 industry's expense. There are very few nonsubject
9 imports of R134A. Given the fact that the chemical
10 plants which produce R134A in the United States have
11 very high fixed costs and a need to operate at high
12 capacity utilization levels in order to operate
13 efficiently, the U.S. industry has responded to dumped
14 and subsidized Chinese prices by cutting their own
15 prices. It appears that pricing in the U.S. market is
16 now in a freefall with Chinese prices below U.S.
17 producers' cost of production.

18 R134A is a fungible commodity product made
19 to ARI specifications. The only thing that matters is
20 price. As U.S. prices have begun falling rapidly,
21 U.S. industry profits have fallen dramatically and are
22 now collapsing. Is this a product in which China has
23 a comparative advantage? Labor is not a large part of
24 the cost of production of this product, but, as we all
25 know, the Chinese Government will always subsidize

1 their industries and will trespass on their WTO
2 obligations.

3 First, China imposed export quotas and
4 export taxes on fluorspar, a mineral used in the
5 production of hydrogen fluoride, a key ingredient in
6 R134A. After losing a case brought by the United
7 States on fluorspar and eight other minerals at the
8 WTO, China was forced to abandon those export quotas
9 and export taxes earlier this year. However, the
10 Chinese Government has imposed a WTO inconsistent
11 export tax of 15 percent of hydrogen fluoride. It
12 will now wait for its trading partners to take another
13 case to the WTO. Unfortunately, that seems to be the
14 Chinese way.

15 As we will discuss during the conference
16 today, the Commission's normal accounting rules on
17 transfer of inputs between related parties should not
18 be applied in the case of multinational companies
19 producing inputs in foreign countries. The
20 Commission's internal accounting rules are contrary to
21 the requirements for multinational companies that they
22 observe both Internal Revenue Service and Customs
23 rules on transfers between related parties.

24 As you will hear today, the owner of the
25 largest fluorspar mine in the world, which is located

1 in Mexico, will not use their low production cost to
2 subsidize money losing enterprise in other countries.

3 The Chinese Government and Communist Government may
4 wish to engage in subsidization, but Mexichem Fluor's
5 parent, Mexichem, will not.

6 I've seen too many plant closures caused by
7 the Chinese and too many hardworking American
8 employees and families lose their jobs before someone,
9 if anyone, was willing to file a trade case to get
10 relief from dumped and subsidized Chinese imports.

11 The record in this preliminary
12 investigation, including very significant amounts of
13 lost sales and lost revenue allegations, more than
14 satisfies the statutory requirements for this
15 Commission to find a reasonable indication that
16 growing volumes of dumped and subsidized imports from
17 China, which are severely underselling the U.S.
18 industry, are a cause of material injury to the U.S.
19 industry and that massive Chinese overcapacity and
20 their willingness to price at ridiculous levels in the
21 U.S. market threaten to cause further injury to the
22 U.S. industry. Thank you.

23 MS. DeFILIPPO: Thank you, Mr. Schagrin.

24 We will now have opening statements for
25 those in opposition to antidumping and countervailing

1 duties. Welcome, Mr. McConkey.

2 MR. McCONKEY: Good morning.

3 MS. DeFILIPPO: Good morning. Please
4 proceed.

5 MR. McCONKEY: So my name is Matthew
6 McConkey of Mayer Brown, LLP, and I'm here with my
7 colleague, Jing Zhang. We're here today representing
8 several Chinese manufacturers and exporters of the
9 subject merchandise, and I'm going to list them off:
10 Jiangsu Bluestar Green Technology Co., Ltd.; Sinochem
11 Environmental Protection Chemicals (Taicang) Co.,
12 Ltd.; Zhejiang Juhua Co., Ltd.; Zhejiang Samei
13 Chemical Industry Co., Ltd.; Zhejiang Pujiang Bailan
14 Chemical Co., Ltd.; the China Chamber of Commerce for
15 Minerals, Chemical Importers and Exporters; and the
16 China Association of Fluorine and Silicone Industry.

17 Luckily, I am a simple man because I have a
18 simple story today, and I'm sure that this will be
19 some relief to you in the spate of new cases you guys
20 have had recently. You're going to hear today from
21 some witnesses that we've brought in. You'll hear
22 from Ken Klein and John Lammars of AutoZone and Robert
23 Cox of Global Consolidated Trading, Inc., who are
24 going to share their thoughts with you on the market
25 here in the United States for R134A.

1 What you're going to hear about is that
2 through the year 2010, into the year 2010, a small
3 number of U.S. producers controlled the market for
4 R134A. In late 2010 and 2011, there was a severe
5 shortage of U.S. supplied 134A. There appear to be
6 many causes of this shortage. I'm not sure exactly
7 whether it matters what the causes are. What matters
8 is there was a shortage. Some of the causes are
9 increased demand, decreased production capacity and
10 increased raw material costs.

11 In fact, I mean, I have a whole stack here
12 of releases from various of the Petitioners and
13 people, U.S. producers, from that period. We have a
14 letter here January 12, 2011, from DuPont that talks
15 about global market dynamics for key fluorochemical
16 products have changed significantly over the last 12
17 months and warning their customers there are shortages
18 and prices are going to go up. You'll see these on
19 Friday in our brief.

20 We've got a letter here from DuPont from
21 December 17, 2010, talking about supply shortages; a
22 letter from Honeywell, February 15, 2012. We've got a
23 series of these. Obviously you're going to see them.

24 We've got a statement here from Mexichem itself dated
25 January 31, 2011, a letter from Arkema that's dated

1 April 23, 2010. Global supply is expected to remain
2 under pressure over the next several months, leading
3 to longer lead times and strict adherence to current
4 forecasts. As a result, we are unable to allow any
5 prebuy orders. Again, you'll hear more about that
6 later.

7 Okay. So what does this tell us? 2010-2011
8 you had extremely aberrantly high prices in the United
9 States for this product. What that did was that
10 pulled in non U.S. product, including imports, to meet
11 that demand in those years. That pull was primarily
12 Chinese. No way around that. Why was that? One is
13 one of the hallmarks of this product is the raw
14 materials. There's only two real significant
15 suppliers for the raw material fluorspar, Mexico and
16 China, okay? And we know that the supply in Mexico is
17 now controlled by Mexichem, the Petitioner in this
18 case.

19 So what did we see in 2012 and the first
20 half of 2013? We've seen a rationalization, a
21 rationalization of supply and demand. The Chinese
22 remained in the U.S. market not due to pricing, but
23 because of supply chain considerations, and that's
24 what you're going to hear from our witnesses today.
25 They're concerned about a repeat of 2010-2011 where

1 all of a sudden these guys, these type of people
2 involved in this type of industry, were left holding a
3 bag with orders to fill, customers to serve without a
4 thing of supply. They're worried about that
5 repeating.

6 Concern that producers are more interested
7 in the United States in producing other products, such
8 as R134YF, concern about Mexichem's control of the
9 Mexican supply of the raw materials and what control
10 that gives them in the marketplace and their ability
11 to create new business models. When they went to the
12 Chinese because they had to in 2010-2011, they found
13 that the Chinese were able to do certain things and
14 provide them with certain types of product
15 configurations that the U.S. industry was unwilling to
16 provide them.

17 And finally, overlaying all of this, the
18 traditional injury indicators on the U.S. industry do
19 not exist, but this will be touched upon to the extent
20 permitted under APO rules -- you'll hear more about
21 this in our brief -- by Lynn Holec of ITR, LLC is
22 going to talk a little bit about that. Thank you very
23 much.

24 MS. DeFILIPPO: Thank you, Mr. McConkey.

25 MR. BISHOP: Would the first panel, those in

1 support of imposition of the antidumping and
2 countervailing duty orders, please come forward and be
3 seated?

4 MS. DeFILIPPO: Welcome back, Mr. Schagrín,
5 and welcome to the members of your panel. Please get
6 started when you're ready.

7 MR. SCHAGRIN: Thank you. Good morning
8 again, Ms. DeFilippo and members of the Commission
9 staff. Our first witness this morning will be John
10 Pacillo. Mr. Pacillo?

11 MR. PACILLO: Good morning, Ms. DeFilippo
12 and members of the Commission staff. For the record,
13 my name is John Pacillo. I'm the Operations Director
14 of Mexichem Fluor, Inc. I've been in the chemical
15 business for 36 years.

16 I was part of the team from Imperial
17 Chemicals Industries or ICI that planned and started
18 up the plant in St. Gabriel, Louisiana, in 1991 and
19 1992. The cost of installing the plant then was
20 approximately \$140 million. Much more has been
21 reinvested in the plant in three major upgrades and
22 three minor upgrades, minor expansions of the plant,
23 since that time. ICI sold its refrigerant business to
24 a company called INEOS in 2001, and Mexichem bought
25 this business in April of 2010.

1 We operate a high hazard plant in strict
2 compliance with OSHA's Process Safety Management
3 regulation and EPA's Risk Management Plan. We produce
4 1,1,1,2-Tetrafluoroethane or R134A, a safe, nontoxic,
5 nonflammable and zero ozone depleting refrigerant.
6 Our trade name is KLEA 134A. In order to produce KLEA
7 134A, we handle a very hazardous chemical called
8 anhydrous hydrogen fluoride or HF. An exposure to HF
9 the size of the palm of your hand can be fatal. We
10 handle nine rail cars a week. We take the safe
11 operation of our plant and the containment of our
12 chemicals extremely seriously. It's our license to
13 operate. It's the most important thing that we do.

14 R134A is produced by combining
15 trichlorethylene, TCE, with hydrogen fluoride, HF, in
16 two stages. In the first stage, TCE combines with HF
17 to produce R133A and 2 hydrofluoric acid. This is an
18 exothermic vapor phase reaction to high temperature
19 and high pressure over a chromium based catalyst. The
20 HCL is removed by distillation, and then in the second
21 stage R133A is reacted with additional hydrogen
22 fluoride to produce R134A and 1 HCL. This is an
23 endothermic vapor phase that again takes place over a
24 chromium based catalyst. As you will hear further
25 from Peter Geosits, R134A is used primarily as a

1 refrigerant and also as a repellent.

2 From the inception, the plant and all the
3 equipment in the plant was and has been for the past
4 22 years dedicated to the production of 134A. Within
5 the plant, we combine these raw materials as we
6 produce R134A. The catalyst is not part of the final
7 product, but gets coated in the production process,
8 requiring regeneration.

9 We've become more efficient in using
10 catalyst since we started the plant. At the inception
11 of the plant we were replacing our catalyst annually.

12 We now replace the catalyst once every three years.
13 The catalyst replacement requires a plant shutdown of
14 approximately one month, and during that time we are
15 shutting down the plant to replace the catalyst we
16 undertake major maintenance of the plant.

17 Given the fact that we are working with
18 hazardous and corrosive materials, the maintenance
19 expense, as well as major repairs and replacement of
20 equipment, costs approximately \$9 million a year. As
21 you can see, these plants are both very expensive to
22 build and very expensive to operate in a safe and
23 environmentally compliant manner. In fact, we're
24 extremely proud of our safety record. We have not had
25 a lost time accident at the plant since it started.

1 The plant operates 24 hours a day, seven
2 days a week. In order to maintain production
3 efficiencies, we do our best to limit production
4 interruptions. Therefore, we do not want to shut the
5 plant down in order to reduce production to control
6 inventory. Unfortunately, because of the massive
7 increase in Chinese imports over the last few years,
8 we've had to shut the plant down on several occasions
9 just to control inventory.

10 In fact, we just finished a three week
11 shutdown in October, and we may have to take another
12 inventory control reduction before the end of the
13 year. Shutting the plant down and starting it up is
14 very inefficient and costs us significant production
15 efficiency and increased cost per unit.

16 At the plant in St. Gabriel, we have 75
17 full-time employees. We conservatively estimate
18 another 300 to 400 jobs created in the community
19 through maintenance, support, transportation and other
20 economic activity. Having operated in East Iberville
21 Parish for 22 years, our plant is a major supporter of
22 community activities.

23 We are part of the East Iberville Industry
24 Neighbor Companies organization, which supports a
25 number of activities in the community, including

1 Habitat for Humanity, the food bank, reading programs,
2 health and education, charitable programs and a
3 two-year scholarship program, PTEC, for high school
4 graduates. This program provides education necessary
5 to get a job at one of the participating companies or
6 any chemical plant in the area.

7 The Mexichem Fluor plant in St. Gabriel is
8 part of a multinational company that has to choose
9 where to invest capital. Mexichem Fluor, Inc.'s
10 parent company, Mexichem Fluor S.A. de C.V., operates
11 the single largest fluorspar mine in the world in San
12 Luis Potosi, Mexico. Part of the mine's output is
13 made into hydrogen fluoride at a plant in Matamoros,
14 Mexico.

15 Consistent with Custom rules and the advice
16 from a Big Four auditor on transfer of pricing
17 requirements, Mexichem Fluor, Inc. pays our parent a
18 price different from the cost of producing fluorspar
19 and hydrogen fluoride. The prices we pay Mexichem
20 Fluor S.A. de C.V. for hydrogen fluoride, a critical
21 input in R134A, are the costs used in our own audited
22 financial statements.

23 For the ITC questionnaire, we valued
24 hydrogen fluoride at Mexichem Fluor S.A. de C.V. cost
25 as instructed. Thus, the Commission's perception of

1 our company's financial performance is better than the
2 actual performance. This would be true for any
3 business that could buy their raw material at their
4 supplier's cost rather than at the market price. We
5 intend to present a revised questionnaire page with
6 our postconference brief that reflects our actual HF
7 price using our company's financial reports.

8 Valuing HF at cost presents much the same
9 picture we are here to oppose. As an example, it
10 takes approximately eight-tenths of a pound of HF to
11 produce one pound of R134A. If you pay a dollar per
12 pound for HF, the resultant HF cost in a pound of
13 R134A would be 80 cents. If HF is transferred at 50
14 cents per pound, the resultant cost of HF in a pound
15 of R134A would be 40 cents per pound.

16 As someone who has worked for three
17 multinational chemical companies during my career, I
18 can tell you that the transfer of pricing between
19 businesses of a single company should reflect market
20 pricing and not the cost of manufacturing. This is
21 especially true when borders are taxing authority
22 lines across. A multinational company should not
23 support an operation by transferring an input at cost
24 when they could sell that same input at market prices
25 and make a profit.

1 Thus, if our plant in St. Gabriel cannot
2 continue to operate profitably then our parent company
3 will choose to put investment dollars into other
4 plants and other products instead of ours. Given the
5 high ongoing investment in the plant in order to
6 maintain its safe operation, selling at a loss will
7 likely lead to a shutdown of the facility within a
8 reasonably short period of time.

9 Therefore, on behalf of the 75 full-time
10 employees at Mexichem Fluor in St. Gabriel, Louisiana,
11 and the hundreds of additional jobs dependent on our
12 plant in East Iberville Parish, I ask that you make an
13 affirmative injury determination so that unfairly
14 traded imports from China are addressed and our
15 company can continue to do what we do best, which is
16 to produce R134A in a safe and environmentally
17 compliant manner. Thank you.

18 MR. SCHAGRIN: Thank you, Mr. Pacillo. Our
19 next witness this morning is Peter Geosits.

20 MR. GEOSITS: Members of the Commission
21 staff, my name is Peter Geosits, and I'm the Americas
22 Commercial Director for Mexichem Fluor, Inc. I've
23 been in the chemical industry for over 30 years, and I
24 have 16 years of experience in the refrigerants
25 business.

1 I would like to begin by describing the
2 various market segments for R134A. The largest use
3 for R134A is as a refrigerant in vehicle air
4 conditioning systems. The vast majority of motor
5 vehicles at this time operate with R134A as a
6 refrigerant. The vehicle market is composed of sales
7 to OEM producers who generally have multiyear or
8 yearly contracts and receive the product in bulk tank
9 trucks on a just-in-time basis.

10 At the present time, there is very little
11 Chinese presence in the OEM market. However, OEM
12 buyers for the major auto companies are among the most
13 knowledgeable purchasers in American industry, and
14 they are well aware of pricing in the spot market at
15 the time they negotiate their contracts.

16 As a result of the U.S. automotive fleet
17 size, aftermarket sales of R134A for vehicle air
18 conditioning are approximately three times the size of
19 the OEM market. Sales in the aftermarket can
20 typically be to distributors who will purchase R134A
21 in bulk either in tank cars or tank trucks and then
22 repackage the gas into 30 pound cylinders or 12 ounce
23 containers for resale to auto dealerships, service
24 centers, service stations or large auto parts chains.

25 Competition with the Chinese is severe in

1 the aftermarket, which is the largest market sector
2 for R134A. The Chinese are taking ever larger shares
3 through offering prices that are far below the price
4 of the U.S. industry. Sales for the aftermarket are
5 generally done on a spot basis, although some large
6 customers may secure longer price guarantees of volume
7 for specified purchases.

8 Another segment in the market for R134A is
9 in stationary or commercial air conditioning. These
10 are typically large units that would provide cooling
11 for office buildings, stores or airports. Sales are
12 made to large OEMs who produce and fill the units.
13 There are also sales through distribution to HVAC
14 maintenance companies that service the refrigerant
15 gases in these buildings.

16 There can be overlap in distributors who
17 will sell R134A to both the vehicle aftermarket and
18 the HVAC aftermarket. The largest national
19 distributors for the aftermarket are now making
20 significant direct purchases of R134A from China.

21 R134A is used as a propellant and as a
22 blowing agent as well. Since R134A is nonflammable,
23 it is used as an aerosol propellant, in lubricant free
24 sprays, insecticides, as well as aerosol dusters that
25 are used for electronic cleaning. R134A is used as an

1 auxiliary blowing agent in polystyrene and
2 polyurethane foams. Sales in these markets are made
3 direct to aerosol packagers, foam manufacturers or
4 through aerosol distributors. This sector has been
5 targeted heavily by low-priced offers from China.

6 R134A is used as a refrigerant in domestic
7 appliances like refrigerators, freezers and
8 dehumidifiers and is sold direct to large OEMs or
9 through distribution. Finally, there is a very small
10 portion of the market for R134A that's used in
11 pharmaceutical applications. R134A, because of its
12 extremely low toxicity, is used to deliver
13 pharmaceutical actives into the lungs via metered dose
14 inhalers, MDIs, to treat chronic obstructive pulmonary
15 disease, COPD, and asthma.

16 Pharmaceutical grade product is a purified
17 of R134A, which requires additional processing steps
18 after manufacture. Mexichem Fluor in the U.S. exports
19 R134A to a purification facility, which is operated by
20 our sister company in the United Kingdom, which
21 produces the pharmaceutical grade product. My company
22 imports pharmaceutical grade R134A from our sister
23 company and distributes it in the Americas. The
24 product is subject to FDA guidelines, and the
25 purification plant is inspected by various regulatory

1 bodies.

2 To the best of my knowledge, the Chinese do
3 not participate at all in the U.S. market for
4 pharmaceutical grade R134A. However, the
5 pharmaceutical grade portion of R134A market is only
6 about 2 to 3 percent of the total market.

7 All of the U.S. producers market R134A under
8 trade names. Mexichem's trade name is KLEA for our
9 industrial product and ZEPHEX for our pharmaceutical
10 grade product. The Chinese trade names are typically
11 not recognized in the U.S., but in the markets they
12 choose to target the end user appears to place little
13 value on branded product. The overwhelming factor
14 regarding R134A sales into sectors they choose to
15 target is price. R134A is in fact a commodity
16 product. All R134A has the same chemical composition
17 and thus all R134A, regardless of the manufacturer, is
18 interchangeable and fungible with all other R134A.

19 As the head of our marketing efforts in the
20 Americas, I supervise our team of four salespeople.
21 Since Chinese imports began increasing rapidly in
22 2011, we have been constantly notified by our
23 customers that our prices are being undercut by
24 imports from China. Our customers tell us they cannot
25 maintain their sales against the significant price

1 gaps and have asked us to reduce our selling prices so
2 that they may be competitive with Chinese imports.

3 As part of the petition process, we have
4 given the ITC numerous lost sales and lost revenue
5 allegations. In the past couple of years, the selling
6 prices of R134A have fallen by more than half. This
7 is entirely the result of unfair Chinese competition.
8 As I mentioned previously, OEM customers who also have
9 their own aftermarket programs for the dealerships are
10 well aware of the spot market prices, and the collapse
11 of spot market prices will inevitably lead to
12 significant price deterioration in the OEM market.

13 Exports represent a significant portion of
14 our sales from our St. Gabriel, Louisiana, plant.
15 There are no R134A production plants in North and
16 South America outside of the United States.
17 Therefore, these markets have long been served by
18 plants located in the United States or Europe.
19 However, the Chinese have made significant inroads
20 into our export markets, and prices for our exports
21 are also falling rapidly because of unfair Chinese
22 competition.

23 We've made a major effort to stay abreast of
24 the Chinese industry as a competitor. Over the past
25 several years, a number of new plants or expansions

1 have been built in China for the production of R134A.
2 In contrast, the last new U.S. plant to be constructed
3 was built over 10 years ago.

4 Even though China may have the fastest
5 growing auto market in the world, the growth in
6 capacity to produce R134A in China greatly exceeds the
7 demand in China. In fact, we believe the entire
8 Chinese R134A industry is only operating at about half
9 its total capacity and that the excess capacity in
10 China could serve the entire demand in the U.S. for
11 R134A.

12 In my 16 years of marketing refrigerant
13 gases, I've never witnessed even during recessions the
14 collapse in pricing that has occurred in the past year
15 or two in the market. Almost every week we see price
16 offers from China to our customers at ever lower
17 prices. These delivered prices from China are now
18 below our cost of production.

19 Without relief from these subsidized and
20 dumped prices, I do not foresee Mexichem Fluor being
21 able to remain in the R134A business. Therefore, on
22 behalf of our company and our valued employees, I ask
23 that you find an affirmative determination so that
24 duties can be imposed. Thank you.

25 MR. SCHAGRIN: Thank you, Mr. Geosits.

1 Before I turn things over to the next panelist, Ms.
2 DeFilippo, I'd like to go through some housekeeping
3 issues, which we always have to address in all of
4 these preliminary investigations before the
5 Commission.

6 The first thing is I'd like to apologize to
7 the Commission for filing this case right after the
8 end of the shutdown. As Ms. DeFilippo is aware,
9 having practiced here for many decades, we like to
10 give the Commission lots of advance notice of our
11 filings, and we were going to be filing this case in
12 what turned out to be about the middle of the
13 government shutdown, and that would have given us all
14 more time to prepare for this preliminary
15 investigation.

16 But the horrible government shutdown
17 occurred, and we filed the case as soon as we could
18 after it ended because, as you will hear throughout
19 today except from the Respondents, who don't want to
20 recognize the reality of the marketplace, this market,
21 because of Chinese unfair trade, is falling apart so
22 rapidly that relief as quickly as possible is
23 necessary to maintain an industry in the United
24 States.

25 As to like product issues, we will urge the

1 Commission to find a like product that is contiguous
2 with the scope of the Commerce Department
3 investigation, which is 1,1,1,2-Tetrafluoroethane.
4 When I found out about this product in this case and
5 started researching the imports, I thought boy, how
6 neat that we can have a scope and a like product that
7 has its own HTS and we don't have to worry about well,
8 what about some basket categories where these products
9 are entered.

10 So R134A, 1,1,1,2-Tetrafluoroethane, is
11 different chemically from other refrigerant gases, as
12 already touched upon by Mr. Geosits. It's the
13 refrigerant gas for automotive. We think, as I'm sure
14 you'll have questions on the six like product
15 criteria, it is in fact its own unique like product
16 and is recognized as such in the marketplace.

17 As a segue to the next issue I'm going to
18 address, which is what should this Commission use for
19 data for imports in this preliminary investigation,
20 one would think that when you have a product subject
21 to an investigation that has its own unique HTS number
22 that we would have no problem figuring out what
23 imports are. There's only one problem today, and that
24 is this HTS number has a tariff, something we don't
25 have that much in the United States anymore, certainly

1 not in the steel area in which I do a lot of
2 practicing, which we haven't had any tariffs since
3 2004 on steel products.

4 But this HTS item has a 3.7 percent tariff.

5 What I have found over the past decade is that on any
6 product on which the United States Government has
7 decided through our multilateral negotiations to
8 continue to maintain a tariff that when it comes to
9 imports from China, importers of product from China
10 don't want to pay the U.S. Government tariffs.

11 It's amazing. I do a lot. I was just in
12 Seattle this past week doing a Customs training
13 seminar on steel products, and I did one earlier this
14 year in the Port of Long Beach, Los Angeles, and one
15 of the examples I use about the problems with
16 misclassification came out of the Commission's
17 investigation on drill pipe in which you made public
18 the fact that there was massive misclassification of
19 OCTG as drill pipe and then drill pipe as other
20 products in that case in order to avoid the imposition
21 of ADCVD duties.

22 A young man, a Customs broker because
23 Customs brokers are heavily involved in these training
24 seminars, formerly with 20 years of experience at
25 Customs said that importers of goods from China go

1 into a Customs broker's office with a product and say
2 which duty-free category should I enter this product
3 in, and the Customs broker will say that good has to
4 be entered in this category, which has a tariff, and
5 the importer will say no, you didn't understand my
6 question. I said which duty-free category can I
7 utilize? And the Customs broker will say I can't tell
8 you that. Then they say well, fine. I will go to
9 another Customs broker who will tell me which
10 duty-free category.

11 So as the Commission will learn here, as we
12 put in the petition, as you can already see from the
13 questionnaire responses you have received thus far in
14 this preliminary investigation, it seems that as much
15 as half of the U.S. imports of this product are not
16 being entered properly. So I would urge the
17 Commission here to do two things. First, to use data
18 from either foreign producer or importer
19 questionnaires for your import data. Clearly, the HTS
20 data is understated and the Chinese share of the
21 market is much more significant and much more massive
22 than would be reflected.

23 And then finally, as you have done in other
24 investigations where misclassification has been an
25 issue, I would urge you in your final questionnaires

1 to ask importers where they have classified their
2 goods where appropriate to notify the U.S. Customs
3 Service of misclassification of products in order to
4 avoid duties which should make importers subject to
5 civil and criminal penalties.

6 It's just really amazing what is going on,
7 and it's very unfortunate that since Customs was moved
8 to Homeland Security and out of Treasury that their
9 own emphasis on making sure that they collect the
10 appropriate duties versus just focusing on trade
11 facilitation and antiterrorism, which is very
12 important, has very much diminished.

13 I'm hopeful that the Senate Finance
14 Committee will do their job for the first time since
15 the start of the Obama Administration and confirm a
16 Commissioner of Customs. It would be like you all
17 working here at this Commission for five years with no
18 chairman. The Customs and Border Protection has had
19 no confirmed commissioner, but has had only acting
20 commissioners for five years. That is not good for
21 morale, and unfortunately I find as I visit these
22 ports that the morale of the U.S. Customs and Border
23 Protection Service is not very high.

24 As to the issue that Mr. McConkey brought up
25 in his preliminary, I guess that Respondents are going

1 to focus on the U.S. market three years ago. There
2 were some shortages and tightness in the market. If
3 we remember the period in late 2010/early 2011, it
4 wasn't unique to R134A or fluorspar or hydrogen
5 fluoride. There was a run up largely caused by very
6 rapid growth in China for virtually all commodities,
7 be it copper, iron ore, scrap. One can go on and on.

8 Oddly enough, China and the Government of
9 China greatly assisted in this commodity squeeze that
10 was happening at that time period to the extent that
11 in 2011 the U.S. Government, joined by the governments
12 of the European Union, Mexico, Canada and several
13 other countries, brought cases at the WTO against the
14 Government of China because of their manipulation of
15 key raw material minerals, nine of them, including
16 fluorspar.

17 I mean, hearing the counsel to the Chinese
18 industry talk about tightness in inputs representing a
19 country trade association when that country was trying
20 to manipulate the world markets for those inputs is
21 kind of like hearing a child come before the Court and
22 plead mercy for being an orphan after they've murdered
23 their parents. I mean, it's really amazing because
24 China was trying to manipulate the world market for
25 these minerals, including fluorspar. They lost the

1 case at the WTO. Now they're trying to manipulate the
2 market for hydrogen fluoride by using export taxes.

3 You will hear the domestic industry today,
4 as we have in our petition, as we will in our
5 postconference brief, focus on 2012 and 2013. 2010
6 and early 2011 is about three years ago. It is today
7 November 12, 2013, 11-12-13, which numerologically is
8 kind of pretty neat if you're kind of nerdy like me.
9 I understand a lot of people are getting married
10 today. I wish them all luck.

11 But given that it is November 12 and given,
12 as you've heard from our witnesses today about the
13 collapse in the market, we are going to provide in our
14 postconference brief, and I'm hopeful that counsel to
15 DuPont and Arkema will be able to do the same, data on
16 the third quarter of 2012 and the third quarter of
17 2013 because we are in the middle of November now, and
18 that data is readily available.

19 It's not because we need that data on the
20 record in order to win a close case. The first half
21 2012/first half 2013 data make it clear how things are
22 collapsing for this industry. It's just because of
23 where we are you ought to have it, but I think what it
24 will demonstrate is that as each quarter goes by this
25 industry's performance becomes ever more dire. I

1 mean, as Mr. Geosits said, he's never seen a collapse
2 in pricing during his career like that which is
3 occurring today, and that's all because of the imports
4 from China.

5 When it comes to comparing imports from
6 China to imports from the United States, we will
7 suggest to the Commission for your final investigation
8 that you change the pricing products. It appears that
9 most -- the vast bulk -- of U.S. industry domestic
10 shipments and the vast bulk of import shipments are
11 done in either ISO tank and tanker truck sizes, very
12 large sizes, and it's a small part of the market,
13 maybe important to big bulk retailers, but it's an
14 overall small part of the market that is in small
15 containers, and the largest part of the market by
16 shipment pounds is in larger containers.

17 Just a couple of other comments. Mr.
18 Pacillo talked about how important safety is to his
19 company. I visited their plant in St. Gabriel during
20 the government shutdown. I was amazed. Before being
21 allowed to enter the plant, I had to watch a 15 minute
22 safety video and take a safety exam, which was then
23 graded by the executive accompanying me into the
24 plant. I can tell you that safety exam was a lot more
25 difficult than my license renewal exam, which I had

1 just taken in the State of Maryland.

2 But it just shows, and I've visited a lot of
3 steel mills, which are pretty dangerous places --
4 maybe not quite as much as a chemical plant -- over
5 the years. Their attention to safety was amazing.
6 And then I found out at the plant that a plant
7 operating with all these highly corrosive and
8 dangerous chemicals has operated for 20 years without
9 a single reported lost day from injury. I mean,
10 that's amazing.

11 Let's face it. That attention to safety,
12 the kind of environmental rules I saw in the plant,
13 how they have to record all the releases of gases, the
14 water treatment, their reporting in all of these
15 different areas to the national and the state EPAs all
16 of their environmental compliance. It's a significant
17 cost. It's a cost that isn't incurred in China. It's
18 what makes production of products like this in the
19 United States so vastly different from China. I want
20 to see products like this made in the United States in
21 a controlled environmental way instead of made in
22 China to import in the United States in ways that
23 pollute the world environment and pollute things for
24 the people of China.

25 I would also say in meeting a lot of the

1 employees -- because this is not like a massive steel
2 plant; they have 75 employees there -- how much the
3 people who work at this plant, who are doing things I
4 couldn't possibly understand, who are working in front
5 of computer terminals and pushing computer codes and
6 buttons that move these products into and out of
7 different containers in the plant, how much these
8 folks enjoy their jobs, many of whom have worked at
9 this plant for 20 years.

10 In an area of Louisiana that has a
11 tremendous amount of poverty, these middle class jobs
12 that are created in East Iberville Parish are very
13 treasured, and there are hundreds of additional jobs
14 created by this plant. These are the kind of jobs we
15 need to keep in the United States. We should not be
16 sacrificing these type of excellent middle class jobs
17 which allow the families of these employees to pay for
18 their kids' college educations, make their mortgage
19 payments, make their car payments. We shouldn't be
20 sacrificing these kinds of jobs in the United States
21 to dumped and subsidized product.

22 I know we have a lot of time left. I'm
23 willing to share like 15 minutes of our 60 minutes
24 with Mr. Greenwald and his group from DuPont if
25 they're willing to support our case. Actually, when I

1 was contacted by Mexichem and started learning about
2 the product, which trade lawyers are supposed to be
3 quick learners, just like ITC staff, about different
4 products, and I was told the other major U.S. producer
5 was DuPont. I said I've known John Greenwald for over
6 30 years. He is DuPont's counsel. I said how much
7 fun would it be at the end of our careers to be able
8 to finally do a case as co-counsel to John Greenwald?

9 Now, John may not agree that we're towards
10 the end of our careers. You can tell that I look much
11 older than John, and that reminds me of the old lawyer
12 joke about the 50-year-old lawyer who has the heart
13 attack and passes away and goes up to heaven and meets
14 St. Peter at the gates of heaven and says St. Peter,
15 how could you take me so soon? I'm only 50 years old.

16 And St. Peter says no, according to your billable
17 time records you're 80 years old.

18 Well, that's the story of my life. I've
19 done so much work over the last 32 years I am much
20 closer, according to billable time, to 80 than to 60
21 so I am near the end of my career. And so I do hope I
22 do get the opportunity to work on this case as
23 co-counsel with the esteemed, famous, rightfully
24 well-recognized John Greenwald.

25 And that ends our presentation, and I'll

1 turn it over. I don't know whether you want to ask
2 questions now or have Mr. Greenwald's panel speak
3 first.

4 MR. GREENWALD: You know, I've been trying
5 to get my family to speak of me in those terms for
6 decades, and this is indeed turning out to be -- I
7 didn't quite expect it -- the high point of my career.

8 But my main purpose here really is to introduce to
9 you Mr. Greg Rubin, DuPont's Global Manager for
10 Fluorochemicals.

11 Now, as Roger indicated, DuPont has not yet
12 taken a firm position on this petition. It expects to
13 do so once it receives a questionnaire from Commerce.

14 There is the countervailing duty side, the dumping
15 side. The considerations are not identical on each.
16 And I wish I could tell you what the company will do,
17 but I don't think anybody can.

18 Second point. We have filed our
19 questionnaire responses, both producer and importer's,
20 late. We apologize for that. There was no way around
21 it. But you do have them, and with the time available
22 I don't think it's going to compromise either the
23 Commission staff or, frankly, any of the parties.

24 Now, before getting to Mr. Rubin, who has
25 been in this business I think longer than anybody else

1 in the room, what I'd like to do is to raise two
2 points for your consideration as sort of a preface to
3 our presentation, and they have to do with
4 questionnaires and the data that we've seen.

5 We have provided -- when I say we, DuPont
6 has provided -- in its questionnaire responses third
7 quarter 2013 data, at least the financial data,
8 compared to 2012 because it is important I believe for
9 you to get as much information before you as possible
10 regarding the trajectory of market developments. We
11 certainly have those data available. I believe Arkema
12 has done the same, and I understand that Mexichem will
13 do it as well. This is a sector in which there are
14 rapidly evolving market conditions.

15 The second point that I noticed in the
16 questionnaire when we were filling it out had to do
17 with the pricing data. As I understand it, there are
18 two types of pricing that you have collected data on,
19 but not distinguished between, and one is the pricing
20 by retailers to their customers where you have direct
21 imports by a retailer and you essentially have retail
22 pricing, and the other is prices by producers to
23 retailers.

24 It's not clear to me exactly how this level
25 of trade distinction factors into the pricing data,

1 but it is a critical issue, and as you work through
2 this what I hope you will do is look at pricing at the
3 same level of trade. So with those two concerns about
4 essentially the structure of the questionnaire as it
5 went out, let me turn the floor over to Mr. Rubin of
6 DuPont.

7 MR. RUBIN: Thank you, John. Good morning,
8 Ms. DeFilippo and the staff. First of all, I wanted
9 to just say that my primary objective today is to
10 answer your guys' questions as to help you get a
11 better understanding of the marketplace.

12 For my background, I have been with DuPont
13 for 26 years. All 26 years have been in the
14 fluorochemical business. I've served a variety of
15 functions. I was in operations. I was in R&D. I
16 served in technical service, spent seven and a half
17 wonderful years in Florida in sales. Then I moved
18 back to the great white north of Wilmington, Delaware,
19 and have been in business functions since then, since
20 2000.

21 DuPont has been in the fluorine business,
22 the fluorochemical business, for a long time. The
23 CFCs were invented in 1931 -- that was invented by a
24 joint venture of DuPont and General Motors -- and
25 we've been in the business for the past 80 years

1 working through the CFC transition from the ozone
2 issue in the 1970s into the products of today and
3 continuing to work on as many of the products that are
4 used today are classified as greenhouse gases as they
5 transition to other products.

6 So this has been a core industry segment
7 that DuPont has served for the past 80 years and is
8 hopeful to continue to serve our customers and markets
9 for many years to come. John had talked a little bit
10 about the generic process. You know, I don't want to
11 repeat everything you've already heard, so I'm going
12 to try and stick to some things that may be additive
13 to give you more perspective on the marketplace.

14 Typically a fluorocarbon is made from two
15 things. It's made from a chlorocarbon and
16 hydrofluoric acid. You take those two things. You
17 make HCL and a fluorocarbon. The HCL has to be
18 handled. It goes into markets or it can be disposed
19 of, and the fluorocarbon is then sold into the various
20 markets.

21 The facilities that are used to make
22 fluorocarbons are generally very large. They are very
23 significant investments and, generally speaking, they
24 can make one thing. You can't take a 134A plant and
25 just make any other fluorocarbon. There are different

1 technologies, different equipment packages that go
2 together in order to make these materials. So there's
3 not an interchangeability of well, if you can't make
4 that you can make something else. That's not the case
5 here.

6 Once you've made the product then you have
7 to look at the market you serve, and I think Peter did
8 a good job of describing the general markets. I'll
9 stick my comments, to stay as brief as possible again
10 to give you guys the opportunity for questions, to
11 look mostly at the refrigerant side where the majority
12 of the 134A is placed in the market.

13 134A is placed into two basic categories of
14 markets. There's the OEM side and the aftermarket
15 side. The OEM side is just what you would think.
16 It's the new production. It's a new motor vehicle.
17 It's a new stationary air conditioning piece of
18 equipment like you might see at the top of a strip
19 mall, that little fan thing looking at the top. That
20 can be a 134A. It could be a home refrigerator.

21 The other side of the market is the
22 aftermarket, and that's the part of the market where
23 you service that equipment. It's really not much more
24 complicated than that. The service side, as Peter
25 mentioned, is the larger portion of the market. It's

1 around 70 percent of the total. So around 30 percent
2 of the 134A goes into new equipment. Seventy percent
3 is used for service.

4 It is the aftermarket where you see a
5 greater penetration of the product that is imported.
6 There's a lot of reasons for that. One of the reasons
7 is the OEMs do not have unlimited storage capacity and
8 reliability of supply. In many of the applications
9 you'll see in the survey we filled in where you asked
10 where the percentage of content that 134 makes up.
11 Typically if you take a car where you use a pound of
12 refrigerant in a \$30,000 vehicle well, that
13 refrigerant is a very small percentage of the total
14 value of the motor vehicle, but they can't make the
15 car without the air conditioning refrigerant.

16 And so the most critical objective of the
17 OEMs is to make sure continuous operation of their
18 plant. They can't shut down because of it. And so
19 there is concerns about the length of supply chain
20 that comes into play with OEMs.

21 In the aftermarket it's very different, and
22 you've heard Roger make some comments around bulk
23 shipments and package shipments. For the OEMs,
24 generally speaking that market is served in bulk
25 containers, typically 15 metric tons, in that type of

1 order of magnitude, while the aftermarket is served
2 through packages. Packages could be a 30 pound
3 container or even in the auto aftermarket there's
4 do-it-yourself cans which come in 12-ounce cans. You
5 can go to a local AutoZone or something and buy a
6 12-ounce can to go service your own car.

7 By packages, you can inventory those in
8 warehouses. You don't need bulk high pressure storage
9 tanks. And so the ability to control inventory and
10 have an inventory plan which can extend your supply
11 chain adds flexibility for the aftermarkets to handle
12 imported product.

13 In addition, there is economic benefits to
14 import in packages versus importing in bulk
15 containers. In a bulk container, you have to have a
16 vessel which will ship from an origin country into the
17 United States. Generally those are leased containers.

18 You pay lease prices on that. You have to ship it
19 back to the country. Generally it's shipped back
20 empty, so you have some inefficiency. It is more
21 expensive to import a bulk container of 134A than it
22 is to ship a containerload of already packaged
23 product.

24 So you see the area where you've had the
25 greatest penetration of product that's been imported

1 from other countries, including China -- primarily
2 China -- has been on the package side into the
3 aftermarkets.

4 As John made the comment that we are still
5 assessing what our position will be specifically on
6 the petition, our survey will clearly show that
7 imports have clearly had an impact on our business.
8 They've had an impact in three ways. The first way is
9 we've had to respond to the pricing of the imported
10 product and so it has destroyed value for DuPont by
11 having to reduce our pricing in order to be
12 competitive.

13 The second one is we have lost share in the
14 marketplace. There are customers that used to
15 transact with us that do not transact with us today,
16 and one of the factors from my perspective, from
17 DuPont's perspective, is clearly the economics. Price
18 is an important factor. I would not say it is the
19 only factor in why people make purchase decisions, but
20 also to say price is not an important factor is I
21 think misleading in this fungible commodity
22 marketplace.

23 And then the third place is that in the
24 places where customers have true value for working
25 with DuPont and they will give share to DuPont and

1 they will pay us a premium versus the product, they
2 still need to compete. One of the differences between
3 the OEM sector and the aftermarket sector, and this
4 again was touched on, is the OEM sector is generally a
5 direct sale between a producer and an OEM, while in
6 the aftermarket sector you go through a distribution
7 level of the chain.

8 Now, that may be the producer selling to a
9 retailer who then sells to the marketplace. It could
10 be a retailer buying directly as an importer and then
11 selling to the marketplace. But there is multiple
12 levels in the value chain. For the customers that
13 have values beyond just price, that are willing to pay
14 a premium, they still have to compete with people that
15 are "buying solely on price" or using price as their
16 primary selection criteria for who they purchase from
17 and so we have lost some share where our customers --
18 we have not lost share at the customer, but the
19 customer has lost share.

20 So clearly we are taking a very hard look at
21 the petition, but it's clear, and you'll see it in the
22 survey, that our financials have been impacted to
23 date. And so, I mean, with that I think it's much
24 more important to have the questions from you versus
25 me continuing to pontificate on the history of our

1 business. Thank you very much.

2 MS. DeFILIPPO: Thank you, Mr. SchagrIn and
3 Mr. Greenwald, and thank you very much for the
4 industry witnesses who have come here today. I know
5 it's challenging to get out of your day-to-day
6 business and make it up to Washington, but it really
7 helps us and allows us to both hear from you and to
8 take the opportunity to answer our questions, so I
9 greatly appreciate that.

10 We will first turn to Mr. Cassise for
11 questions.

12 MR. CASSISE: Good morning, everyone.
13 Again, thank you for coming to Washington to teach us
14 about the industry. Also, Roger, you never mentioned
15 whether you passed the safety test.

16 MS. DeFILIPPO: Yes.

17 MR. SCHAGRIN: I did. I saw the plant.

18 MR. CASSISE: Okay. Okay. Good.

19 MR. SCHAGRIN: Thank you, Mr. Cassise.

20 MR. CASSISE: I'd like to start by getting a
21 little bit more history of the industry. I mean, we
22 have a fairly stringent regulatory framework that
23 exists in this industry. Mr. Rubin, you had started
24 to go into the history.

25 But, Mr. Rubin, why don't you start and just

1 kind of bring us back to what my dad used to call
2 Freon, you know, R12. And I know that somewhere along
3 the line it was banned because he started to stockpile
4 it and hoard it, so if you could bring us back to the
5 history of the industry and the regulatory framework
6 involved?

7 MR. RUBIN: Sure, Mr. Cassise. CFCs were
8 invented in 1931. There was a scientist named Thomas
9 Midgley, and he came up with CFC11 and 12, and in 1933
10 R22, Freon 22, was invented. That's the stuff used in
11 your home air conditioner. CFC12 was primarily used
12 in domestic refrigerators. It was used in your car or
13 automobile. So if you had a pre 1990 car, it was
14 likely charged -- it was charged -- originally with
15 CFC12.

16 The products had wonderful characteristics.
17 They were nonflammable. They were nontoxic. They
18 were very inexpensive to produce, and really they were
19 the perfect combination of physical properties that
20 you would want for the applications that they served.

21 The only problem with them is that because of their
22 stability, which leads to low toxicity, they have very
23 long atmospheric lifetimes and as chlorinated
24 containing substances were connected with the
25 depletion of the ozone layer.

1 So in 1974, there was the ozone theory by
2 Rowland and Molina. 1978 was the first stage of
3 starting a phaseout of CFCs. The aerosol industry
4 eliminated CFCs from propellant, the aerosol category.

5 That category went to hydrocarbons and has since
6 actually transitioned back to fluorocarbons because of
7 air quality.

8 Hydrocarbons are volatile organic compounds
9 that cause ground level smog. Ozone is good in the
10 upper stratosphere. It is not good in the lower
11 atmosphere because that is ground level smog. It is
12 toxic. Hydrocarbons have that, so it's transitioned
13 back from hydrocarbons back into a fluorocarbon.

14 So as you went through the next 10 years the
15 aerosol industry made their transition, but for the
16 most part CFCs continued to service the market. And
17 1988 was a landmark year with the adoption of the
18 Montreal Protocol. The Montreal Protocol was a global
19 regulatory agreement. Essentially every nation in the
20 world agreed to the phase down of ozone depleting
21 material.

22 Phase down at the time was just a phase
23 down. In fact, initially in '88 it was a freeze of
24 ozone depleting materials, and then as continuing
25 information from the scientific community came in that

1 the ozone hole was getting bigger they migrated that
2 and continued to amend that agreement to be eventually
3 a phaseout of ozone depleting materials.

4 CFCs have been phased out of production in
5 different stages in different parts of the world by
6 the U.N. There's Article 2 countries like the United
7 States, the EU, Australia, what's called the developed
8 countries, and then there's the Article 5 countries,
9 which are the emerging markets. The Article 2
10 countries stopped producing CFCs between 1995 and
11 2000. The United States banned the production of CFCs
12 except for pharmaceutical uses on December 31, 1994,
13 and then the rest of the developed world was at the
14 end of 1999, and there's been a continuing phase down
15 in production.

16 To the best of my knowledge, there is no
17 more production of CFCs in the world today, so all the
18 emerging markets and Article 2 countries have phased
19 out production. So we've now transitioned away from
20 CFCs. There were two classes of materials they
21 transitioned to, HCFCs, which still have ozone
22 depletion, and HFCs, which is 134A, a class of HFCs.

23 The HCFCs are now being phased out as well.

24 They were lower in ozone. They were used as a
25 transitional material. They're going through their

1 phase down. The United States phased out the use of
2 HCFCs in new equipment in the year 2009, the end of
3 2009, and essentially is phased out for service at the
4 end of 2019. 2020 is where very small amounts, a very
5 small tail, will be allowed for service of certain
6 kinds of equipment.

7 MR. CASSISE: And what were the product
8 names of those transitional ones that are being phased
9 out?

10 MR. RUBIN: They would be under the brand
11 names of the individual companies that ICI would have
12 sold, ICI or any of us would have sold. It was KLEA
13 at the time, and now Mexichem would be KLEA. DuPont
14 sells it under the brand name. We were the Freon.
15 We're the owner of the Freon trademark. We sold the
16 CFCs under Freon.

17 We sell the new products under the trade
18 name of Suva and Honeywell sells it under the trade
19 name of Genetron, so there's a series of trade names.
20 It's unlike Freon, which was almost genericized to
21 the point of it represented refrigerants.

22 MR. CASSISE: Right.

23 MR. RUBIN: So when people are servicing
24 your air conditioning equipment and say I'm servicing
25 it with freon, it's really like a xerox machine is

1 generic for a copier today. The same thing here.
2 It's become generic, even if they're not necessarily
3 using Freon, which is actually a DuPont trademark.
4 Defending that trademark is a challenge at times. I'm
5 sure you can imagine.

6 We've now transitioned to the HFCs. The
7 HFCs are all greenhouses gases, and they're coming
8 under their own environmental scrutiny for how to
9 control them, given the issue of climate change, and
10 that is still evolving today. One area is Europe has
11 via its Mobile Air Conditioning directive called the
12 MAC directive -- M-A-C for mobile air conditioning --
13 has actually got a phaseout schedule of 134A in mobile
14 air conditioning for Europe.

15 But for the rest of the world it's still a
16 developing area of regulatory and so it's uncertain
17 exactly how that's going to play out. The U.S. is
18 still getting its hands -- as I'm sure you know here
19 in Washington, getting your hands around the climate
20 change issue is not easy and so this is part of that
21 issue and these products will be.

22 But one thing I want to highlight as far as
23 regulatory goes and specifically on 134A, there may be
24 as you go through this or you hear people make
25 assertions that 134A is a product that's going to be

1 phased out over time. You need to bear in mind that
2 the majority of the market is service and so the
3 timeframe with which 134A has remaining as a viable
4 product is in decades. It's not in one or two years.

5 So the issue before you is not what are we
6 going to do for the next two years. This is an issue
7 that will be relevant to the marketplace for the next
8 30 years. I don't know, Mr. Cassise, if I went on too
9 long perhaps, but --

10 MR. CASSISE: No. That was very helpful.
11 Just to keep going with that, the U.S. regulatory
12 framework. You know, the EPA. These products do come
13 under Clean Air Act regulations, and any new
14 refrigerant that you develop or manufacture or sell
15 must be approved as an approved replacement for R12 or
16 R22, and that regulatory framework is all under the
17 Clean Air Act and EPA and I believe they call it the
18 SNAP framework.

19 MR. RUBIN: That's right. That's right.
20 The SNAP list. A product to be placed on the market
21 in the United States in this industry, if it's deemed
22 to be a replacement for a CFC and even if it's
23 replacing something that replaces CFC the EPA is
24 reaching back to the original use. It must be listed
25 on the SNAP list, which is Significant New Alternative

1 Policy.

2 And so there is a procedure with which you
3 submit chemicals and the EPA does an evaluation and
4 determines whether or not it is acceptable from an
5 alternative for those applications. And it is
6 application specific, so today 134A is approved on the
7 SNAP list for a variety of fluorochemical -- the ones
8 that Peter mentioned of foam and pharmaceutical
9 propellants and refrigerants.

10 MR. CASSISE: So for automotive air
11 conditioning, what other approved refrigerants would
12 the SNAP list include?

13 MR. RUBIN: It would be stationary
14 refrigeration --

15 MR. CASSISE: No. Any other products?

16 MR. RUBIN: Oh.

17 MR. CASSISE: Any other refrigerants?

18 MR. RUBIN: Yes. There's a whole variety of
19 refrigerants. It's a very long list. There are
20 things such as for stationary air conditioning, a
21 product called R410A. For commercial refrigeration
22 used in supermarkets there's R404A.

23 There are SNAP listed products for foam
24 expansion agents, the polyurethane industry. There's
25 a product called 245FA. So there is a long, extensive

1 list of materials that are accepted under SNAP.

2 MR. CASSISE: And the SNAP program would
3 have acceptable end uses for those refrigerants?

4 MR. RUBIN: Each one would be end use
5 specific, yes.

6 MR. CASSISE: And how many are listed under
7 the auto AC end use?

8 MR. RUBIN: Yes. There's probably a handful
9 of them. I don't know specifically.

10 MR. PACILLO: I mean, I looked at the SNAP
11 list as part of this, and I'd say there's probably on
12 the order of a dozen or so listed, but they're all
13 really, really small blends of other products. I
14 think 1234YF is now listed as an upcoming material,
15 but they're not significant quantities being sold.

16 MR. RUBIN: Yes. Mr. Cassise, if the point
17 is what is the substitutability of materials, the
18 systems are designed for the refrigerant that is used
19 in them.

20 MR. CASSISE: That was my next question.

21 MR. RUBIN: Yes.

22 MR. CASSISE: So the automobile has an AC
23 infrastructure --

24 MR. RUBIN: That's correct.

25 MR. CASSISE: -- that only can use one

1 refrigerant. Is that correct?

2 MR. RUBIN: Generally speaking, that is
3 true. Without modification you can't just drop
4 another refrigerant into a 134A system. That is
5 correct.

6 MR. CASSISE: And if I tried to do that what
7 would happen? Or if my father tried to do that?

8 MR. RUBIN: There would likely be
9 operability issues. There could be safety issues
10 associated with that.

11 In fact, when 12 was replaced with 134A in
12 mobile air conditioning they put a different adapter
13 on the cylinders in order to try and prevent -- now,
14 of course, the marketplace is very smart and they can
15 come up with their own adapters to adapt to the
16 adapter.

17 MR. CASSISE: Right.

18 MR. RUBIN: But there was effort by the
19 industry to try and control contamination or
20 cross-charging from one system to another. So most
21 systems are not directly substitutable, if that's even
22 a word, for 134A. And it's not just the mobile air
23 conditioning, but in the refrigeration and other air
24 conditioning applications as well.

25 MR. SCHAGRIN: Mr. Cassise, it's important

1 to point out, just knowing how the ITC thinks along
2 like product lines, that it's my understanding that
3 the current vehicle fleet on the road in the United
4 States, something on the order of 99 percent of those
5 vehicles must use R134A.

6 So even though there's a dozen possible
7 refrigerants that could be used under the EPA
8 regulations, the fact is that virtually the entire
9 vehicle fleet in the United States uses only one
10 refrigerant, this one, R134A.

11 MR. CASSISE: I would like to talk a little
12 bit about the transition that you hear in the trade
13 press from the 134A to the new product, HFO1234YF.
14 You guys have a shorter name for that in the industry?
15 I'm sure you do, Mr. Rubin.

16 MR. RUBIN: Well, DuPont calls it Opteon YF,
17 but each manufacturer that enters the market with it
18 will have its own name.

19 MR. CASSISE: How about YF?

20 MR. RUBIN: YF would be fine.

21 MR. CASSISE: That sounds wonderful. Okay.

22 You know, you mentioned the European regulations.
23 That was a transition that appears from my research to
24 be mandated in new cars in 2011 and then a total
25 phaseout of R134A in 2017.

1 I did see in the trade press that that
2 hasn't been going all that smoothly. I don't know if
3 anyone wants to tell us what's occurring there or if I
4 should just believe what I read.

5 MR. RUBIN: No. I can make some comments on
6 that. The EU F-gas that was passed -- a fluorinated
7 gas regulation was passed in 2005 -- had a specific
8 directive around mobile air conditioning. That's
9 called the MAC directive.

10 And the MAC directive laid out -- exactly as
11 you said -- for new model platforms the auto
12 manufacturers were required to use an air conditioning
13 refrigerant that had a global warming potential below
14 150. It did not regulate you had to use YF. It
15 regulated you had to use something below 150. 134A's
16 global warming potential is 1,430, so it did not
17 qualify. So it was mandating for these new platforms
18 you had to do something.

19 There has been a couple issues in Europe
20 that have slowed the transition. One of them was a
21 question about what constitutes a new model, what
22 doesn't constitute a new model platform. Another one
23 is clearly there's one thing to have a regulation.
24 There's another thing for enforcement. And the
25 Commission has not imposed any actions of enforcement

1 against countries or companies that -- well, it will
2 be against countries for "infringement" against the
3 regulation.

4 And a third is that Daimler issued a press
5 release back at the end of last year about concerns of
6 YF is what's considered mildly flammable in the
7 industry vernacular and so there are concerns that
8 they have brought up about the ability to handle the
9 product in a safe way.

10 So for a variety of reasons the transition
11 that was supposed to start beginning in 2011, it has
12 started. There are cars on the road today with YF,
13 but it has occurred at a slower rate of transition
14 than we had anticipated it would occur. For the U.S.,
15 just to --

16 MR. CASSISE: Before you move on --

17 MR. RUBIN: Please. Yes.

18 MR. CASSISE: Before you move on to the
19 U.S., are there still automobiles in Europe being
20 manufactured today that use the R134A?

21 MR. RUBIN: Yes. The majority of the cars
22 in Europe are still manufactured using R134A today.

23 MR. CASSISE: Okay.

24 MR. RUBIN: It is the minority that is using
25 YF. The transition has started, but it's still at the

1 very early stages for the reasons that I had
2 mentioned.

3 MR. CASSISE: And the other, this regulation
4 that the EU or directive that they passed. This was a
5 derivative off the Kyoto Protocol. Am I correct on
6 that?

7 MR. RUBIN: Well, the F-gas regulation that
8 was passed in 2005 was one of Europe's mechanisms to
9 meet its obligations under the Kyoto Protocol. Yes.

10 MR. CASSISE: Any other countries like Japan
11 or Australia that have passed similar directives that
12 you know of?

13 MR. RUBIN: Not to date. There is no other
14 equivalent MAC directive in another country to date.

15 MR. CASSISE: Any other legislation that
16 would be a disincentive to use R134A? I saw something
17 about Australia tripling their tax on it.

18 MR. RUBIN: Well, yes. Australia, yes.
19 That was not specifically a 134A regulation. What
20 Australia did was they implemented a carbon tax --

21 MR. CASSISE: Right.

22 MR. RUBIN: -- that would be applied. So
23 the carbon tax, just for round numbers, was around \$25
24 per CO₂ ton. So if something has a global warming
25 potential of 1,000, it would essentially have a tax of

1 \$25 per kilogram --

2 MR. CASSISE: Okay.

3 MR. RUBIN: -- applied to it. That was
4 Australia. So it raised the price. It did not change
5 the usage.

6 One of the things for fluorocarbons in
7 general is their value in use is extremely high and so
8 taxing them doesn't -- while it will do things as
9 you'll get more discipline on service practices and
10 minimizing leaks and things like that, it doesn't
11 dissuade people from continuing necessarily to use
12 them because the value they deliver --

13 Again, if it's 103 degrees in Dallas and
14 you're driving down the road and your car's air
15 conditioner is not working, a \$25 tax is not going to
16 stop you from fixing your air conditioning system, and
17 I think that's -- you know, some people call it a
18 luxury, but again 103 in Dallas? It's probably not
19 viewed as a luxury in that particular case.

20 MR. CASSISE: Just from a technical
21 standpoint, if I buy a new car how often am I going to
22 need to get my AC charged? And say I live here in the
23 D.C. area. I've never done this. I've never had to
24 get my AC charged. I don't drive that much, but --

25 MR. RUBIN: Three or four years I think is

1 the rule of thumb. I don't know the answer to it,
2 but --

3 MR. GEOSITS: It varies certainly.

4 MR. CASSISE: Yes?

5 MR. GEOSITS: A motor vehicle could need a
6 recharge of AC maybe in three to five years. If
7 there's an accident certainly you could lose your
8 charge, but it varies.

9 MR. CASSISE: Okay.

10 MR. GEOSITS: But I would say after five
11 years you may need some top off of the refrigerant.

12 MR. CASSISE: Okay. No. I was just curious
13 in that that's the aftermarket. I'm assuming that
14 there's demand there. I've never done it, but --

15 MR. GREENWALD: If you want an unscientific
16 survey, in a 2002 vehicle I've had to do it twice now.

17 MR. CASSISE: Okay. Well, that's about
18 right then. Yes.

19 I hear in the market there are refrigerant
20 blends, which I've heard nothing about from the
21 testimony, and I guess would like a definition and
22 what purpose the blends serve in the marketplace. Mr.
23 Pacillo? Anyone can jump in.

24 MR. PACILLO: Okay. I'll take a shot at
25 blends. As Mr. Rubin said, there was an HFC called

1 R22, his trade name Freon. Ours was Arcton. That was
2 an intermediate product used mainly in home air
3 conditioning systems, and that's being phased out.
4 There are no new units produced after 2009 unless they
5 charge them with nitrogen and a complete phaseout by
6 2020.

7 So the product that replaces that, the
8 preferred replacement is a blend of R125 and R32.
9 They call it 410A is the actual name for the combined,
10 but it's two refrigerants put together 50/50 and
11 that's going to be the replacement of choice for your
12 R22 in your home HVAC and wall units and there's a --

13 MR. CASSISE: So blending these two products
14 give the physical characteristics that the market
15 desires?

16 MR. PACILLO: That's correct.

17 MR. CASSISE: But you cannot get that in a
18 single substance?

19 MR. PACILLO: No one has yet.

20 MR. CASSISE: This is making fine wine kind
21 of?

22 MR. RUBIN: Yes. I mean, you've got it
23 right. Essentially with the CFC days and 22 and then
24 the products that were invented in the '30s, those
25 products were single materials. And then when you

1 phase them out in order to match the properties of
2 those materials as closely as possible the way you did
3 is you took alternatives and you blended them together
4 and that gave you as close a match.

5 When you look in the refrigerant cycle,
6 things like vapor pressure and boiling point are very
7 important physical characteristics, so the way the
8 industry adapted to the transition away from CFCs was
9 by utilizing blends. You know, John made the comment
10 right on target is 410A is a blend. The primary blend
11 in commercial refrigeration like your supermarket
12 refrigeration is a product called 404A. That's a
13 blend of three different fluorocarbons.

14 MR. CASSISE: Now, the regulatory framework.
15 Does the EPA have to approve every single one of the
16 blends, or as long as you have the single substances
17 approved then you can blend them any way you want?

18 MR. RUBIN: No. You must approve the blend.
19 The blend is approved independently, so the blends
20 are listed separately. You cannot just take two
21 components that have been approved, blend them and say
22 I've got a SNAP approved product.

23 MR. CASSISE: Okay.

24 MR. RUBIN: On the note of blend, just to
25 add, the majority of the 134A placed on the market is

1 in a neat form as an individual molecule. It's not in
2 blends. But 134A is a component of a number of blends
3 that are commercially transacted.

4 MR. CASSISE: For the auto industry?

5 MR. RUBIN: It's a hundred percent 134A.
6 There's no blend.

7 MR. CASSISE: Shifting briefly back to the
8 YF product, Mr. Pacillo, does Mexichem make this
9 product at all?

10 MR. PACILLO: Mexichem doesn't make YF.
11 Mexichem is working on its own series of replacement
12 chemicals for 134A. YF is a DuPont/Honeywell product
13 at the moment.

14 MR. CASSISE: Mr. Rubin, is that fully
15 patented, that product?

16 MR. RUBIN: There is intellectual property
17 around the production and use of YF, yes. Depending
18 on who you ask that question to, they'll have a
19 different opinion on the strength of the intellectual
20 property --

21 MR. CASSISE: Well, I know.

22 MR. RUBIN: -- which I was not going to try
23 and get into a debate here, but --

24 MR. CASSISE: Yes. And I know --

25 MR. RUBIN: -- there is intellectual

1 property that exists around production and use.

2 MR. CASSISE: Is it a process patent, or can
3 you patent the actual chemical formula?

4 MR. RUBIN: Generally the patents are around
5 the use of it in specific systems and also how you
6 manufacture it.

7 MR. CASSISE: The process patents, which
8 there's been some disagreement on the intellectual
9 property between Honeywell and Arkema?

10 MR. RUBIN: I would say that we certainly
11 keep lawyers busy.

12 MR. CASSISE: Yes. So, Mr. Pacillo,
13 Mexichem is in the process of developing a comparable
14 product that would compete with YF in the marketplace?

15 MR. PACILLO: Correct.

16 MR. CASSISE: And how far along, if you can
17 say? If you can't say publicly, how far along would
18 that process be?

19 MR. PACILLO: It's in testing.

20 MR. CASSISE: It's in testing. It will be
21 available in the marketplace at what date?

22 MR. PACILLO: That would depend upon certain
23 issues that relate to intellectual property. It's a
24 very complicated situation in regards to replacement
25 for 134A.

1 As Mr. Rubin talked about YF, it does have
2 certain patents. Not only Arkema is challenging the
3 patents, but Mexichem has challenged the patents as
4 well.

5 MR. CASSISE: My brief -- very brief -- flip
6 through that lawsuit mentioned a new process and an
7 old process. Without getting too deep, is that
8 something you could explain to me in 30 seconds or
9 less?

10 MR. RUBIN: No. I would say that
11 intellectual property, certainly there's a mine field
12 out there and this will be likely resolved within the
13 next 12 to 24 months around the validity of the
14 intellectual property that exists, but again everybody
15 that has a view will probably be a little different.
16 If you have 10 people, you'd get 10 different
17 opinions.

18 MR. CASSISE: Okay. No. I don't want to go
19 down there.

20 MR. RUBIN: Yes.

21 MR. CASSISE: It's fair to say, and you had
22 mentioned this before, that the production process of
23 YF is completely different than the production
24 process --

25 MR. RUBIN: Yes.

1 MR. CASSISE: -- of R134, and facilities
2 that are producing R134 cannot produce this new
3 product. We could not produce YF in the same facility
4 we produce 134A. That is a true statement. Yes.

5 MR. CASSISE: And, Mr. Pacillo, you had
6 described the production process and you had mentioned
7 some raw material inputs, and I just glanced at the
8 production process in the petition. Where does the
9 fluorspar fit into there and is that --

10 Okay. One second. Roger, is this the rare
11 earth minerals WTO dispute?

12 MR. SCHAGRIN: No. That was the predecessor
13 to the rare earth, so the nine minerals including
14 fluorspar came first. Then after the WTO decided that
15 case then the U.S. and several other countries filed a
16 different case on rare earth, but fluorspar is not a
17 rare earth.

18 MR. CASSISE: It's not a rare earth.

19 MR. SCHAGRIN: No.

20 MR. CASSISE: Okay. Okay, Mr. Pacillo.
21 Where does the fluorspar fit into the production
22 process, because I didn't see it in the petition.

23 MR. PACILLO: Okay. Fluorspar is mined.
24 It's a mined mineral. It's transformed into hydrogen
25 fluoride.

1 MR. CASSISE: Okay.

2 MR. PACILLO: Okay? So Mexichem has a mine
3 in San Luis Potosi. We dig out the fluorspar, send it
4 to Matamoros, turn it into hydrogen fluoride. We
5 bring in the hydrogen fluoride to make 134A.

6 MR. CASSISE: Okay.

7 MR. PACILLO: So you can't take fluorspar
8 and enter it into the process of making 134A. You
9 need the intermediate step of turning the fluorspar
10 into hydrogen fluoride.

11 MR. CASSISE: And the only two sources of
12 this fluorspar is in Mexico and China?

13 MR. GEOSITS: No. That's not correct.

14 MR. CASSISE: That's not correct?

15 MR. GEOSITS: Fluorspar is a very common
16 mineral. The deposits that are used in fluorspar to
17 make HF may be more specific and they may be more
18 accessible in some areas than others, but fluorspar is
19 not only found in Mexico and in China. It's found all
20 over the world.

21 MR. CASSISE: But is it only commercially
22 mined in those two countries?

23 MR. GEOSITS: No.

24 MR. CASSISE: No? Okay. I have a few items
25 from the trade press I'd just like to get comments on

1 from anyone that would like to comment. One is the
2 issue of the quality of the Chinese refrigerant coming
3 into the country.

4 There was an item in the trade press that
5 said that a test had shown that 25 percent of the
6 refrigerant, the R134, coming into the country was
7 substandard and could even cause safety issues. Does
8 anyone want to comment on that? Is this a real issue
9 that the importers of R134 have considered? Is this
10 why the OEMs don't want to import? Mr. Pacillo, do
11 you have any comment on that?

12 MR. PACILLO: I'm aware of a history of
13 issues with Chinese material in the past where they
14 had high concentrations of an impurity we would call
15 unsaturated impurities which would present a health
16 risk above the specification limits. To my knowledge,
17 now that issue has been resolved.

18 MR. RUBIN: I would second that. I think
19 134A is viewed by the marketplace as a fungible
20 commodity of relatively equivalent quality
21 irregardless of the manufacturer. I have not heard of
22 the claim that 25 percent of the imports are
23 substandard.

24 There is a counterfeit issue that's in the
25 fluorochemical industry in general. That's a

1 different issue. But the 134A itself produced in
2 China or the United States or Europe I believe is
3 considered to be interchangeable amongst all
4 companies.

5 MR. CASSISE: Yes. Mr. Rubin, I think this
6 trade press article kind of combined the two issues --

7 MR. RUBIN: Yes.

8 MR. CASSISE: -- kind of. Inferior and
9 counterfeit refrigerant is still rife in China.

10 MR. RUBIN: Yes. What you've had is there
11 was an explosion last year in the container industry
12 with Maris Containers. It was using one of these
13 packing -- but that's very different than saying one
14 company's 134a is substandard versus another
15 company's. That part I would say is not correct.

16 The issue of making sure what's in the
17 container is what is said to be in the container is an
18 issue that the industry is trying to get -- all the
19 industry participants, including the Chinese
20 manufacturers, are trying to get our hands around how
21 do we keep control so people can't do counterfeiting,
22 because that's only bad for everybody.

23 MR. CASSISE: Some of the -- there are items
24 that I've seen in the trade press that do talk about
25 this timeframe that the Respondents have mentioned,

1 this 2010 and 2011 timeframe. Obviously, that is the
2 same timeframe where the European directive was
3 supposed to go into effect.

4 There are some, there have been some that
5 have claimed that in anticipation of a plummet in
6 demand, that certain producers ramped down production
7 of R-134 during that time period, thus increasing the
8 price and causing some of the market turmoil that we
9 saw during that timeframe.

10 Mr. Pacillo and Mr. Rubin, if you could
11 comment on that line of reasoning or whether or not
12 that occurred in the marketplace. I mean, number one,
13 did U.S. production go down during that time?

14 MR. PACILLO: I mean you'll have those, that
15 information will be in the producers' questionnaires.

16 There was a lot going on in that timeframe. Remember
17 the recession which led to a large destocking of
18 everything. Not just 134a, but everything. Nobody
19 wanted to hold inventory of anything 2008, 2009.

20 So industry starts to recover, economy
21 starts to recover, inventories are empty. Well, the
22 plants can only make so much. Over time, we stocked
23 the chain with product. Well, the chain emptied
24 itself out of product, so no matter how fast you run
25 the plants, you're selling, plus trying to fill the

1 chain at the same time and there's just not enough
2 capacity to do all of that at once.

3 We've got a season where we sell roughly
4 two-thirds of our product in half of the year. We
5 have to run the plants the whole year to make enough
6 product to do that. If you empty out the chain, then
7 you have to supply the end user plus the chain at the
8 same time with limited capacity, even if you're
9 running at full rates.

10 I believe 2011 Mississippi River was way up
11 and all sorts of delivery issues and some of our
12 competitors may have been affected by that and their
13 ability to get deliveries of trichloroethylene by
14 barge, so that may have limited their ability to
15 produce during that timeframe.

16 I'm not aware of anyone's deliberate efforts
17 not to make enough material to meet the requirements.

18 I believe we all tried.

19 MR. RUBIN: You know, just, there's no
20 question in this industry the world is very flat and
21 the ability to move this commodity from one part of
22 the world to another part of the world exists, and the
23 petition that's been submitted is not precluding that
24 from continuing. It's really a question about the
25 economics of what those imports read. It doesn't say

1 imports can't continue to come in from China, even if
2 you were to support and implement an antidumping duty
3 on the imports.

4 So, to me, the world is flat and that when
5 there are supply issues, because I also believe in
6 2011 there was a chlorocarbon supply issue. Remember,
7 these fluorocarbons are made from a chlorocarbon and
8 hydrofluoric acid, which is made from fluorspar. When
9 you put them together you make a fluorocarbon.

10 Well, if you don't have chlorocarbon it
11 doesn't matter how much capacity you have to make a
12 fluorocarbon if you can't utilize that capacity
13 because you don't have the feed stock. It's
14 essentially not there. So the ability to move product
15 around is a security blanket for the marketplaces
16 because they have that flexibility.

17 To me, the question before the Commission is
18 not whether or not there's ever a localized supply
19 situation. To me, the question before the Commission
20 is going to be, you know, is there product being
21 imported into markets below fair market value for the
22 whatever, the U.S. guidelines.

23 I'm not trying articulate I'm any export on
24 this. That's what we have you guys for. So I think
25 the idea that a user needed to buy product in 2010 or

1 2011 because there was localized supply issues in the
2 United States, that may, in fact, be true, but the
3 petition itself doesn't change whether or not they can
4 source from China or anywhere else in the world if
5 that event were to happen again.

6 So I think there's one thing to say in
7 antidumping petition from an economic standpoint.
8 It's another thing to say that you're banning imports
9 from China. That's not what's being asked here.

10 So, to me, I understand the issues that
11 happened in 2010 and 2011, but, to me, the relevance
12 is, okay, so that happened, and the marketplace got
13 supply from China. They can choose, going forward, to
14 continue to be supplied by China. The question before
15 the Commission's going to be is there any additional
16 duty placed on those imports to create fair market.

17 MR. CASSISE: No, Mr. Rubin, we're just,
18 we're trying to get a full story of the marketplace
19 and determine whether the U.S. industry is injured.
20 There are certain issues, causation and, that it may
21 affect, you know, what the U.S. producer actually did
22 in the marketplace. So that's -- we're just trying to
23 get a full story here.

24 MR. RUBIN: Yeah. Mr. Cassise, just to
25 answer to your question then, if you were asking was

1 the, did the U.S. producers reduce supply, I can only
2 speak for DuPont, and there was no reduction of, no
3 purposeful reduction, whether it was operability
4 issues or things like that, but there was no
5 purposeful reduction of supply.

6 MR. CASSISE: Right. What I'm hearing is
7 that there was no corporate policy for either producer
8 here to decrease production because of a transition to
9 a different product going on in Europe.

10 What I hear is that there were raw material
11 feed stock supply issues and an inventory draw down
12 from a recession.

13 MR. SCHAGRIN: That's correct.

14 MR. CASSISE: Okay.

15 MR. SCHAGRIN: And certainly after those
16 short term issues were resolved, as the Commission
17 will see as you develop a record in this
18 investigation, you will find that what Mr. McConkey
19 referred to as a demand pull for the product has now
20 become a supply push from China that has continued, so
21 they have continued to grow market share.

22 They have so much excess capacity, whether
23 they admit to it or not, that they are, like most
24 Chinese producers in most industries, fighting over
25 each other to get into the U.S. market. They are

1 consistently dropping their prices. They have dropped
2 prices to the point where I believe a much more
3 efficient U.S. manufacturing industry than the Chinese
4 industry is now seeing consistent Chinese pricing at
5 below the U.S. producers' cost of production.

6 For an industry that will not -- and I can
7 assure you that while General Motors might get
8 subsidies to stay in business, the U.S. Government is
9 never going to step in to make sure that we continue
10 to make refrigerant gases in the United States.

11 So if this Commission were not to find
12 injury, then the Chinese industry is going to continue
13 to sell into the U.S. at below the U.S. producers'
14 cost of production.

15 In a high capital-intensive industry with
16 massive needs for reinvestment -- for one, maintaining
17 this equipment, complying with environmental
18 regulations, safety requirements, and the need for R&D
19 for new gases -- this industry will not be able to
20 continue to exist.

21 By the way, the OEMs who might find at the
22 present time more convenient, as I think Mr. Rubin
23 testified to earlier, to get their supplies from
24 domestic producers, I know from my work, and certainly
25 the Commission knows, it is not as if the OEM car

1 manufacturer in the United States don't know how to
2 utilize parts from China.

3 They can certainly work with Chinese
4 suppliers to get the kind of just in time delivery in
5 tank cars that they get now from the domestic
6 industry.

7 So if the domestic industry does not give
8 them the competitive price that they see they can get
9 from China, the OEMs have already, some of them, begun
10 to shift, but they will shift in an even greater way,
11 and soon we will get to a tipping point, which we
12 think we're at at the present time, in which we don't
13 have continued operations of plants in the United
14 States for this product.

15 So, you know, early 2011 was almost three
16 years ago and any demand pull from China has been long
17 over. Right now it's all about the fact that the
18 Chinese prices are less than domestic prices.

19 When you hear from importers later, if
20 AutoZone is buying from China because they like higher
21 prices, I will be stunned. Clearly, Chinese suppliers
22 are pushing product at cheap prices to the United
23 States versus the domestic pricing levels.

24 MR. CASSISE: Mr. Geosits, don't want you to
25 feel lonely over there. You had gone through the

1 market segments of R-134a and that was really helpful.

2 Whether in your brief that you submit, if you could
3 attach some numbers to the share of those market
4 segments to the overall R-134 market, that would be
5 helpful, although we've heard today that, you know, in
6 the auto air conditioning, the vast majority is the
7 R-134a.

8 One thing. The pharmaceutical application
9 you did attach a number to. That was two to three
10 percent of the R-134a market. You said there were
11 additional manufacturing steps that needed to be done
12 to make it pharmaceutical grade. If you could just
13 briefly describe maybe what some of those additional
14 steps are.

15 MR. GEOSITS: Essentially, it's a
16 purification process. We take the product that we
17 produce in St. Gabriel, Louisiana, and we ship it to
18 our sister company in the United Kingdom. They will
19 remove certain impurities that we feel shouldn't be in
20 the pharmaceutical product, and that's done under very
21 rigorous controls procedures. As I said, the plant is
22 monitored by certain regulatory bodies.

23 The specification is on file with the FDA in
24 a drug master file, so we have to maintain that
25 product within that specification. So that

1 purification process is all about getting the product
2 into that specification that is on file.

3 MR. CASSISE: Okay. Shifting back to the
4 Y-F product for a second, I mean General Motors has
5 been, I believe, the first U.S. auto maker to say that
6 they're on board with that product and that they're
7 going to design and build their cars I believe -- have
8 they already started to do it -- in 2013. Has there
9 been a shift in demand because of some of the U.S.
10 auto makers shifting to the new product like GM?

11 I know that it's not required, but from my
12 research I believe they get credits, carbon credits or
13 tax credits, if they do shift to the new or a lesser
14 global warming-producing product.

15 MR. RUBIN: Yeah. The driver in the U.S. is
16 the CAFE standards. Essentially, they're standards
17 that are required. There's certain dates you can't
18 place a car in the market that will have emissions
19 above a certain, a carbon footprint above a certain
20 amount. They are able to get credits for cars that
21 are produced with Y-F today.

22 Still, the majority of the GM cars are made
23 with 134a. Just remember that the service of any 134a
24 car made today will continue to be 134a. It won't be
25 serviced with Y-F in the future.

1 The transition in the U.S. is starting from
2 an indirect, what I would call an indirect, unlike
3 Europe which directly has a regulation specifically
4 focused on the global warming of the refrigerant. The
5 CAFE standards is an emission standard.

6 MR. CASSISE: Right. It's the carrot, not
7 the stick.

8 MR. RUBIN: That's exactly right.

9 MR. CASSISE: And DuPont and Honeywell
10 developed this product in 2007, I believe is what my
11 research shows. Does DuPont or Honeywell, where do
12 you produce that product today?

13 MR. RUBIN: DuPont produces it at two
14 facilities. One is in Japan, one is in China.

15 MR. CASSISE: Are there plans to increase
16 that capacity in the near future?

17 MR. RUBIN: There will be required to have
18 additional capacity to serve the market. Remember
19 again, 99 percent of the auto market is served with
20 134a today.

21 MR. CASSISE: No. I'm talking about the
22 Y-F.

23 MR. RUBIN: No, I understand.

24 MR. CASSISE: Okay.

25 MR. RUBIN: So as that market transitioned

1 both in Europe and in the United States, and
2 potentially in Japan, which would be the most likely
3 three markets to go first, there's going to require to
4 have additional investment. There's going to require
5 to have additional investment.

6 MR. CASSISE: Okay. I believe I have no
7 other questions. Thank you so much.

8 MS. DEFILIPPO: Thank you, Mr. Cassise.
9 Mr. Sultan?

10 MR. SULTAN: Thank you. My first question
11 goes to other suppliers of this product, and by that I
12 mean suppliers in foreign countries other than China.
13 The petition mentions that so-called nonsubject
14 imports are small and constant, but I'd be interested
15 to know where those imports come from and what the
16 pricing of those imports is like.

17 MR. GEOSITS: In terms of the other
18 countries that produce R-134a, there's production in
19 Germany, in Japan, there is production in France, and
20 I believe there may be some small production in India.

21 MR. SULTAN: And what about the pricing of
22 imports from those countries into the U.S.?

23 MR. GEOSITS: Well, there's very little
24 product coming in from those other countries and we
25 have not seen, we have not experienced any issues with

1 that level of product coming in. It's been very, very
2 small.

3 MR. SULTAN: Thank you. Counsel for the
4 Chinese Respondents mentioned in his opening statement
5 that Chinese suppliers are able to offer what he
6 referred to as certain product configurations which he
7 implied were attractive to U.S. customers. What would
8 those be?

9 MR. GEOSITS: I'm not aware of any product
10 configurations that could not be supplied either by a
11 U.S. manufacturer or a U.S. distributor. We supply in
12 more configurations than I believe are imported. We
13 bring in, we supply our product in bulk tank trunks;
14 in rail cars; in tonner cylinders, which are 1,750
15 pounds; in half tonners, which are 1,000 pounds; in
16 125 pound cylinders; 30 pound cylinders.

17 So the configurations that we supply are, in
18 my opinion, exceed the amount that can be, or the
19 amount of configurations that are brought in from
20 China. Product is also packaged into 12 ounce cans.
21 We don't package into 12 ounce cans directly, but we
22 have distributors who do that and sell on. So all
23 those configurations that I'm aware of are provided by
24 the manufacturers in the United States.

25 MR. SCHAGRIN: So just to add, Mr. Sultan,

1 and Mr. Rubin may want to talk about DuPont, but I
2 think what the Respondents are going to get at is that
3 it seems that a number of Chinese manufacturers will
4 also package products in 12 ounce cans and ship them
5 to the United States in a containerized form, whereas
6 not every U.S. manufacturer themselves packages in 12
7 ounce cans.

8 However, every U.S. manufacturer, those U.S.
9 manufacturers who don't package themselves in a 12
10 ounce can have always sold to distributors who have
11 the capabilities, and it's part of their business in
12 the distribution chain to take product in bulk, put it
13 into 12 ounce cans and then sell it to the retail
14 community. Either retailers or gas stations, service
15 stations or people who utilize this.

16 You know, in my background in steel it's
17 equivalent to the fact that steel mills won't sell in
18 less than, you know, truck load sizes. That's why we
19 have something called service centers.

20 I think you will find, particularly when we
21 get to the final investigation, that distributors play
22 a major role in the U.S. after market for both the
23 automotive and the stationary air conditioning units,
24 that there is a strong, well-developed, longstanding
25 distribution chain in the U.S. market, and that these

1 national and regional distributors have traditionally
2 bought in bulk from U.S. manufacturers and then either
3 repackaged and/or sold on to the, "end user market".

4 To the extent the Chinese want to try to get
5 around the traditional distribution process and maybe,
6 well, I guess you'd call it the big chain retailers
7 like Advance Auto Parts or a AutoZone, you know, may
8 want to buy direct instead of through distribution,
9 well, I mean that can certainly occur.

10 But certainly all types of packages are
11 available with U.S. materials and from U.S. producers
12 who have enough capacity to supply the entire U.S.
13 market. They can supply it either directly or through
14 distribution in every type of container size present
15 in the marketplace. I don't know if Mr. Rubin wants
16 to talk about it.

17 MR. RUBIN: Just DuPont offers the 12 ounce
18 cans and the decks directly to distribution, and so we
19 would sell 12 ounce cans or the 30 pound containers to
20 the national retain chains, to an AutoZone. It would
21 be a potential customer. We would not sell them bulk.
22 We would sell them already packaged product.

23 I'm not sure what was meant by the
24 configuration, so it would be something to hear during
25 their testimony.

1 MR. SULTAN: Thank you. My next question is
2 really for Mr. Greenwald and Mr. Schagrin. I'm not
3 sure if you can answer this in this open forum, but
4 are we going to have any related party issues in this
5 investigation?

6 MR. GREENWALD: I don't think so, but I've
7 not given it much thought. So in the postconference
8 brief, if DuPont decides to submit one, we will answer
9 it. Otherwise, Mr. Schagrin will answer it.

10 MR. SCHAGRIN: Yeah. Mr. Sultan, I think
11 that's an issue. I'm not foreseeing related party
12 issues at the present time, but I think we'll have to
13 address that in our postconference brief after we've
14 had a chance to review all the producer and importer
15 responses.

16 MR. SULTAN: Thank you very much. That's
17 all I have.

18 MS. DEFILIPPO: Thank you, Mr. Sultan.

19 We will now turn to our Economist, Ms.
20 Preece.

21 MS. PREECE: Well, fortunately Chris has
22 done some of my questions already, so we're going to
23 be in a less of a hole to dig through. We have two
24 things going on, it seems, and maybe it was occurring
25 in 2010 and '11 when we had this report of a shortage

1 in the United States.

2 One is changes in supply, but another issue
3 seems, to me, to be changes in demand as the other
4 countries, let's say the less developed countries,
5 shifted from the CFC remainder products -- is that
6 PCCs? Yeah. Anyways, these remainder products to the
7 R-134a. Is that true? Was there a demand change or
8 had that transition already taken place? I'm just
9 trying to frame this within the world that I am
10 tracking.

11 MR. GEOSITS: I'm not sure what that change
12 in demand they're referring to. Certainly, R-134a was
13 implemented in the automotive industry in the
14 significant time prior to that, so I really don't know
15 what that refers to. I guess we'll have to wait to
16 find out.

17 MR. RUBIN: Yeah. I do not believe our --
18 we do an estimate of global demand across our
19 portfolio every year and our estimates of the total
20 global demand for 134a would not have, did not show
21 any significant global demand change in that
22 timeframe. The transition away from CFCs in
23 automotive had already been completed.

24 MS. PREECE: Okay. It would be really
25 helpful if you have that information if you'd give it

1 to us in a postconference brief. That would really --
2 and I would like, to any extent, you know, if we're
3 looking at the U.S., the EU, and the rest of the
4 world, just sort of any breakdowns you have, that
5 would be really helpful. Okay.

6 I'm still working on demand issues. One
7 thing, you know, I have no idea, I don't understand
8 air conditioning in cars. So first of all, if I had,
9 if I were shifting or GM was shifting from producing
10 large automobiles to small automobiles, would that
11 affect the amount of R-134a they were using?

12 MR. GEOSITS: There are variant amounts of
13 product in different models by different
14 manufacturers. So, for example, a very small,
15 subcompact car may take somewhere less than a pound of
16 refrigerant in the compressor, whereas a larger car or
17 truck might take a pound and a half. But, in general,
18 it's not a huge difference.

19 We're somewhere between that range, less
20 than a pound, a pound and a half, maybe two pounds in
21 a system that is a split system that has rear air
22 conditioning. Maybe in a mini van or something like
23 that.

24 MR. RUBIN: Just to build on that, if you're
25 trying to look for trends on overall market size,

1 particularly in the OEM side, it's going to be on new
2 car sales much more than charge size. Whether you go
3 from big cars or small cars, yes, there are subtle
4 charge size shifts, but the bigger driver here for how
5 much you need is how many new cars are being placed on
6 the road. That's going to give you a better
7 indication of future demand.

8 MS. PREECE: Okay. That's very helpful. I
9 did want to -- that was the next question I was going
10 to have, so I don't have to ask it.

11 And then another question. Between the
12 automobiles on the road, I guess there's the
13 automobiles sold in the United States that haven't
14 been produced in the United States. Has that shifted
15 in any way that would affect demand for R-31-A during
16 this period? 1-3? Yeah. Whatever. I'm sorry.

17 MR. RUBIN: I really don't know the split
18 between domestic, but I don't, I'm not aware of any
19 significant shift.

20 MR. GEOSITS: I would agree with that. I
21 don't think --

22 MS. PREECE: Okay. Good, good, good.

23 MR. RUBIN: But there is very detailed
24 numbers on this. So this is actually publicly
25 available information on new car builds. We can

1 supply you feedback as to where you can get that --

2 MS. PREECE: That would be great. That
3 would be very helpful. I'm not a auto expert either.

4 I don't even own one, so -- okay. We were already
5 asking for more information about demand and the
6 ships, the sections of demand in OEMS and new, and so
7 any of the insulation foams, whatever, I'd like that
8 -- I'm reaffirming what Chris asked for, so I'd like
9 to have that. If there's any information about that
10 for the U.S. and the rest of the world, that would be
11 helpful for me, too, and how it has changed since
12 2010, to any extent.

13 Now we're going to go to this W-F product,
14 which is wonderful, I guess. The W-Y is a new product
15 that is used in an air conditioning system, but a
16 different kind, slightly different air conditioning
17 system than the R-134a, is that correct? Is that what
18 you would --

19 MR. RUBIN: Yes, that's correct.

20 MS. PREECE: Okay. And so over time, as the
21 U.S. manufacturers, and perhaps the importers, produce
22 cars that use the W-Y instead of the R-134a, demand
23 will shift as we go from the OEMS and also in the
24 longer term after market. Now, do you have any
25 predictions on those? Do you have any sort of

1 foresight for what you see in the future for demand
2 for those?

3 MR. RUBIN: Well, the biggest unknown for
4 the rate of transition -- if you asked us whether we
5 thought there will be a transition, I think the answer
6 to that is the new cars will transition. The biggest
7 unknown is the regulatory framework which drives that
8 transition.

9 The new products are more expensive than the
10 134a, and so the OEMs are, tend to not want to do that
11 transition if they're not in a position where they
12 have to.

13 Now, there could be marketing reasons.
14 There's all kinds of reasons why companies make
15 decisions, but I think, to generally answer your
16 question, it's very difficult because it really
17 depends on what the regulatory environment will be
18 that will, in a way I'd say, mandate the transition.

19 I think the voluntary transition will be
20 very selective and will not be of great extent unless
21 it's driven by like the CAFE standards, which again is
22 a regulatory driver, but if tomorrow the United States
23 implemented a regulation which said you can't use
24 134a in car air conditioners anymore, well, then the
25 industry's going to transition because they're going

1 to have to. It wouldn't happen tomorrow, they'd have
2 some lead time, but you know what I'm saying.

3 So the answer to the question is very
4 difficult to project because, you know, that's like
5 projecting what Congress will do and that's a
6 difficult thing to do, I would say.

7 MR. SCHAGRIN: Ms. Preece, looking at this
8 from the Commission's standpoint of, you know, what's
9 likely changes in demand that would affect the
10 marketplace here, and either between your preliminary
11 and final investigations, or I would even look at it
12 over the course of the period of your first sunset
13 review, given that there's over 200 million cars on,
14 you know, the road in the U.S., all of which use
15 R-134a -- unless they're Mr. Cassise's father's car
16 from before 1990 -- basically every car on the road
17 today is going to be replaced in the after market with
18 R-134a.

19 Given my knowledge with the new car market
20 approaching something like 16 million units in the
21 United States in 2013, I think the estimates would be
22 not even one or two percent of those are using the new
23 H-F. Is that so?

24 MALE VOICE: Less than that. Yes.

25 MR. SCHAGRIN: Even less than one percent.

1 Imagine over your five year sunset review if we have
2 200 million cars on the road, all of which are using
3 R-134a as a replacement. Of the new cars entering the
4 market, we currently have less than one percent using
5 the alternative. Maybe that rises to five percent or
6 even 10 percent over the first sunset review period.
7 You're talking about a minuscule change in the demand
8 drivers.

9 I think you'll find, even as to the other
10 uses, that during this period of review, while there
11 may have been one very temporary supply issue in the
12 U.S. market, from a demand perspective across all of
13 the different demand drivers, it's been fairly steady
14 with an increase based upon the fact that we went from
15 building only nine million new cars, which was like a
16 three or four decade low in 2009, back to way below we
17 were in '05 to '07 in the 17 to 18 million, but we're
18 back to 16 million.

19 So we have seen a recovery of demand from
20 the OEM market as new auto production has increased
21 and, for that matter, the overall economy has
22 increased.

23 The other, because residential construction
24 is coming back fairly vigorously, residential air
25 conditioning units do not use R-134a is my

1 understanding. They use other, these refrigerant
2 blends. So these are used in the major commercial air
3 conditioning systems for nonresidential construction.

4 That demand remains at very weak levels in
5 terms of our building of malls, major office
6 buildings, et cetera. So, in some ways, the continued
7 weakness in nonresidential construction is offsetting
8 a little bit the increase in auto production.

9 So I think you're going to see that except
10 for changes in inventory in this distribution network,
11 that the overall level of demand is not changing very
12 significant over the POI and is probably unlikely to
13 change very significantly over the next several years.

14 MR. RUBIN: Yeah. Ms. Preece, I just want
15 to build on Roger's comment real quick. I said
16 earlier that 134a is going to be an important product
17 in the U.S. for decades because you have to recall the
18 volume split between new equipment and service is
19 predominantly service. It's 70/30 service.

20 So as Roger's highlighting, in the installed
21 auto fleet, that fleet, people hold on to their cars
22 longer. The longer they hold on to those cars, the
23 longer you'll need 134a to continue to service it.

24 So while there may be a transition over the
25 next decade from the new equipment perspective, I

1 don't want to lose the fact that we're talking about
2 still a very long, significant volume requirement of
3 134a likely to be the case in the U.S. market.

4 MS. PREECE: Okay. I had no idea that it
5 was one percent that was the new, so that obviously
6 means that it's not much of an impact yet. That's
7 really what we're looking at in this case is what's
8 happening right now, so I'm glad to know that
9 simplifies the whole question dramatically, except
10 for, as there is a change in Europe, is that affecting
11 demand globally?

12 Do you see that as changing what the Chinese
13 are going to be doing? Are they shipping it to the,
14 going to be more likely to ship to the United States
15 because of that? I'd be interested in having any
16 feedback on that, but let's not go there. Okay.

17 We have the shift in the automobiles that's
18 almost beginning now and there doesn't seem to be any
19 shift in the other products, the other types of air
20 conditioning. It seems like the CAFE standard seems
21 to be what's pushing the automobile.

22 If there's no CAFE for building air
23 conditioners, then there doesn't seem to be much
24 pressure on that change to sort of a Y-F equivalent
25 product, or do you see any pressure on the other kinds

1 of air conditioning, or the blowers, or whatever?

2 MR. GEOSITS: At this time I think the
3 primary driver is automotive air conditioning, but in
4 the future, that may change and stationary air
5 conditioning may see some penetration in, by other
6 products yet to be determined. But the primary driver
7 is automotive at this time.

8 MS. PREECE: And there isn't much in the
9 automotive yet.

10 MR. GEOSITS: Correct.

11 MS. PREECE: So we're just, we can put that
12 aside for now. Okay. Great. Okay. You said that
13 U.S. distributors repackaged R-134a. Is that true,
14 that they also might do that to imported R-12 -- and
15 to the extent possible, how much is that going on? Do
16 you see.

17 MR. GEOSITS: Yes, that is possible and it
18 does happen. Imported product comes in and it's
19 repackaged by distributors. I'm not sure of your
20 second question.

21 MS. PREECE: It's, you know, is that 10
22 percent of the market or is it --

23 MR. GEOSITS: Yeah, it is happening to a
24 significant extent in the United States.

25 MS. PREECE: Okay. Do you think that the

1 price of R-134a sold in different types of containers
2 will follow similar pricing patterns, you know, given
3 that we had a shortage at one time? Is that something
4 I should expect to see a similar pattern in the
5 different pricing products that I've collected pricing
6 data for?

7 MR. GEOSITS: I'm not sure I understand the
8 question, Ms. Preece. Are you asking is the price of
9 134a in different packages declining over time?

10 MS. PREECE: Similarly declining, similarly
11 rising if there's a shortage. Is that what you would,
12 what I should be expecting in my price data?

13 MR. GEOSITS: Are you saying, in general, if
14 prices --

15 MS. PREECE: Yes.

16 MR. GEOSITS: I think that's fair to say,
17 yes, that if bulk prices rise, then package prices
18 would rise as well, or fall.

19 MS. PREECE: Okay.

20 MR. SCHAGRIN: I would just note, as Mr.
21 Greenwald commented, that I think you have an issue to
22 probably be addressing in the final part of the
23 investigation about the issue of difference in levels
24 of trade.

25 Certainly looking at sales by a DuPont,

1 which said that they do package in 12 ounce
2 containers, versus sales by a retailer to me in 12
3 ounce -- because I can't buy from DuPont. There's
4 just no way Mr. Rubin -- he may say, yeah, Schagrins
5 a good guy, I'll sell him a --

6 MR. RUBIN: You have bad credit, so --

7 MR. SCHAGRIN: Maybe bad credit. There you
8 go. The Commission staff knows that it's probably
9 unlikely. You know, the fact that I can walk in and
10 buy a 12 ounce container at AutoZone but I can't buy
11 from DuPont but you may have information on DuPont's
12 sales of that product and on sales by a retailer of
13 that product to consumers, it does seem that those are
14 very different levels of trade.

15 So I think that we, at least for purposes of
16 our postconference brief, will look at the average
17 unit values -- as the point was made by both your
18 question and by Pete's answer is that since you're
19 going to see the same trends in prices regardless of
20 whether the sales are in ISO containers, or 30 pound,
21 or 12 ounces, they're going to move in the same
22 direction that sales by Chinese producers, their
23 average unit values of the sales of the Chinese
24 producers should probably be compared to the average
25 unit values of the U.S. producers.

1 There, you're assured at looking at the
2 sales of the same product at the same level of trade
3 by manufacturers to either OEMs, distributors, all
4 purchasers. That will probably give you a clearer
5 picture from the comparison of prices of
6 manufacturers, only because here it seems that we have
7 importers who are likely very differently situated.

8 You're probably going to have importers who
9 are just importer trading companies, importers who are
10 distributors, importers who are retailers. I think
11 that does -- I haven't done a lot of cases with this
12 kind of breakdown, but it seems to me that presents
13 more difficulties for the Commission than a straight
14 case where you just have sales to either OEMs or
15 service centers because of these different levels of
16 trade we have involved in the marketplace.

17 MS. PREECE: Thanks, Roger. I really think
18 that is an important issue, and if we go to a final I
19 would love to have your feedback on the pricing
20 question because we have, we sort of didn't have much
21 feedback on the pricing products for the initial and
22 so we were left in a gap and that's -- but it will be
23 very helpful, as you know more about this product, to
24 really get some good feedback on that because it's
25 always very difficult to do a pricing product that is

1 appropriate in the case like this, and I do want to do
2 it. So I'm excited that you're going to push with me
3 to come up with a good one.

4 That's the end of my questions for now.
5 Thank you.

6 MS. DEFILIPPO: Thank you, Ms. Preece.

7 Ms. Brinckhaus?

8 MS. BRINCKHAUS: Good morning. For obvious
9 reasons, I don't have much I can talk about in a
10 public setting with the financials. I do have one
11 question, however, but again, if you'd be more
12 comfortable responding to this in your postconference
13 submissions, that would be fine. What does this
14 industry consider an acceptable benchmark for
15 operating margins?

16 MR. GREENWALD: Higher than it's earning
17 right now.

18 MR. SCHAGRIN: We'll address that in the
19 postconference brief.

20 MS. BRINCKHAUS: Okay. That's great.
21 That's all I have. Thank you.

22 MS. DEFILIPPO: Thank you, Ms. Brinckhaus.

23 Mr. Clark, questions for this panel?

24 MR. CLARK: Good morning. One thing that I
25 know we had touched on and didn't pursue a lot was

1 just the -- and we've talked a lot about automotive.
2 I just wanted to get a little bit more into the
3 propellant and foam blowing.

4 What makes R-134a so useful in this regard, and
5 why is there not an alternative there? We mostly were
6 talking about automotive. I just wanted to look at
7 that because I know that's the second largest segment.

8 MR. GEOSITS: Well, there are alternatives.
9 Those alternatives may have some different properties
10 that make them not as well-suited to an application.
11 134a is a nonflammable, nontoxic propellant. There
12 are other propellants that may be used, and are used.
13 Might be less expensive, but they may be flammable.

14 In some applications people may not be able
15 to use a flammable propellant or a flammable blowing
16 agent. Where they can, they would probably do so. If
17 given the situation where they're required to use a
18 nonflammable product, 134a is a good choice for them.

19 MR. CLARK: Thank you.

20 MR. RUBIN: Yeah. I would echo what he just
21 said on where you use. For example, an electric
22 duster where you have an energized circuit and you're
23 dusting off some computer, a piece of computerized
24 equipment and it's energized, you don't want to have a
25 flammable exposed to it. You specify nonflammable.

1 So I think in the propellant world it's driven mostly
2 by the nonflammability of 134a as the key driver for
3 why it's selected.

4 In the foam side it's a combination of
5 physical properties, whether you need a gas or a
6 liquid, like, for example, polyurethane froth foam.
7 Gas gives you certain properties that you want in that
8 kind of a urethane foam in combination with its
9 insulating potential.

10 So it's really -- I think Pete hit it right.
11 It's each individual application has selected it over
12 years of creation of that market that's based on the
13 physical properties it delivers for that specific
14 application. So it's very difficult to give with a
15 broad brush this is the why. There's a variety of
16 whys that would drive it.

17 MR. CLARK: And we just don't see anything
18 on the horizon that's going to replace it for those
19 applications? There's nothing right now? There's
20 nothing that's emerging? That's what we're looking --

21 MR. RUBIN: I would say that's the case now.
22 It's just like the entire fluorocarbon industry. I
23 mean it's, you know, people are continuing to try and
24 innovate and find solutions. I would say the
25 applications it serves today, it's continuing to be

1 the predominant fluid for the foreseeable future.

2 MR. CLARK: Okay. Thank you. My next
3 question is just about the process. This product is
4 made through fusional processes and we have the one
5 from petition. Does DuPont use a similar process or?

6 MR. RUBIN: We start with a chlorocarbon and
7 hydrofluoric acid and we make it. You know, process
8 technology is also intellectual property and know how,
9 so --

10 MR. CLARK: Sure. I understand. If you
11 could submit something after the conference, I'd
12 appreciate it, just so I can beef up my product
13 description a little bit.

14 MR. RUBIN: Sure.

15 MR. CLARK: That would help me. Okay.
16 That's all that I have. Thank you.

17 MS. DEFILIPPO: Thank you, Mr. Clark.

18 Ms. Haines, no questions.

19 Mr. Cassise, I know you were -- well, I have
20 some, but do you want to follow up on that because
21 it's similar?

22 MR. CASSISE: Yeah, I have a follow-up
23 question on what you were just discussing, Mr. Rubin,
24 which is in a broader sense, when I want to choose a
25 refrigerant for any end use, be it an auto AC unit or

1 an industrial supermarket cooling system, to choose
2 which refrigerant, what physical characteristics am I
3 looking at?

4 The ones that I noticed that you mentioned
5 before were the toxicity, the flammability, whether I
6 wanted a gas or a liquid, but, you know, why can't I
7 stick say something that's used at the supermarket to
8 cool down my car? I mean what are the physical
9 characteristics that make those not interchangeable?

10 MR. RUBIN: Economics, I would say, is the
11 single largest driver. 134a is the most economical
12 solution. It's a combination of its performance and
13 the equipment that's required to use it. For example,
14 you could use 410a in a mobile air conditioner, but
15 you would have very, very different equipment. Much
16 higher pressure would add weight to the car. So when
17 they make the selection as to what they use, they're
18 looking at it for, I would say, the lowest cost of
19 ownership type of solution.

20 Things like flammability adds too. You have
21 to put mitigating equipment in to handle flammability.

22 Things like toxicity. You have to put mitigating
23 equipment in. If you want to go with products of very
24 different vapor pressures, then you're going to have
25 to put in different thickness of equipment, different

1 size heat exchanges, et cetera.

2 So they would always, I think an equipment
3 manufacturer will always evaluate the solutions they
4 have available to determine what is the best one.
5 From an economic standpoint, 134a is a superior
6 solution from just a technology standpoint.

7 You combine that with performance. I mean
8 energy efficiency, we haven't really talked about
9 energy efficiency to any great extent here, but energy
10 efficiency in most of these applications is a critical
11 objective of the equipment.

12 If you're a supermarket you're going to tend
13 to use something that's going to cool down, keep the
14 food cold in the least energy-consuming way because
15 that's a major part of your cost to operate that
16 supermarket.

17 MR. CASSISE: And the manufacturer of the
18 cooling systems, whether they be an auto cooling
19 system or a supermarket cooling system, they're going
20 to make that determination early on, before they start
21 the manufacturing process, and thus, that will be the
22 only refrigerant that can be used in that because they
23 built it that way.

24 MR. RUBIN: That's correct.

25 MR. CASSISE: Okay. I just wanted to clear

1 that up. Thank you.

2 MS. DEFILIPPO: Thank you, Mr. Cassise. I
3 also just have a couple of questions. To the extent
4 that these are questions you would prefer to answer in
5 a postconference brief, that's fine. Please feel free
6 to do so.

7 I'll circle back to something I believe Mr.
8 Schagrin mentioned in his opening statement. I think
9 it was a phrase about there was some price protection
10 due to the existence of contracts. I know our
11 questionnaires asked some estimates of contract versus
12 spot sales, but what I was interested in -- and we've
13 talked a little bit then about sort of the different
14 market segments, OEM versus replacement.

15 To the extent that contracts are used in one
16 segment of the market more than others, any
17 information, you know, whether it's the contracts tend
18 to be OEMs and replacement market tends to be more
19 spot sales, any information you have on that that you
20 could share now or put in your brief would be helpful.

21 MR. GEOSITS: Okay. In general, I would say
22 that OEMs tend to operate on a contract basis. After
23 market historically has been a spot market price, but
24 that's not to say that there aren't after market
25 distributors who don't have contracts. They do. If

1 you're looking for a generalization, OEMs tend more to
2 work on contract and spot market tend to be after
3 market.

4 MR. RUBIN: We would agree with that
5 assessment. Yes.

6 MS. DEFILIPPO: Okay. Thank you. For the
7 after market segment that may use contracts, would you
8 say that area has also experienced price pressure? Is
9 it within the terms or the time period of a contract
10 or is it sort of when they would get renegotiated?

11 MR. GEOSITS: I would say that certainly
12 that has been affected. The contracts might be on a
13 different basis. The price validity might be on a
14 shorter range. The price -- contracts or after market
15 business certainly have been affected. Without giving
16 out any specific information here it would be
17 difficult to say, but they have been affected.

18 MR. RUBIN: Yeah. I think my comment on
19 contracts would be a contract is, for either party can
20 be a delay of the inevitable. If the market price is
21 declining, a contract would protect the supplier for
22 that period of time with the contract. If the market
23 prices is going up, then the contract protects that of
24 the purchaser.

25 So, but eventually contracts expire and then

1 you have a renegotiation and the market at the time of
2 the development of a new supply agreement is usually
3 going to drive, with some trying to foreshadow what's
4 going to happen in the future which typically is not
5 correct, but everybody tries to do it. So, but it's
6 going to be driven by the, at the time the contract is
7 done.

8 I do agree with Pete again on this is that
9 the duration of agreements can be very different. I
10 think the OEMs are typically going to be more annual
11 or perhaps even longer, while you have, in the after
12 market they're going to be likely of shorter duration.

13 MS. DEFILIPPO: Okay. That's helpful.
14 Thank you.

15 MR. PACILLO: One other thing.

16 MS. DEFILIPPO: Sure.

17 MR. PACILLO: I would say that I don't know,
18 aware of any contracts that force a customer to buy if
19 he doesn't have any sales.

20 MS. DEFILIPPO: Can you -- I'm not sure I'm
21 getting that point. Yeah. Is it a non, not a fixed
22 supply -- I mean, and again, this, I know there's some
23 questions in the questionnaire and I do not want to
24 get into confidential information, so --

25 MR. PACILLO: It's not.

1 MS. DEFILIPPO: Okay.

2 MR. PACILLO: I don't think this would be
3 confidential here. If my customer can't compete and
4 can't buy my product, regardless of what we've
5 negotiated, I, contrast, can't force him to purchase
6 material that he can't sell. If my price to him
7 prevents him from selling it onward, then eh doesn't
8 have to buy it.

9 MS. DEFILIPPO: So it sounds like a contract
10 would be more price-based than quantity-based over the
11 course of that contract. I mean sometimes you'll see
12 a contract saying I'm going to buy 2,000 pounds of
13 apples at \$1 for this period.

14 MR. PACILLO: Well you might say I'm going
15 to buy 50 percent of my requirement from you over this
16 period. I have zero requirement now. I can't buy
17 anything.

18 MS. DEFILIPPO: Got you. I understand that.
19 Thank you. That was actually very helpful.

20 Somebody mentioned seasonality as a quick
21 comment, saying there was some seasonality in the
22 industry. If you could elaborate on that with regard
23 to when that, how long that seasonality is and sort of
24 what it is over the course of a year.

25 MR. GEOSITS: Major application for R-134a

1 is in refrigeration and air conditioning. Air
2 conditioning certainly is a seasonal requirement.
3 People may turn their air conditioners on in this area
4 in April if we get some hot weather. They might wait
5 until June or July. So the demand for air
6 conditioning is a seasonal demand.

7 When we supply product to distributors, that
8 product needs to go from the distributors to the
9 customers so it has to be out to the distributors
10 before the AC season, so we may be shipping large
11 quantities of refrigerant in January, February, and
12 March in anticipation to cooling season and people
13 using that product.

14 So our heavy shipment months are earlier in
15 the year and tail off at the end of the summer. If
16 somebody hasn't fixed their AC unit in their car by
17 August, probably not going to do it and there might
18 not be a great demand after that point.

19 So the seasonality is front-loaded, which
20 also is incumbent upon us to have big inventories
21 closing the year so that we could supply that big slug
22 of product that's going to come out during that
23 preseason.

24 MS. DEFILIPPO: That's helpful. Thank you.
25 Is there any shelf life to the product, or can it sit

1 in inventory for --

2 MR. RUBIN: If you have a sealed cylinder,
3 stuff will sit there and you can use it 10 years
4 later. There's examples of applications. There's
5 fluorocarbons used in fire extinguishings, for
6 example. The system might be there for 50 years and
7 you never have a fire, and it's still able to put the
8 fire out if you ever needed it. So these do not
9 really have a shelf life.

10 MS. DEFILIPPO: I have a fire extinguisher
11 in my kitchen that's about 20 years old and my
12 daughter has been after me to get a new one so maybe
13 I'll tell her, I don't know, it might still work.

14 MR. RUBIN: That's probably not a
15 fluorocarbon extinguisher, but yes.

16 MS. DEFILIPPO: That's true. I was just
17 looking for a reason to shut down her complaint. The
18 last one that I had is probably better to be responded
19 in your postconference brief.

20 We talked -- you know, the Respondents noted
21 it in their opening statement and we talked some about
22 these supply issues that occurred in the 2010, early
23 2011 period.

24 I believe, and this is just what I want to
25 clarify for myself, that both companies indicated that

1 any of those supply disruptions didn't affect, reduce
2 the shipments that you were making during that period.

3 Did I hear that correctly? That while there may have
4 been -- I'll put it this way. That's what I thought I
5 heard. If not, please clarify in your brief.

6 To the extent that there was reductions in
7 shipments as a result of these supply issues, were
8 customers put on allocations? Did they receive less
9 than they may have wanted during that time period or
10 were you able to -- I thought I heard it was you were
11 able to cover the requirements via inventories.

12 I just wanted to make sure that the amount
13 of what, that your customers would have wanted to
14 receive during that period was met during that supply
15 difficulty.

16 MR. GEOSITS: We can cover that in the
17 postbrief, but in terms of our supply during that time
18 period, we ask customers for forecasts and we supply
19 to those forecasts, and we did supply to forecast. No
20 one got less than forecasted amount during that time
21 period.

22 MS. DEFILIPPO: Okay. Thank you.

23 MR. SCHAGRIN: Ms. DeFilippo, we can -- I'll
24 let Mr. Rubin come, but we can address this also
25 further in the postconference brief. I think you

1 ought to be careful, as you're listening to the
2 Respondents this afternoon talk about all the letters
3 that these companies put out, not to conflate the
4 issues of supply availability with some of the rapid
5 increases in costs of commodity raw materials that
6 were occurring.

7 So those are two different issues. They
8 tend to put them together and say, oh my God, people
9 are telling us that in the spot market prices are
10 going to go up because the prices of these two main
11 inputs were going up rapidly. That's a different
12 issue. The cost of or changes in cost of raw material
13 inputs is a different issue than supply availability.

14 Mr. Rubin, did you want to answer?

15 MR. RUBIN: Yeah. I was going to say during
16 the period in question, 2010/2011, it's difficult for
17 me to remember precisely with it, but I would say if
18 we were in a constrained supply situation, we
19 fulfilled all of our contractual obligations, but
20 those customers that buy from us on the spot market,
21 if we were constrained, we would have communicated to
22 them that, hey, we're constrained. You may want to
23 find an alternative source.

24 So I certainly wouldn't hide from the fact
25 that there are times -- we make in manufacturing

1 facilities, and manufacturing facilities don't always
2 run perfectly. That's reality. And so when they
3 don't run perfectly, you have inventory to help bridge
4 that gap, but sometimes they run really poorly, and
5 now you have got to come up with contingency
6 strategies as to how you'll supply your customer base.

7 But one of the things I think is an
8 obligation to your customers, if you really want them
9 to be successful, is to let them know as soon as
10 possible, hey, we got a problem. You may in your best
11 interest want to seek additional supply from someone
12 else. And I think as a responsible supplier, that's
13 something that you should be doing. And I think we do
14 that, or try to do that, to the best of our ability.

15 MS. DeFILIPPO: Thank you. That was very
16 helpful.

17 I'm going to take one last look up and down
18 the table and see if anyone has any additional
19 questions. And I'm seeing and hearing none. I will
20 say thank you again to this panel. It has been very
21 interesting learning about this product, and I
22 appreciate your patience. We asked a lot of
23 questions, but we got some very good information.

24 So we'll take just a short break to
25 hopefully get people a snack, but to continue, and

1 we'll come back at 12:15. Thank you.

2 (Whereupon, a brief recess was taken.)

3 MS. DeFILIPPO: Good afternoon, and welcome
4 to this panel. Mr. McConkey, are you going to start,
5 or -- hi, welcome. Thank you. And please proceed
6 when you guys are ready.

7 MS. HEIN: Okay. Good afternoon, Ms.
8 DeFilippo, and good afternoon to the staff. My name
9 is Elizabeth Hein, and I'm a partner with Alston and
10 Bird. I'm joined by my partner, Jason Waite. And
11 with me are three representatives today from AutoZone.
12 We have to my left Kristen Wright, who is the vice
13 president and assistant general counsel; Ken Klein,
14 who is the vice president of merchandising and the
15 vice president of global sourcing -- excuse me, global
16 services. John Lammars is the director of
17 merchandising.

18 I also want to, you know, invite John
19 Greenwald to join us, too. We know he is a legend
20 even in my field, my fairly junior status. You're
21 welcome to join us at the table. Plenty of room.

22 These are the individuals from AutoZone who
23 have been working diligently over the last couple of
24 days to fill out the questionnaire. We received it a
25 few days late, so we're thrilled that they're here.

1 They came from Las Vegas. They are going to present
2 today information that's going to give you a more
3 complete understanding of the market and of the
4 industry. I think this will answer some of Mr.
5 Cassise's questions and some of Ms. Preece's
6 questions.

7 Really Ken and John are the experts. They
8 can tell you anything you want to know about the
9 automotive industry, so we're very happy to have them
10 here. And with that, I'll turn it over to Ken.

11 MR. KLEIN: Thank you, and good afternoon.
12 I am Ken Klein, vice president of merchandising and
13 vice president of global sourcing for AutoZone. I
14 have been in the automotive aftermarket for
15 approximately 30 years, and have considerable
16 experience with sourcing and selling refrigerant,
17 first with R12 and then with R134a. I've been with
18 AutoZone for 13 years.

19 John, do you want to introduce yourself, or
20 should we wait until John is going to speak?

21 Okay. So just a little bit of history.
22 You've heard some of this already, but 134A is used in
23 a number of products: the thermoplastic foam, as you
24 heard; compressed air, like you would buy in cans at
25 Office Depot maybe to clean your keyboards and that

1 sort of thing; and automotive air conditioning systems
2 in vehicles, and that's what we primarily are focused
3 on at AutoZone.

4 134a, it's critical I think for the
5 Commission to understand that the primary factors that
6 impact the demand for 134a are some of the same
7 factors that impact the demand for all of the auto
8 parts and maintenance items and accessories that we
9 have.

10 In roughly 1994, R12 refrigerant was phased
11 out due to the environmental regulations, and then all
12 vehicles began using 134a. And AutoZone, like all
13 automotive aftermarket suppliers, began supplying 134a
14 in the aftermarket to the end consumer, whether they
15 were the DIY customer, the do-it-yourself customer, or
16 the mechanic or the installer where we would deliver
17 30-pound cylinders to garages.

18 Mexichem and Arkema and DuPont to some
19 extent really have never pursued AutoZone for
20 business. Rather, they have a business model that
21 they spoke of with domestic sort of distribution,
22 where they generally sell to packages, and, you know,
23 that's sort of their primary customer. We've always
24 felt that in terms of Mexichem and Arkema that that's
25 not really their -- packaging isn't their core

1 competency. I think first and foremost that was what
2 was on our mind. And then to some extent, they --
3 we've over the years have had relationships with the
4 distributors that they sell to. So I think also,
5 frankly, in the back of our mind the question was, was
6 there no interest in selling AutoZone direct because,
7 you know, we already bought from some of their
8 packagers or distributors that they do business with.

9 DuPont, a little bit different in terms of
10 how we see it. They mention how they have packaging
11 available in small cans. To our knowledge, really
12 what they have available is the DuPont branded can.
13 AutoZone, our go-to-market strategy is more of a
14 private label strategy. So we would sell -- and if
15 you went into an AutoZone store, we would have
16 typically 12-ounce cans.

17 I was going to tell you a little bit about
18 AutoZone, just -- most people know about AutoZone, but
19 we're the nation's leading retailer. We have roughly
20 5,200 stores in the U.S. Also, we operate in Puerto
21 Rico and Mexico and Brazil, and we have 71,000
22 employees. We've been in business since 1979. We
23 primarily sell to the do-it-yourself customer, and
24 then we have a pretty significant business also
25 selling to the commercial installer too, just to give

1 you a little bit of background on who our customers
2 are.

3 I think the difference is that we're sort of
4 connected with the customer more or the end user of
5 the product. And typically, when we buy goods and
6 services, products, we're generally buying -- you
7 know, we're a \$9 billion public company, and we
8 generally buy direct from, you know, manufacturers.
9 This is a case where we're not really able to buy
10 direct for whatever reason. We haven't been able to
11 establish a relationship buying direct.

12 Now, that may be somewhat because buying
13 direct domestically, the domestic suppliers really
14 don't -- they don't sort of meet the needs of both
15 producing and packaging. You heard them say that they
16 rely on a distribution network and, you know, that's
17 sort of the way it has been for a number of years.

18 So according to the petition, since 2010,
19 the U.S. R134 industry has experienced a loss of
20 market share, reduced prices, a drop in profit, and
21 excess capacity, and the petition further attributes
22 all of these indications of injury or threat solely to
23 a large volume of low-priced imports from China. It's
24 my understanding that the Commission must consider the
25 impact of imports on the U.S. producers of 134a within

1 the context of the business cycle and conditions of
2 competition that are distinctive to the affected
3 industry.

4 From our perspective, that's exactly what
5 the petition fails to do. While the petition makes
6 broad assertions as to injury, in our eyes it fails to
7 address the business cycles and the real supply and
8 demand trends and conditions of competition.

9 So I'm going to turn it over to Mr. Lammars,
10 my partner here, and he's going to go into a little
11 bit more detail.

12 MR. LAMMARS: Thanks, Ken. Good afternoon.
13 Again, my name is John Lammars, and I am the director
14 of merchandising for AutoZone. I've been at AutoZone
15 for a year. Prior to that, I spent time at Advanced
16 Auto Parts, and in total have been in the automotive
17 retail and aftermarket for over 18 years. And I have
18 extensive experience in dealing with R134a as a
19 category that myself and my team has been responsible
20 for.

21 So I'm going to take you through from a
22 buyer perspective and a sourcing perspective what has
23 transpired over the last couple of years, or actually
24 three or four years here, with this particular
25 product, and how we have -- what we experience and how

1 we secure products. So really, when you put this in
2 proper context, this is a classic example of the laws
3 and supply and demand.

4 Approximately four years ago, beginning in
5 late 2009, as was brought forth here, the price of
6 R134a skyrocketed, and as a result of a perfect storm
7 driven by worldwide shortage of raw materials, which
8 resulted in a high raw material cost, decreases in
9 production, unusually hot weather, and increased
10 demand. The results were shifts in both supply and
11 demand curves, where demand for R134a far exceeded
12 supply.

13 So it's helpful to maybe look at it in a
14 chronological way here. As a result of the 2008
15 economic downturn, the housing market slowed, and
16 demand decreased for insulations derived for R134a.
17 So another purpose or another use of R134a is for the
18 foam insulation in your house or in buildings, okay?
19 So obviously in 2008, you know, we had a little
20 problem in this country and other countries, and that
21 demand went away.

22 Okay. We further understand that certain
23 R134a manufacturers, including U.S. manufacturers,
24 significantly reduced their production of R134a. It
25 is also our understanding that as a result of a U.S.

1 patent case from late 2009 until sometime in 2011, a
2 major world market supplier was not exporting R134a to
3 the United States.

4 Perhaps the most important factor, though,
5 impacting the demand for R134a is weather. You know,
6 we talked here earlier that this is a very seasonal
7 business. If it's hot and people's air conditionings
8 aren't working correctly, they want to get them fixed.

9 If it's cold, nah, I can put that off, okay? It's
10 very seasonally driven, particularly on the heat
11 index.

12 Because R134a is necessary for the proper
13 functioning of automotive air conditioning systems,
14 demand is partially dependent on the weather
15 conditions. During a mild summer, drivers use air
16 conditioning less, and therefore demand for R134a is
17 lower.

18 In 2010 and 2011, there were record
19 temperatures, particularly in the Midwest and East in
20 those summers, which again increased the demand. So
21 basically, you had a decrease in production. You had
22 a decrease in suppliers because there was one major
23 supplier that was not able to ship to the United
24 States, and then you had a well above normal hot
25 summer. So all those factors contributed to the

1 supply.

2 So in short, by the end of 2009, throughout
3 2010 and '11, supply of R134a was down and demand was
4 up. Given the significant shifts in the market,
5 beginning in 2010 and extending in 2011, U.S.
6 packagers like IDQ struggled to obtain R134a from U.S.
7 producers, who were experiencing a shortage in raw
8 materials and were unable to keep up with their
9 increasing demand.

10 These market dynamics were no secret, and
11 R134a producers issued a number of press releases
12 describing the situation to their customers. The
13 following is an example of such a press release.

14 During the latter part of 2009 and through
15 2010, global demand for refrigerants such as R134a,
16 R410a increased significantly. This increase in
17 demand was attributed to economic recovery in some
18 market segments, economic growth, particularly in
19 Asia, and with the final phaseout of ACFC22 in Europe.

20 Global supply of key raw materials to
21 manufacture these refrigerants was insufficient to
22 cope with increasing demand. The raw material
23 building blocks, including fluorspar, hydrofluoric
24 acid, trichlorethylene, and perchloroethylene, were in
25 short supply through 2010, and are set to remain so

1 during 2011.

2 As a result, for these materials has
3 escalated, attracting a significantly higher
4 manufacturing cost base for refrigerants. As you are
5 aware, refrigerant prices doubled during 2010 as a
6 consequence of these raw material shortages and cost
7 increases. The same market dynamics are set to
8 continue through 2011. Supplier products such as
9 R125, R134 -- or R143a, R32, and R134a remain short
10 globally, with further strong demand. We need to
11 prepare our customers for further significant price
12 increases over the coming weeks and months.

13 This press release is available on the
14 internet and was issued by the Petitioner, Mexichem
15 Fluor, on January 1st, 2011.

16 So now kind of going into the history of how
17 we were buying this product, AutoZone. Up until 2010,
18 AutoZone had been sourcing finished, 12-ounce cans
19 from U.S. packagers like IDQ, Technical Chemical
20 Company, and National Refrigerant. However, beginning
21 in 2010, we began to experience shortages in our
22 supply. We were notified by several of our suppliers
23 that due to economic factors we previously outlined,
24 they were simply unable to supply us with our R134a.

25 AutoZone is dependent upon our vendors

1 continuing to supply us with quality merchandise on a
2 timely basis, and beginning in 2010, in order to
3 continue supplying our customers, AutoZone began to
4 explore other sourcing options and business models,
5 including taking more control over the packaging
6 process and developing our own private label brand of
7 R134a.

8 Because supply in the U.S. remained
9 extremely low, and because we saw an advantage to
10 assuming greater control in oversight of the canning
11 process, sourcing R134a from U.S. producers was not an
12 option.

13 U.S. producers have been only willing to
14 serve the U.S. market through their established
15 network. Traditionally, excuse me, traditionally have
16 only been willing to serve the U.S. market through
17 their established network of packagers.

18 With regard to the sourcing of cans,
19 AutoZone explored two options: one, sending the U.S.-
20 approved cans to China -- and this is an important
21 note. The 12-ounce can that we're referring to, there
22 is only one producer of that can in the world. A good
23 business to be in. They have 100 percent market
24 share.

25 MR. KLEIN: It's a DOT-approved can.

1 MR. LAMMARS: Yes. So that's the only can
2 that can be used in the United States. So an option
3 -- one option was to send empty cans over to China,
4 have the Chinese companies fill them, and ship them
5 back. So that's option one.

6 The other option was to bring ISO containers
7 -- those are those big tanks. They're 16, 18 metric-
8 ton tanks full of gas, import them over here, and send
9 them to a packager to producer in our cans, our
10 AutoZone label cans, okay?

11 We, AutoZone, pursued the second option. In
12 other words, we secured the gas in bulk quantities
13 overseas, had them brought over here and packaged in
14 the United States. We are aware that other retailers,
15 including Walmart, have actually pursued option one.
16 So they have actually sent the cans over, empty,
17 filled them, and shipped them back.

18 This new model for sourcing of cans was
19 pivotal for us as it allowed us to separately
20 negotiate gas and packaging costs. Also critical is
21 the fact that AutoZone had added security to its R134a
22 supply chain since it was finally able to directly
23 access the source for manufacturers of R134a. Before
24 we never had that ability with the domestic suppliers.

25 With regard to 30-pound cylinders, AutoZone

1 had already been and continues to import these
2 cylinders from China to supplement their supply of 30-
3 pound cylinders from U.S. packagers.

4 So in short, we couldn't get supply from
5 domestic suppliers. We like any other company will go
6 out and try to globally source the product where we
7 can get it. We were able to get it from the Chinese.

8 We developed our own control of the actual product
9 going directly to the source to package it for
10 ourselves, giving us further control, because we don't
11 want this to happen again.

12 You know, we have a duty to serve our
13 customers, and we have to do that. We have to have
14 product. And the Chinese have done very well. And we
15 have continued to use them because they have continued
16 to supply our needs in a way that we -- that has been
17 good for both of us.

18 MR. KLEIN: Yeah. It's a more efficient
19 supply chain for us to be able to buy and negotiate
20 the price of the refrigerant and negotiate the price
21 of the packaging and use our own packager of our
22 choice. It has ensured that we've had product really
23 for our customers.

24 So that really brings us to 2012 and 2013,
25 where we're at today. The temperatures were cooler

1 overall in 2013. The demand for 134a is down. We've
2 actually carried product over because of the cool
3 season. For AutoZone, and I would think for most
4 people that sell this product to the end consumer, the
5 majority of our sales really are done within a very
6 tight sort of 90-day window. So we spent a lot of
7 time gearing up for this 90-day window of, you know,
8 sort of June, July, and August, when it's the hottest,
9 and we have a number of years where we can go back and
10 look at what we sort of forecast sales to be each week
11 within that, you know, 90- to 100-day time frame. And
12 we try to secure product based on, you know, those
13 historical levels of sales. And 2012 and 2013 in
14 particular, it was unseasonably cool.

15 In fact, we subscribe to a company called
16 Weather Trends, International, and they provide data
17 to AutoZone and other folks on a weekly basis, and we
18 would read things that would say, you know, this
19 particular week -- we'd look at sales and compare them
20 to the previous weeks in the past season and, you
21 know, they would be considerably down. We would look
22 at the weather trend data that they would send us and,
23 you know, each week was different, but one week would
24 say, this was the coolest week in 23 years or 30
25 years, and it was just a very sort of unseasonably

1 cool season for us. And we carried over a
2 considerable amount of product.

3 In fact, we -- at the end of the season --
4 and the end of the season for us is sort of August,
5 September because if you still have product at the end
6 of September, you typically don't want to carry the
7 seasonal product over into the winter. So we start
8 becoming nervous in August if we still have a lot of
9 product, so what we did and a number of our
10 competitors, we just started lowering prices to try to
11 blow out, you know, that inventory. And so I think
12 some of the lower prices you saw in the market were
13 just people trying to not carry over inventory for the
14 season.

15 So we did some of that. We still covered
16 over more inventory than we had in a number of years
17 that I can remember. We're sitting on a pretty big
18 supply of carryover inventory right now that will hold
19 until, you know, the next season.

20 I guess I'd like to point out that the
21 impact of, you know, sort of this high refrigerant
22 price we feel hurts the working Americans that
23 AutoZone prides itself on serving. In 2010 and '11,
24 when the price was really high, I mean, it helped us
25 from a sales standpoint also. I mean, we were selling

1 things at close to -- we were selling cylinders at
2 close to twice the price than we have ever seen
3 before. In my 30-year history, I had never seen a
4 price like that.

5 We would joke in the office that when people
6 would talk about their investments, we would joke that
7 we should have invested in, you know, 134a because we
8 had, you know, never seen a sort of spike like that
9 before. But we think that -- you know, so we pride
10 ourselves on just trying to have this connection with
11 the consumer that our average -- our sort of typical
12 customer is this DIY, do-it-yourself customer that
13 fixes his car out of economic necessity. And we
14 didn't feel good about, you know, having to price
15 product to where it was. And we also felt like we
16 needed to secure a broader, you know, base of
17 suppliers to ensure that we, you know, had a steady
18 flow of product.

19 So we strongly believe that 2010 and '11
20 were anomalies, that you had this low supply, high
21 demand. That caused the prices to skyrocket on a
22 global scale. And today, the market is more, you
23 know, sort of rationalizing. The conditions are --
24 you know, they're more similar to what we saw before
25 2010, before there was this surge in demand and raw

1 materials and supplies remained limited.

2 So when you compare 2010 and 2011 with 2012
3 and 2013 in the proper context, you know, it's clear
4 to us that the Petitioner's alleged indications of
5 injury cannot be the direct result of imports from
6 China. It seems to us that what the Petitioner is
7 actually trying to do is maintain high prices that it
8 enjoyed during that anomaly of 2010 and 2011. And
9 accordingly, we urge the Commission to reject the
10 Petitioner's claims of injury.

11 That's all I have.

12 MS. HEIN: Ken and John, thank you. We do
13 have one housekeeping issue to take care of, and for
14 that I will hand this over to Jason Waite.

15 MR. WAITE: There have been some suggestions
16 about the import statistics not being accurate and
17 those concerns. We thought we could clarify some of
18 that, you know. Your colleagues here at the ITC would
19 know very well that it was only in 2009 that a
20 statistical breakout was created for R134a. So there
21 was a change.

22 R134a was properly classified in 2903-39-
23 2020 for many years. There was a statistical breakout
24 created. So then the classification became 2903-39-
25 2050. The duty rate, of course, is the exact same.

1 It's 3.7 percent. So in terms of identifying imports
2 and looking at the statistics, my suggestion would be
3 that 2903-39-2050, where the product was historically
4 classified, might be a place where there could be
5 imports of this still being captured because, you
6 know, it's a product that people have been importing
7 for years, and Customs brokers and importers maintain
8 tariff classification databases and other practices,
9 and that statistical suffix might not have been
10 changed when the HTS-US was amended in 2009.

11 But, of course, there is no duty difference
12 to that. You know, I just wanted to point that out.

13 MR. McCONKEY: So actually now, Robert Cox,
14 the president of Global Consolidated Trading, would
15 like to take a few minutes. Thank you.

16 MR. COX: Thank you, and good morning. Good
17 afternoon actually. My name is Robert Cox, and I'm
18 the president of Global Consolidated Trading in
19 McLean, Virginia. I'm also a licensed custom house
20 broker. I've been one for about 20 years, many years
21 ago.

22 I speak here to respond to the inquiry by
23 the International Trade Commission regarding the
24 importation of R134a tetrafluoroethane by stating why
25 Global Consolidated Trading considers the petition by

1 Mexichem Fluor to be specious.

2 GCT has been importing 134a for
3 approximately three years. We have seen the market
4 move up and down, knowing commoditized products such
5 as these are subject to many market conditions, which
6 cause price and supply fluctuations. I wish to state
7 some reasons for which these phenomena occurred and
8 offer evidence of our position.

9 In 2010 and 2011, all major domestic
10 producers contacted many of its customers and clearly
11 indicated to them that they essentially were not going
12 to be able to supply product to them, and that they
13 should consider sourcing product from other companies.

14 Having heard that, and knowing that domestic supply
15 in the market was changing, many companies were faced
16 with the problem of not knowing where to source
17 product on a consistent basis.

18 After investigation, it became apparent that
19 the only available supply was from China. This was
20 their only option at the time, and our only option. I
21 was asked by my customers to help them make contact
22 with these suppliers and discuss their capacity,
23 consistent supply, timely delivery, and pricing.

24 GCT assisted -- I assisted customers in
25 identifying the most reliable suppliers in China, one

1 of which was Sinochem. As a result of our contact and
2 discussions, we established good working relationships
3 with Sinochem and provided them with orders, which
4 helped us to maintain supply chain integrity so that
5 we could keep our commitments to customers.

6 In the absence of purchasing from Sinochem,
7 we would not have been able to supply our customers.
8 Strategically, this would have taken us out of the
9 market for 2010 and 2011, which would have injured our
10 future position in the market.

11 During the time that domestic manufacturers
12 were not able to supply product, there were many
13 factors contributing to the inconsistent market
14 supply. Price was never a major concern. Consistent
15 supply was.

16 R22 was being phased out. There was an
17 issue with R125. It was in short supply. 134, of
18 course, was in short supply. Domestic manufacturers
19 were not allowing any pre-buys. This is an integral
20 part of the way we do business in this aftermarket.
21 We have to plan ahead. As everyone has stated, this
22 is a very seasonal business, and there is very short
23 windows of time within which we have to bring product
24 in, in order to satisfy the needs of customers.

25 Also, there was no sign of any increased

1 capacity on the domestic side. Manufacturers gave no
2 indication how the supply of product was going to ease
3 in the future. Thus predictions of growth for us
4 could not be realized without a greater and more
5 consistent flow of product. Our business was in
6 jeopardy as a result, not knowing this. The unknown
7 was very difficult for us at that time.

8 After GCT made several transactions with
9 Sinochem, it became evident that Sinochem and others
10 were consistent producers of 134a in China. This gave
11 us confidence that this method of sourcing would keep
12 the supply chain healthy. Sinochem was able to commit
13 to specific quantities for delivery at specific times
14 during the year, again keeping the supply chain
15 filled.

16 With the disruption and turmoil in the
17 domestic refrigerant market, it would have been
18 impossible to sustain the supply chain and meet the
19 needs of customers. As a result of the positive
20 relationship forged with the suppliers in China, we
21 continue to consider this to be our most consistent
22 source of product and a hedge against unknown supply
23 consistency from domestic manufacturers.

24 In reality, had domestic supply been
25 consistent during these times of volatility, surely we

1 would have considered the domestic supply over Chinese
2 supply for several reasons. First, inasmuch as
3 Chinese suppliers have performed consistently, risks
4 of shipping delays, strikes at ports of entry,
5 weather, and availability of ISO tanks and containers
6 are always present.

7 Lead times could be shorter with
8 domestically produced product if it were available
9 consistently. Pre-orders, if they were allowed, would
10 increase activity with domestic manufacturers, thus
11 making commitments to customers predictable and
12 guaranteed.

13 In general, even though the Chinese product
14 and domestically produced product are interchangeable,
15 there is a market perception that the domestically
16 produced product is of better quality. Giving our
17 customers choices would be an option.

18 Currently, China is the largest producer of
19 vehicles in the world, having surpassed United States
20 production over the last two years. As you can
21 imagine, the need for 134a there has increased
22 dramatically. Therefore, China's increased production
23 capacity is understandable. The 134 in China is not
24 exclusively designated for export, but instead the
25 balance between domestic demand and the demand from

1 overseas is sought to be balanced.

2 There is no policy of which I am aware that
3 designates 134a as an export priority for them. China
4 is expanding their capacity to meet domestic demand
5 and expand their markets in Asia. China is indeed
6 focusing on many non-U.S. markets, contrary to the
7 general perception that their priority might be the
8 U.S. market.

9 To summarize my comments, I would like to
10 point out that like any business, we have customers
11 who depend on us to provide product consistently year
12 after year. Refrigerant is very sensitive to timely
13 delivery, as it is seasonal, it's a seasonal product,
14 and in many areas of the country. Thus for us to work
15 with uncertainty injures our ability to maintain our
16 business and make the necessary commitments to our
17 customers.

18 Our commitments are predicated on supply
19 first and foremost. Buying product from Chinese
20 producers not only allowed us to make the commitments
21 to our customers, but it also showed us that we could
22 experience a more consistent supply with guaranteed
23 quantity.

24 Finally, it is our opinion that the so-
25 called injury to the domestic producer was not a

1 result of any attempt by the Chinese producers to gain
2 additional market share or cause harm to any domestic
3 producers. It was simply the inadequate and
4 inconsistent supply of the domestically produced
5 product that motivated us to source product from
6 China.

7 Thank you.

8 MS. HOLEC: Hi. Good afternoon. My name is
9 Lynn Holec, and I'm an economist with ITR. I have a
10 master's degree in economics and 35 years experience
11 in international trade policy and litigation.

12 With only three producers of R134a in the
13 United States, and until this morning only two of
14 which had responded to the Commission's questionnaire,
15 the data on the domestic industry gathered by the
16 Commission are confidential. Therefore, I will keep
17 my remarks very general and brief. We will, of
18 course, have much more to say in our postconference
19 brief, which will reference the confidential material.

20 First, neither the domestic industry's
21 financial results in the period of investigation or
22 its POI production data indicate that it is
23 experiencing material injury or it is threatened with
24 material injury.

25 Secondly, the trends in the volume and value

1 of subject imports during the POI compared with the
2 trends of the domestic industry's financial results,
3 and in R134 prices in the United States, are
4 inconsistent with any causal link between subject
5 imports and any reduction in the domestic industry's
6 profitability or sales volume.

7 Rather, the trends in the domestic
8 industry's sales and profitability reflect the trends
9 in R134a demand. Similarly, increase in subject
10 imports reflects increasing U.S. demand and supply
11 shortages, possibly amplified by anxieties created by
12 the U.S. producers' R134 with their public
13 announcements.

14 Supply of R134a became tight in 2010, and
15 the domestic industry warned its U.S. customers of
16 future shortages. As rational participants in the
17 market, U.S. customers responded to these warnings by
18 seeking alternative sources of supply. As you have
19 heard from AutoZone and Global Consolidated Trading,
20 following the domestic industry's warning, U.S.
21 distributors and retailers established relationships
22 with Chinese producers.

23 They have maintained these supply
24 relationships to diversify their supply alternatives
25 as protection against future shortages in U.S. supply.

1 But subject imports remain a minor share of total
2 U.S. R134a consumption.

3 Turning briefly to the R134a production in
4 China, the Chinese producers responded promptly and
5 fully to the Commission's questionnaire. These
6 responses demonstrate, one, their primary focus is the
7 Chinese market; two, most of their exports are to non-
8 U.S. markets; and three, their capacity utilization
9 was high throughout the POI and remains high.

10 With Chinese R134a production, capacity
11 increased -- while Chinese R134a production capacity
12 increased throughout the POI, it has done so in
13 response to world demand. U.S. imports of R134a have
14 not caused and do not threaten to cause material
15 injury to the U.S. industry.

16 Thank you.

17 MR. McCONKEY: And that actually concludes
18 our direct presentation. So I think we're available
19 for questions.

20 MS. DeFILIPPO: Thank you very much, and
21 thank you very much to all the members of the panel.
22 It's always helpful to have participation on both
23 sides. I know it's hard to get here for a preliminary
24 conference. I appreciate you taking the time to be
25 with us and providing us with information on your

1 business and the product we're looking at.

2 With that, I will turn first to Mr.
3 Cassise for his questions.

4 MR. CASSISE: Good afternoon, everyone.
5 Thank you for your testimony. I'd like to just
6 clarify a few things that I may not have jotted down
7 in the testimony.

8 Mr. Klein, you stated that AutoZone, the
9 majority of your sales are the 12-ounce cans for the
10 do-it-yourselfers. Is there any other size that go to
11 the mechanic, to the service centers or the --

12 MR. KLEIN: We sell a considerable amount of
13 the 12-ounce cans, but we also sell a fair amount of
14 the 30-pound cylinders to commercial repair shops.

15 MR. CASSISE: Okay. And just ballpark, what
16 would be the share, say, of the 12-ounce cans versus
17 the 30-pound cylinders, in say 2012.

18 MR. KLEIN: That would be something that we
19 would want to submit --

20 MR. CASSISE: Okay. That's fine.

21 MR. KLEIN: -- confidentially.

22 MR. CASSISE: So of these 12-ounce cans, you
23 stated in your testimony that AutoZone prefers a
24 private label. But you didn't say why you don't --
25 why you couldn't sell a DuPont brand in AutoZone.

1 That's just a --

2 MR. KLEIN: A private label allows AutoZone
3 to multisource from different suppliers. And so when
4 we have a can of 134a that says AutoZone on it, we
5 have the ability to source that can from, you know,
6 sort of the six major suppliers rather than, you know,
7 in terms of if we wanted to only -- if we bought from
8 DuPont, for example, we would carry a DuPont Suva 134a
9 can.

10 So we don't really see a value in -- none of
11 these brand names in terms of 134a in our opinion have
12 much market value.

13 MR. CASSISE: No. I understand the
14 incentive to have a private label. But you said in a
15 short supply, AutoZone still made the determination
16 not to sell AutoZone brand 12-ounce cans. I just
17 wanted to know if there was a price differential that
18 made it not economical.

19 MR. KLEIN: No. It was really more about
20 just securing a supply chain and a source. And what
21 we found is we typically had a relationship with one
22 or two of these packagers. So one of the big
23 packagers that AutoZone has had a relationship for a
24 number of years is IDQ. And so IDQ, we used to -- we
25 bought a lot of 134a from this company, IDQ, and they

1 had their own brand, and it wasn't really a brand that
2 anyone would know of, but it was fine. And when we
3 found the source -- you know, when product got tight
4 and we were having trouble sourcing, we then sort of
5 reached out to a number of different suppliers. And
6 what we found is it was -- and we bought different
7 brands that these -- everyone had their own brand, and
8 customers were confused because we had one space on
9 the shelf, if you will, one SKU, and on any given day,
10 if you went to an AutoZone store, in that space you
11 might find three or four different brand names of the
12 134a, and it was kind of confusing.

13 So at that point we made the decision we
14 probably should really go to a private label so that
15 regardless of who we buy from, from a customer
16 standpoint they really see one brand, the AutoZone.

17 MR. CASSISE: Okay. So the DuPont option
18 wasn't cut off from you by DuPont. It was a decision
19 that AutoZone made.

20 MR. KLEIN: DuPont's never really pursued
21 our business. And then 2010 and 2011, we came up with
22 this way to buy the ISO containers, and my
23 understanding is that Mexichem, Arkema, DuPont, that
24 really they don't engage in selling ISO containers to
25 other than packagers.

1 MR. CASSISE: Well, and that's why I'm
2 focusing on DuPont, because DuPont, it seems to me
3 like the packaging is very important. You can't deal
4 with the majority of the U.S. producers because they
5 don't want to deal with the small packaging.

6 MR. KLEIN: Yeah. I'm not aware of DuPont
7 packaging anything other than their DuPont brand.

8 MR. LAMMARS: So if I had cans and
9 cylinders, 12 ounce cans and 30 pound cylinders is all
10 we are aware of that we can get from them if they
11 wanted to quote us, but they haven't been willing to
12 quote us.

13 MR. KLEIN: Okay.

14 MR. LAMMARS: And one point too, in a 12
15 ounce can, even though we have gone to an AutoZone
16 brand, we still use domestic suppliers like IDQ to
17 source the product from. In other words, we're still
18 using domestic companies to buy from.

19 MR. CASSISE: We haven't shifted all of the
20 business to China. It's --

21 MR. LAMMARS: I'm just clarifying, that was
22 my next point, where you had mentioned these suppliers
23 that you had used or that seemed to be distributors, I
24 believe, the technical, chemical, national
25 refrigerants --

1 MR. KLEIN: They're packagers.

2 MR. CASSISE: Right, and that would be -- in
3 the morning panel I think Petitioners had compared
4 that to what we see a lot of the steel service
5 centers, which take the product in bulk and repackage
6 it in smaller retail or wholesale amounts. So that's
7 comparable to what these companies -- technical,
8 chemical and national refrigerant had done for you.

9 MR. LAMMARS: Correct.

10 MR. CASSISE: And they had purchased -- you
11 may or may not know this, but they had purchased the
12 product from domestic and maybe overseas sources --

13 MR. LAMMARS: I'm sure they multi-source a
14 well.

15 MR. KLEIN: But it's a little different.
16 John runs a team where he's accountable for buying
17 all the commodities for AutoZone, and typically all
18 the other commodities that we buy, we're buying direct
19 from the manufacturer and then they are also packaging
20 it for us.

21 MR. CASSISE: To clarify, these companies do
22 exist in the market place, these large distributor
23 "service centers" that repackage. And Mr. Cox, is it
24 fair to say that that's what your firm does?

25 MR. COX: Part of what we do.

1 MR. CASSISE: But you're a considerable size
2 and you could handle say, and I'm not saying that you
3 do, but you could handle a large national account.

4 MR. COX: Yes.

5 MR. CASSISE: So the market's not so
6 fragmented that none of these firms could handle a
7 large national account. Your company could handle
8 such an account.

9 MR. COX: That's correct.

10 MR. KLEIN: When we decided to bring the ISO
11 containers in, what we did essentially was we took
12 control. We had a packager of our choice package it.

13 So rather than in the past, sure, I could buy from
14 one of the people that they have sort of a business
15 arrangement with. IDQ was one of them, but we chose
16 to buy direct from the source that manufactured the
17 refrigerant and then negotiate separately with
18 different packagers of our choice. That scenario is
19 just a better scenario for us.

20 MR. CASSISE: Right. And this was the
21 supply shock. Major rethink. The entire supply
22 chain, and this is what AutoZone came up with as its
23 optimal scenario.

24 MR. KLEIN: Sure. And one of the options
25 was to have it packaged in China.

1 The 30 pound cylinders are actually packaged
2 in China. It's a fairly labor-intensive process to
3 fill individual 30 pound cylinders.

4 In China we have the ability to buy -- and
5 we had been doing this even before we brought the big
6 containers in to fill the 12 ounce cans, we had been
7 buying 30 pound cylinders from China for some time
8 because we were buying directly from the manufacturer
9 and that manufacturer in China was actually filling
10 the cylinders. So everything -- it was one source for
11 both of them.

12 MR. CASSISE: So the 30 pound cylinders can
13 be manufactured in China and shipped to the United
14 States.

15 MR. KLEIN: Right.

16 MR. CASSISE: You had mentioned in your
17 testimony that it may be a different scenario for the
18 12 ounce cans. The 12 ounce cans --

19 MR. KLEIN: It is a different scenario.

20 MR. CASSISE: -- are manufactured by one
21 producer. Is that in the United States or globally or
22 can you mention the name of the firm?

23 MR. KLEIN: Sexton Can is the approved, DOT
24 approved can.

25 MR. CASSISE: And they're the only ones that

1 have the appropriate approval to make the can.

2 MR. KLEIN: Right. So you have essentially
3 three big producers of refrigerant that have five or
4 six large packagers that all buy the can from Sexton
5 Can and package it.

6 My sense is that the three large producers
7 in the U.S. probably have, my guess is probably less
8 than 10 customers make up the majority of their
9 business. It's not very fragmented and we've always
10 wondered if that was a reason perhaps that there
11 wasn't a lot of interest in coming directly to us
12 because perhaps they didn't want to alienate one of
13 their five to ten large packagers by cutting them out
14 and dealing directly with us.

15 I'm not suggesting that was what happened,
16 but it's something that we've talked about and
17 wondered. Because, we wondered why wouldn't these
18 folks want to, why wouldn't they be knocking on our
19 door to sell us direct. We have thousands of calls
20 every day with people that want to sell AutoZone, but
21 these folks have never really shown an interest in
22 selling us direct.

23 MR. CASSISE: Mr. Lammars, I just want to go
24 through your testimony on what happened starting in
25 late 2009 and make sure that I have a clear picture of

1 the scenario that you are describing.

2 In late 2009 you testified that's when the
3 prices started to go up on the R134-A. This was
4 caused by what you had listed as a perfect storm of
5 raw material costs going up, the hot weather in the
6 east, the foam insulation market, the floor dropped
7 out on that. That was 2008 I believe you said that
8 the home market foam insulation segment started to
9 decrease. Another factor you had mentioned was that
10 there was a patent case that disallowed one of the
11 global producers to export to the United States.

12 Did I cover all the different factors you
13 had mentioned?

14 MR. KLEIN: Yes.

15 MR. CASSISE: The follow-up, if we can talk
16 about the patent case, that wasn't the 337
17 investigation that occurred here at the Commission,
18 was it?

19 MR. LAMMARS: Yes, it was.

20 MR. CASSISE: Mr. Cox, you had mentioned
21 that you thought U.S. customers perceived the U.S.
22 produced product to be of greater quality than the
23 Chinese product.

24 MR. COX: You hear that from customers on
25 occasion. When you approach a customer it's possible

1 they might say I want U.S. made product over Chinese
2 product. They may have several different reasons why
3 they want U.S. product over imported product. The
4 reasons could be the perceived quality. Some of it
5 could be they just don't want foreign product, they
6 feel safer with domestically produced products. There
7 are a number of reasons.

8 My statement was to tell you that I do hear
9 customers saying that.

10 MR. CASSISE: Would one of those factors be
11 possibly that they believe that the product could be
12 counterfeit or of inferior quality?

13 MR. COX: To tell you the truth, I didn't
14 know anything about the counterfeit issue. I'm sorry
15 to say, I didn't hear about that. I know there are
16 counterfeit product from China in other areas, but I
17 didn't know about the 134.

18 MR. CASSISE: You don't hear any quality
19 complaints?

20 MR. COX: No, I haven't. We have
21 certificates of analysis and we do testing. We make
22 sure that the testing is done and that we know the
23 product we're receiving.

24 MR. CASSISE: You hear this anecdotally in
25 the marketplace that some customers prefer U.S.

1 product.

2 MR. COX: From my position it would be very
3 anecdotal.

4 MR. CASSISE: I believe I have no other
5 questions. Thank you very much.

6 MS. DeFILIPPO: Thank you, Mr. Cassise.

7 Mr. Sultan?

8 MR. SULTAN: I only have one question and
9 it's actually for the lawyers. The question is
10 whether you agree with the proposed definition of the
11 domestic like product that the Petitioner has
12 proposed.

13 MR. McCONKEY: We'll address it in our
14 brief, but I don't think we're going to have a whole
15 lot of grounds if we wanted to contest it, so chances
16 are we're going to agree.

17 MR. SULTAN: Thank you. That's all I have.

18 MS. DeFILIPPO: Thank you, Mr. Sultan.

19 We'll now turn to Ms. Preece, our economist.

20 MS. PREECE: I guess the first question I
21 have is, would you agree with the U.S. producers that
22 the shift from R134 to this YF product has been about
23 one percent of new manufacturing of automobiles?

24 MR. KLEIN: Yes.

25 MS. PREECE: If there's no controversy on

1 that we'll just be happy with that.

2 This panel basically is all automotive or is
3 there any background in the other areas of demand?

4 MR. LAMMARS: It's all automotive.

5 MS. PREECE: Okay, you're all automotive.
6 So I'll stick with that. I won't ask you about the
7 other demands because I don't think you'll find much
8 joy in that one.

9 Can you go into some detail, I understand
10 completely that this is a seasonal product, but can
11 you kind of tell me how the demand shifts over the
12 period where the weather gets hot so that I can sort
13 of make a story of that that makes sense?

14 MR. LAMMARS: Again, it's used in AC
15 compressors in your car. I'd use the analogy of wiper
16 blades.

17 You're not going to sell a lot of wiper
18 blades in a drought, right? You're going to sell a
19 lot of wiper blades when it's raining.

20 Refrigerant is the same way. If it's really
21 hot, you get spikes in heat, you get spikes in demand
22 because more people are dependent on their AC or they
23 can't not get it, or ignore it any longer, they have
24 to get it fixed. So those spikes occur in the summer
25 time, early to mid summer time.

1 Later in summer you still may have some
2 spikes, but even then, to Ken's comment, if it happens
3 in August you're still not going to get the same spike
4 because people are like well, it's going to be fall
5 soon, I'm going to hold off on it. So really the
6 season starts ramping up in late spring, late
7 April/May, starts south, kind of moves north, and
8 really peaks in late May and June and in the middle of
9 July, then kind of goes down. So you just have this
10 bell curve starting in the late spring, peaking in the
11 early summer, then going down into the late summer and
12 fall.

13 MS. PREECE: Okay.

14 I have a question that is just about these
15 automobile air conditioners. If I have an automobile
16 and I have an air conditioner, and say I live in
17 California and I live by the beach so I don't need it
18 very often. Am I going to be going through this R134
19 as much? Or if the weather is not too hot this year,
20 is that going to mean that I'm going to have more
21 R134-A in the future years? Or is this something that
22 just sort of spills out at a continual rate from my
23 machine? I just don't understand how this --

24 MR. KLEIN: If you would need it it would be
25 because you have a leak in your system. Some of it

1 has leaked out over time.

2 The AC system in your car is a sealed
3 system. Technically nothing is supposed to leak out,
4 but like with everything as things get older, seals
5 start to break down and leaks occur. That's the only
6 reason why you would need to refill your R-134 in your
7 car is because it leaks out.

8 MS. PREECE: So if somebody is refilling it
9 regularly they basically have a leak in their air
10 conditioner that they, it would be cheaper to refill
11 your R134 than to figure out how to fix your air
12 conditioner altogether not to leak anymore?

13 MR. LAMMARS: Yeah. Some of the products we
14 sell, like the straight gas, are really just a short
15 term fix. You're out of gas, you put this in, you're
16 cool, that can get you through the season.

17 We sell other products that have what we
18 call leak sealers in them. If you have very small
19 leaks in your AC system they could actually seal it so
20 then you can again go on longer. There are some leaks
21 that are just too big, that you have to get your whole
22 compressor replaced. So it just really depends.

23 MR. KLEIN: What's interesting is, in 2010
24 and 2011 one thing we heard, which we had really not
25 heard in the past, John sort of commented on it,

1 towards the end of the season, at the end of the day
2 this is discretionary. Your car will still run if you
3 don't -- even though it may be hot and you have to
4 roll your windows down, it's not like your battery
5 going dead or your starter.

6 We heard customers that said well, I'm just
7 not going to do the repair. I'll roll the windows
8 down and we'll wait until the next season. That was
9 something that we really hadn't heard before in the
10 past.

11 MS. PREECE: That's very interesting. I had
12 no idea that this was the way it worked, but now I do.

13 I guess I wanted to just add one more
14 question. That is if you had any information about
15 how to look at demand in this product, I'd love to
16 have you give it to me either now or in your brief.

17 With that, I'll let you --

18 MR. McCONKEY: We'll do it in the brief,
19 talk about it then. Thanks.

20 MS. DeFILIPPO: Thank you, Ms. Preece.

21 Ms. Brinckhaus, any questions?

22 Mr. Clark, questions from you?

23 Ms. Haines?

24 Wow, that was a quick trip down the table.

25 Mr. Cox, I apologize if this was in your

1 direct testimony. Sometimes things start to swirl in
2 my brain after sitting at the table for a while.

3 So your company is importing from China the
4 can, already packaged in the can --

5 MR. COX: We import 30 pound cylinders.

6 We have imported ISO tanks and we've had
7 them repackaged at some of the American repackagers
8 that Mr. Klein spoke of.

9 We also have arranged to ship cans from
10 Sexton to China for filling to be returned here. So
11 we've done actually all three.

12 MS. DeFILIPPO: For the ones that you are
13 having packaged, and this is for either one, any of
14 these questions could be answered in the brief, are
15 you still maintaining, are you still the owner of that
16 product? Is it a tolling agreement?

17 If you bring in an ISO tank and then you're
18 putting it into the cans that Sexton makes, do you
19 sell it to Sexton? Do you have some sort of toll
20 arrangement? Who sells it from the point that it's in
21 the can?

22 MR. COX: There are several ways that that
23 could happen. I believe you can negotiate with Sexton
24 to own the goods before they even leave this country
25 to be shipped basically at your cost and your

1 ownership to the factory in China.

2 I'm not aware of how that's done
3 specifically, but I believe that could be done, that's
4 one way to do it.

5 The other way would be to just work with the
6 factory and let them take care of the relationship
7 between the can supplier, Sexton, and themselves. It
8 could happen both ways, I believe.

9 When we purchase product in China, sometimes
10 the decision, the sourcing of the Sexton can is
11 handled by the factory overseas. But the product is
12 American made, it is being purchased in the United
13 States and it is being shipped to China.

14 MS. DeFILIPPO: So is everything that you
15 bring in repackaged? Or do you bring in some material
16 that is in a container or a package that you resell as
17 it is?

18 I guess I'm really confused. I'm sorry.

19 MR. COX: We bring in packaged product. And
20 we bring in bulk product. Depending on the needs of
21 customers -- there are a number of factors, but
22 basically it's based on the needs of the customers.

23 MS. DeFILIPPO: And your customers are the
24 automotive customers, is that correct?

25 MR. COX: Yes.

1 MS. DeFILIPPO: There was discussion this
2 morning about price trends in the market, how the
3 prices have declined over the period that we are
4 looking at. I know those of you that are receiving
5 material under APO will see that. So any comments
6 that you have on what has been the trend in the prices
7 and what has been causing any price trends.

8 And I guess there was more discussion this
9 morning about OEM sales versus after market. You all,
10 I believe, are in the after market. So any
11 information you have. Are you aware of OEM, what the
12 OEM market price is? Is it a different price? Is it
13 the same price? Any thoughts you have on your
14 knowledge of any differences in those prices or price
15 trends would be helpful.

16 MR. KLEIN: From our perspective when you
17 look at over a number of years even prior to 2008,
18 really it's '10 and '11 that stand out as being
19 different.

20 Certainly when you compare '12 and '13 to
21 '10 and '11 they look very different, but the fact is
22 that '12 and '13 look more like all the other years
23 that we have on record except for '10 and '11. A lot
24 closer anyway.

25 In the U.S. market if you go back a number

1 of years, typically the price of a 30 pound cylinder
2 was wholesale in the 50 to 60 dollar range or
3 somewhere in that, give or take.

4 Then in 2011 those prices shot up to over
5 \$100 a cylinder. At wholesale. Then to the end
6 consumer, considerably higher, obviously.

7 MR. LAMMARS: And to answer your other
8 question about our knowledge of the OEMs, we do not
9 know how they operate in terms of pricing.

10 MS. DeFILIPPO: Fair enough.

11 Mr. Cox, you made a statement earlier that
12 referred to pre-buys, I think. Did you use that term?

13 I'm not familiar with that term. Could you just
14 explain that a little for me?

15 MR. COX: When we're getting feedback from
16 customers in terms of their needs for the future what
17 we try to do is lock in the supply with a guaranteed
18 quantity as well as making sure they have the capacity
19 to produce at the time we're asking them to produce.

20 So what we do is we do a pre-buy which is
21 basically just placing a large order with lead times
22 and with release dates. The release dates are very,
23 very important because some customers want the product
24 delivered in a certain month, in a certain week.
25 Another customer might have that need a month later.

1 But there's that 100 day or four month window where
2 customers need to receive product. Some want it
3 earlier than others.

4 Some customers might order more than once
5 and they might want one a month.

6 So we have to lock those in. That is
7 something that we could not have that benefit with
8 domestically supplied producers. Without that, as I
9 mentioned, it was very, very difficult to commit to
10 the customers and meet their needs.

11 MS. DeFILIPPO: Thank you. That was very
12 helpful.

13 I think those are my questions.

14 Ms. Preece has another one. We'll go down
15 to that end of the table.

16 MS. PREECE: Sorry.

17 The question I asked to the U.S. producers I
18 want to ask again to you. That is, if we're talking
19 about the cylinders and the smaller containers, would
20 the price of those tend to move parallel to each other
21 over time from one year to the next? From one quarter
22 to the next? Or would there be some diversion? If
23 there were diversion, what would that be?

24 MR. LAMMARS: Well they're made out of the
25 same product so the pricing goes along, up or down,

1 based on the size you buy from the same.

2 MS. PREECE: So that's the word everybody
3 agrees to? Good.

4 I think I'll stop asking questions.

5 MS. DeFILIPPO: Thank you, Ms. Preece.

6 Not stopping to ask questions, but thank you
7 for your question.

8 One last follow-up. We talked a little bit
9 earlier today about within the automotive market for
10 this product sort of a break-out of 70/30 of after
11 market versus OEM. Any thoughts on whether that's an
12 accurate assessment of the total market of what the
13 product is?

14 I should have had lunch.

15 How that break out is between OEM and after
16 market. Any thoughts you might have? If not, that's
17 fine too.

18 MR. LAMMARS: We have no visibility to the
19 OEM demand. Other than how many cars they produce in
20 a year like everybody else.

21 MS. DeFILIPPO: Fair enough. I was looking
22 at my notes and was trying to see what else was said
23 this morning.

24 I will look one more time and I see nobody
25 nodding that they have questions.

1 With that I will say thank you again for
2 coming and providing direct testimony and for
3 answering all of our questions. It's been very, very
4 helpful.

5 We just have closing statements by each side
6 left, so a five minute break to confer with your group
7 and we'll come back at 1:35 and we'll do closing
8 statements. Thank you.

9 (Whereupon, a brief recess was taken.)

10 MS. DeFILIPPO: If I could ask everyone to
11 have a seat we will now move to the closing
12 statements.

13 Welcome back, Mr. Schagrin. If you are
14 ready to go, we are ready to listen.

15 MR. SCHAGRIN: I am ready and I know
16 everybody's hungry, so I'm going to try to make this
17 faster than usual.

18 This is, as I said in my opening statement,
19 in many ways just the classic China case. The raw
20 material price increases experienced in the
21 refrigerant business is no different than a lot of
22 other raw material price increases occurring in
23 commodities in the 2009-2010 time period.

24 Like a lot of things, everybody's got a
25 reason to buy Chinese when they come before the

1 Commission on the import side other than price, and
2 yet we find in case after case concerning China that
3 while there may be an exogenous reason to have bought
4 Chinese in the first place, once the Chinese come into
5 the U.S. market they never seem to leave and the
6 Commission knows that, and I certainly now that from
7 my China cases. It's a little bit like the old Ben
8 Franklin aphorism, that fish and relatives both start
9 to smell after three days.

10 The fact is, whether it's AutoZone or Global
11 Trading or any one of 50 purchasers in the U.S. market
12 of R134, they can all say boy, in 2010 we needed
13 Chinese. And why do you need it in 2012? Why do you
14 need it in 2013?

15 You'll look at the domestic industry data
16 that you get in your questionnaire responses. The
17 U.S. industry has more than sufficient capacity to
18 supply the entire U.S. market. U.S. customers keep
19 buying Chinese product because the price is cheaper.
20 Even the Respondents admitted this afternoon, R134-A
21 is the same product, whether it comes from the U.S. or
22 from China. They have the mill test certificates to
23 prove it is the same product.

24 So the Chinese stay in the U.S. market after
25 they've grabbed what you will see is a gargantuan

1 amount of market share, certainly a huge amount of the
2 after market where they may even have more than half
3 the market now, and they're staying in it because of
4 price.

5 So AutoZone comes here, the largest U.S.
6 retailer of auto parts. They would probably come here
7 on any auto part product and tell you that they're
8 buying from China for reasons other than price. Of
9 course all the big box retailers, their business model
10 is to buy at the cheapest price, make a markup, sell
11 it to consumers. That's fine. That's their business
12 model.

13 You look at something like auto parts.
14 Since China PNTR, we went from a couple of hundred
15 million dollar trade deficit in auto parts to like a
16 \$20 billion trade deficit in auto parts with China.

17 You go into these stores, all you find is
18 Chinese products. Yeah, they're trying to help the
19 consumer. Three or four hundred thousand U.S. workers
20 in the auto parts industry lost their jobs. Those
21 were \$25-\$30 an hour jobs. They can work. They can
22 be one of the 71,000 people at AutoZone, nothing wrong
23 with working there for \$7 or \$8 an hour.

24 We want to keep manufacturing in this
25 country.

1 AutoZone has every right to buy the cheapest
2 products from China they can, but not in violation of
3 U.S. antidumping and countervailing duty laws. They
4 even seem to be complaining about you know, for a
5 while we just couldn't get product from China because
6 this horrible ITC through the 337, they were actually
7 enforcing the patent laws which you're charged by
8 Congress to do. So we couldn't even get Chinese
9 product that was violating U.S. patents.

10 I'm really sorry that the enforcement of
11 U.S. laws may at times interfere with their business
12 model, but let's look at their business model.

13 They said we want a private label and we
14 couldn't possibly get a private label made by U.S.
15 manufacturers so we, as I understand it, they haven't
16 set up their own repackaging, they've kind of
17 subcontracted out repackaging. They buy ISO
18 containers from China to be repackaged.

19 Now do the three U.S. producers sell R134 in
20 ISO containers? I believe all three do.

21 Has AutoZone tried to place -- I talked to
22 Mexichem. How many purchase orders have you gotten
23 from AutoZone during the period of investigation for
24 ISO containers to go to their repackaging
25 establishment? The answer was zero.

1 Why would you try to buy from Mexichem when
2 you can buy cheaper from China?

3 So that's exactly where the pricing
4 information, the price comparison in this case ought
5 to be. What's an ISO container from China delivered
6 to their repackaging plant cost compared to an ISO
7 container from a domestic producer? You can't
8 compare, once AutoZone pays the repackager to put it
9 in the 12 ounce cans and then sells it to me in their
10 store to what the domestic industry is selling in
11 larger containers.

12 They buy in 30 pound containers. Every U.S.
13 producer sells 30 pound containers.

14 So what AutoZone wants, and it's their
15 business model, and it's fine it's their business
16 model. They want the cheapest price. The cheapest
17 price is always from China. That's why they'll buy as
18 much as they can from China in every case.

19 Global Trading, okay, they have a little bit
20 of a different business model. They're bringing in as
21 an importer in different sizes and reselling to the
22 market. It doesn't appear they purchase any domestic
23 product nor ever have. That's not atypical for
24 trading companies.

25 Bus is the issue that they have a special

1 niche in the market because they find out in advance
2 what their customers' needs will be for the air
3 conditioning season? All the domestic producers as
4 you heard, even in their testimony, they ask their
5 customers to forecast their needs.

6 So right now we're in November. They're
7 trying to figure out what do their customers need for
8 this next delivery season?

9 Well the needs are so low because Chinese
10 pricing is so outrageously low that Mexichem closed
11 their plant for three weeks in October and may close
12 it again before the end of the year.

13 This is the time of the year when they are
14 usually cranking out product to store in inventory so
15 they're ready to deliver it in the first quarter of
16 next year for the air conditioning season.

17 But what's going on in the market place?
18 The Chinese are just hammering prices in the market
19 place.

20 Now of course I would completely disagree
21 with Ms. Holec's view of what your record will be. I
22 think, using your classic analysis, you're going to
23 see imports increased rapidly between 2010 and 2012.
24 During that time the domestic industry's production,
25 shipments, all of their indicators declined. Their

1 profits declined as well.

2 You're going to find that Chinese prices
3 were plummeting in 2012 and 2013. U.S. producers who
4 have to maintain high capacity utilization rates are
5 lowering their prices to try to be competitive. When
6 you go through the indicia of injury, you're going to
7 find all the classic causation checks to hit.

8 The U.S. industry is losing market share.
9 They're having reduced production and shipments.
10 They're being undersold. They're seeing their prices
11 undercut. They're reducing their prices. They're
12 seeing reduced profits.

13 We have given you, and I hope you're able to
14 verify, a number of lost sales and lost revenues.

15 Think about in this product a lost sales and
16 lost revenue allegation. You're talking about a
17 specific customer.

18 Did you buy from China because the price was
19 lower or because you couldn't get domestic? The
20 answer is going to be they bought from China because
21 the price was lower.

22 You may not get a lost sale with AutoZone.
23 It doesn't even appear that they tried to buy
24 domestic. Or with Global Trade.

25 But when you go to the customers and you

1 say, and that's why purchaser questionnaires are going
2 to give you evidence later. Who's the price leaders?

3 It's the Chinese.

4 Why are you buying Chinese? Because the
5 price is lower. People are not, customers in this
6 country are not buying Chinese R134-A because they're
7 unable to source domestically. If we don't stop the
8 subsidization, China is targeting these products.
9 China is now controlling the price of hydrogen
10 fluoride. They don't want that raw material exported
11 into the world market. Instead they want the
12 refrigerant gases exported.

13 This is what the Chinese do. They
14 manipulate markets. We shouldn't put up with it. It
15 leads to subsidization, it's a form of subsidization,
16 it leads to dumping, we need to offset the
17 subsidization and dumping with countervailing duties
18 and antidumping duties or we're going to lose a U.S.
19 industry.

20 For all these reasons, the Commission should
21 make an affirmative preliminary determination.

22 Thank you.

23 MS. DeFILIPPO: Thank you, Mr. Schagrin.

24 We will now have closing statements by
25 Respondents. Welcome back, Mr. McConkey. Please

1 proceed when you're ready to do so.

2 MR. McCONKEY: First of all, this is the
3 case. This is a case on R134-A. This is not last
4 week's China case. This is not next month's China
5 case. I don't want to sit here and listen to a bunch
6 of statements about China and what China's done in the
7 past or what China may do in the future. This is
8 about this case and this industry.

9 I'm a little, obviously, energized right
10 here.

11 You guys are going to look at this. You
12 know you're going to look at the facts of this case
13 right? So enough of the hyperbole.

14 Also, as far as distinguishing this from
15 other cases, yes. Let's also, let's look at the fact
16 that yes, you have a lot of cases where the Chinese
17 don't participate in front of you, right? They don't
18 hire counsel. They don't have people come and be
19 witnesses for them.

20 That is not the situation here. You got
21 questionnaire responses, timely questionnaire
22 responses from the majority of the Chinese industry
23 and they were fully and accurately completed.

24 You have a very good idea right now of what
25 the Chinese industry is, what their capacity

1 utilization is, and it's high. You'll look at the
2 data and you'll see that.

3 You'll also see that exports to the United
4 States do not account for a major portion of Chinese
5 exports. You'll also see what demand is doing in
6 China for this product.

7 Mr. Schagrin mentioned in his closing, this
8 is a classic Chinese case. And yes, maybe the Chinese
9 came in for exogenous reasons in 2010, 2011.
10 Exogenous reasons? It's because of the U.S. industry
11 that the Chinese were invited in by U.S. companies.

12 I'm not going to go through it again.
13 Everybody back here was telling me to do it. You're
14 going to see these.

15 Press releases from every single, from the
16 Petitioner, Arkema, and from DuPont. In 2010, 2011,
17 and one of them from 2012. Honeywell in 2012 talking
18 to their 134-A customers saying prices have gone up
19 for the raw materials. Supply is down. And demand is
20 up.

21 There was a suggestion before that demand
22 has basically been set in those years. That is not
23 true. These letters, they all state demand is up and
24 that it was unexpected in that period.

25 So the Chinese product was drawn into the

1 United States in 2010, 2011 not because of the
2 Chinese, because of the U.S.. The U.S. supply of the
3 raw material, whatever it is. It's not exogenous
4 reasons. It's for the people sitting behind me. They
5 caused the problem. The void was filled by people
6 looking to supply their product and they got it from
7 China.

8 Yes, the Chinese have stayed. Right?
9 People have wanted them to stay.

10 Is it all about price? Go back and forth
11 all day.

12 You've heard testimony today about reasons
13 other than price that people are doing it. Okay?
14 People want their canisters. You have Mexichem and
15 Arkema saying we will not sell you a 12 ounce can.
16 You want a 12 ounce can, you go talk to Joe Smith over
17 here. He'll sell you a 12 ounce can that has our
18 product in it.

19 Why should people have to buy that way?
20 They don't have to.

21 Or we understand DuPont also makes it in the
22 can. So buy DuPont. But if you want to sell our
23 product, it's got to have our name on it. Why should
24 people have to do that? They don't.

25 It's not the Commission's job or the

1 antidumping or the CVD law tell people which ways they
2 have to run their business or how they have to source
3 their supplies. There's injury issues they look at.
4 You guys have your issues to look at. But it's not
5 the issue of anybody to be telling people how they
6 have to supply a product, right? Or what business
7 models they have to follow.

8 There was a statement that the Chinese have
9 a gargantuan market share in the United States. This
10 is not true. You have the data, you've seen it. I've
11 never been able to define gargantuan with the
12 percentages that the Chinese have.

13 Lynn talked a little bit about what you'll
14 see, a hint of what you'll see in our postconference
15 brief about the economics position of the United
16 States.

17 Industry, one thing I think you'll find
18 interesting is obviously the profit ratios. We heard
19 this morning from Mr. Schagrin about how he believes
20 you should deviate from normal ITC practice and how
21 you should value the inter-company transfers of raw
22 materials from their Mexican operations into the
23 United States, and he wants you to do something
24 different and apparently is going to give you a
25 suggestion of how to do that. I think he protests too

1 much and I think that's obviously an issue you need to
2 look at. Why is he so interested in that, and what is
3 the impact of that in the overall end of this case?

4 I'm going to flip through my notes to see if
5 I have anything else.

6 There as a comment, I think there may be a
7 slight misperception, and maybe not, previously about
8 where fluorspar is mined and how commercially
9 available it is around the world. There was a
10 statement that no, maybe it's commercially mined in
11 many different places, not just the United States, or
12 not just China. In all honesty that may be. However,
13 we heard today from the witnesses in opposition talked
14 about yeah, the fact that Mexichem is vertically
15 integrated and owns the only mine of this I think in
16 North America makes them nervous because they're
17 concerned about a repeat of 2011, 2010.

18 I quote from page 17 of Mexichem's 2010
19 annual report. "Mexichem has the largest fluorite
20 mine in the world. It is also the largest global
21 producer of hydrofluoric acid and the only vertically
22 integrated producer of refrigerants in America. Even
23 when competing with China, the largest producer of
24 fluorite worldwide with nearly 51 percent of global
25 sales, its 15,000 mines do not equal the capacity of

1 our one mine.

2 "The global demand for fluorite continues to
3 grow, especially for high purity fluorite used in
4 refrigerant production, and this high demand drove
5 prices to a higher level than 2007."

6 This was their 2010 annual report issued in
7 2011. So there is an issue about where you can get
8 fluorspar and how that impacts people's thinking about
9 where they can source from.

10 There was also a quote earlier today from
11 one of the witnesses. The direct quote was, "The
12 ability to move product around is a security blanket
13 in this industry." That's exactly what the witnesses
14 for those in opposition to this petition are talking
15 about. They need a security blanket for supply.

16 They didn't have that security blanket in
17 2010, 2011 and they were caught with their pants down
18 and they went someplace else to find it, to China, and
19 when they did that they found other reasons to stay
20 and they continue to stay there.

21 Many of these guys, I also believe AutoZone,
22 they also continue to source domestically. If it was
23 all about price, why would anybody buy in the United
24 States? They'd all be rushing off to China and that's
25 not happening because of the reasons that were

1 outlined today.

2 There was also a statement earlier about,
3 well yes, I think there's agreement, 2010 and 2011
4 were an anomaly, right? With what happened. I think
5 we're all in agreement on that. But there was a
6 statement by somebody on the Petitioner's panel who
7 said 2011, that was almost three years ago. We're not
8 talking 2001. We're talking three years ago which is
9 in your purview. And it's part of what you guys are
10 looking at. So the fact that it was three years ago,
11 that's completely irrelevant.

12 With that, I will close. Thank you very
13 much.

14 MS. DeFILIPPO: Thank you very much, Mr.
15 McConkey.

16 On behalf of the Commission and the staff I
17 would like to thank the witnesses who came here today
18 as well as counsel for helping us gain a better
19 understanding of the product and the conditions of
20 competition in the R134-A industry.

21 Before concluding, please let me mention a
22 few dates to keep in mind. The deadline for
23 submission of corrections to the transcript and for
24 submission of postconference briefs is Friday,
25 November 15. If briefs contain business proprietary

1 information, a public version is due on Monday,
2 November 18. The Commission has tentatively scheduled
3 its vote on these investigations for Friday,
4 December 13, and it will report its determinations to
5 the Secretary of the Department of Commerce on Friday,
6 December 13. Commissioners' opinions will be issued
7 on Friday, December 20.

8 Again, thank you all for coming. This
9 conference is adjourned.

10 (Whereupon, at 1:55 p.m., the preliminary
11 conference in the above-entitled matter was
12 adjourned.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: 1,1,1,2-Tetrafluoroethane from China
INVESTIGATION NO.: 701-TA-509 and 731-TA-1244
HEARING DATE: November 12, 2013
LOCATION: Washington, D.C.
NATURE OF HEARING: Preliminary Conference

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: November 12, 2013

SIGNED: LaShonne Robinson
Signature of the Contractor or the
Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

SIGNED: Rebecca McCrary
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: Edwin Wesley
Signature of Court Reporter