

UNITED STATES
INTERNATIONAL TRADE COMMISSION

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In the Matter of:) Investigation Nos.:
MONOSODIUM GLUTAMATE) 731-TA-1229 and 1230 (FINAL)
FROM CHINA AND INDONESIA)

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Place: Washington, D.C.
Date Tuesday, September 23, 2014

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Tuesday, September 23, 2014

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Main Hearing Room (Room 101)

11

U.S. International Trade

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Commission

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500 E Street, SW

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Washington, DC

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The meeting commenced pursuant to notice at 9:30

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a.m., before the Commissioners of the United States

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International Trade Commission, the Honorable Meredith M.

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Broadbent, Chairman, presiding.

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1 APPEARANCES:

2 On behalf of the International Trade Commission:

3 Commissioners:

4 Chairman Meredith M. Broadbent (presiding)

5 Vice Chairman Dean A. Pinkert

6 Commissioner Irving A. Williamson

7 Commissioner David S. Johanson

8 Commissioner F. Scott Kieff

9 Commissioner Rhonda K. Schmidtlein

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11 Staff:

12 William R. Bishop, Supervisory Hearings and

13 Information Officer

14 Sharon Bellamy, Program Support Specialist

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17 Brian Allen, International Trade Analyst

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19 Patrick Gallagher, Attorney/Advisor

20 Elizabeth Haines, Supervisory Investigator

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25

1 In Support of the Imposition of Antidumping Duty Orders:

2 Ajinomoto North America, Inc. ("AJINA")

3 Brendan Naulty, Senior Vice President, AJINA

4 Kentaro Shimizu, Director of Savory and Specialty
5 Ingredients, AJINA

6 Dave Barbour, Senior Consultant, AJINA

7 Bruce Malashevich, President, Economic Consulting
8 Services

9 Cara Groden, Economist, Economic Consulting
10 Services

11 Iain R. McPhie, Ritchie T. Thomas and Ludmilla L.
12 Savelieff - Squire Sanders Boggs (US) LLP

13 Teale Toweill and Till Muller-Ibold - Cleary
14 Gottlieb Steen & Hamilton LLP

15

16 In Opposition to the Imposition of Antidumping Duty Orders:

17 PT. Cheil Jedang Indonesia

18 CJ America, Inc. ("CJA")

19 James Kim, Managing Director, Sales and Bio
20 Division, CJA

21 Michelle Lee, Product Manager/Food Division, CJA

22 Richard O. Cunningham and Joel D. Kaufman -
23 Steptoe & Johnson LLP

24

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1 P R O C E E D I N G S

2 MR. BISHOP: Will the room please come to
3 order?

4 CHAIRMAN BROADBENT: Good morning. On behalf of
5 the U.S. International Trade Commission, I welcome you to
6 this hearing on Investigation Nos. 731-1229 and 1230,
7 involving Monosodium Glutamate from China and Indonesia.

8 The purpose of these final investigations is to
9 determine whether an industry in the United States is
10 materially injured or threatened with material injury by
11 reason of less than fair value imports from China and
12 Indonesia of monosodium glutamate.

13 Documents concerning this hearing are available
14 at the public distribution table. Please give all prepared
15 testimony to the Secretary. Please do not place it on the
16 public distribution table. All witnesses must be sworn in
17 by the Secretary before presenting testimony.

18 I understand that the parties are aware of the
19 time allocations, but if you have any questions about time,
20 please ask the Secretary. Speakers are reminded not to
21 refer to business proprietary information in their remarks
22 or in answers to questions.

23 Please speak clearly into the microphone and also
24 state your name for the record, so that the Court reporter
25 knows who is speaking. Finally, if you will be submitting

1 documents that contain information you wish classified as
2 business confidential, we request you comply with Commission
3 Rule No. 201.6. Mr. Secretary, are there any preliminary
4 matters?

5 MR. BISHOP: Madam Chairman, I would note that
6 Commissioner Kieff is recused from these investigations, and
7 will not be participating. There are no other preliminary
8 matters.

9 CHAIRMAN BROADBENT: Very well. Let us now
10 proceed with the opening remarks.

11 MR. BISHOP: Opening remarks on behalf of
12 Petitioner will be by Richard T. Thoms, Squire, Sanders,
13 Boggs.

14 CHAIRMAN BROADBENT: Welcome, Mr. Thomas. You
15 may begin when you're ready.

16 MR. THOMAS: Madam Chairman, members of the
17 Commission, good morning. I am Ritchie Thomas, senior
18 counsel with the law firm of Squire Patton Boggs. We
19 represent Petitioner in these investigations, Ajinomoto
20 North America, or AJINA informally.

21 On behalf of AJINA, I would like to thank the
22 Commission for the opportunity to present our views in these
23 investigations, and to thank the staff for a great job with
24 the prehearing brief.

25 As can be seen from our brief, the reports, data

1 and other information provide a solid basis for affirmative
2 determinations in these investigations. AJINA, the sole
3 U.S. producer, filed its anti-dumping petition against
4 dumped MSG imports from China and Indonesia in September
5 2013.

6 In the preceding years, it had seen MSG from
7 China and Indonesia entering the U.S. market at low prices
8 and ever-increasing volumes. It had lost market share. It
9 was unable to recover its increasing costs in its prices,
10 and its profits were eroding.

11 In 2013, the Chinese and Indonesian imports were
12 even greater. AJINA experienced further pressure on its
13 prices from unfairly-traded imports, and with its costs
14 increasing and prices declining across the board, for every
15 pricing product sampled by the Commission, it fell into an
16 operating loss.

17 The U.S. industry was experiencing material
18 injury by reason of the unfair imports from China and
19 Indonesia, in the fullest sense of that phrase. In the
20 preliminary phase of these investigations, the Commission
21 unanimously found that subject imports from China and
22 Indonesia should be cumulated in assessing their effects,
23 and there was a reasonable indication that subject import
24 volumes and the increase in those volumes were significant.

25 Subject imports prices were suppressing domestic

1 industry prices, and subject imports were causing the
2 domestic industry to lose sales and revenues, eroding
3 operation profit margins. The expanded record in these
4 final phase investigations showed subject imports increasing
5 their inroads into the U.S. MSG market in full year 2013,
6 and the domestic industry experiencing still greater and
7 clearly material injury.

8 Presumably seeing what is plain to all, the
9 Chinese producers and importers of Chinese MSG do not appear
10 at these hearings, nor have they submitted a brief. The
11 only respondent to appear is one of the Indonesian
12 producers, CJ. As a consequence, Petitioner's presentation
13 today will devote a substantial amount of time to the
14 participating Indonesian producer's efforts to avoid an
15 affirmative determination that applies to it.

16 It is important, however, not to lose sight of
17 the impact of the massive Chinese imports, and that the
18 dramatically increasing Indonesian imports piled on and
19 significantly aggravated that impact in the POI. CJ
20 principally seeks to characterize these investigations as a
21 threat of injury case, and then to argue there's no threat
22 from decumulated Indonesian imports.

23 CJ's argument against current injury relies
24 heavily on AJINA's first half 2014 results, when it and the
25 U.S. MSG market were exhibiting the positive results of the

1 steep drop in subject imports following the filing of the
2 petition.

3 Congress, however, anticipated just this
4 eventuality, and has authorized the Commission to give
5 little weight to such post-petition improvements. CJ's
6 other arguments against recognition of the current injury
7 suffered by the U.S. industry against cumulation of Chinese
8 and Indonesian imports, and against a finding of threat of
9 injury by reason of imports from Indonesia, rest heavily on
10 a highly selective excerpts from the record, manipulation of
11 the data, mischaracterization of the record and magical
12 thinking.

13 My favorite example of the last of these is CJ's
14 claim that the dramatic increase in imports from Indonesia
15 in 2012, by which Indonesia captured a significant place in
16 the U.S. market is "irrelevant," allegedly because the
17 growth was from a small base.

18 In CJ's view, any increase, no matter how great,
19 is not relevant if it is from a small base. To the
20 contrary, CJ's ability to enter the U.S. market with
21 substantial quantities and quickly gain a significant market
22 share is highly relevant. Another example of magical
23 thinking is CJ's argument that its persistent underselling
24 of the domestic industry and the pricing product in which it
25 sold the second greatest volume could not conceivably have

1 affected the price of domestic MSG, because the Chinese
2 price is even higher.

3 The fact, of course, indicates it was CJ that was
4 the price leader. There are many other such examples, and
5 those and other points will be addressed in our presentation
6 this morning and in our post-hearing brief. Thank you.

7 MR. BISHOP: Opening remarks on behalf of
8 Respondents will be by Richard O. Cunningham, Steptoe and
9 Johnson.

10 MR. CUNNINGHAM: Madam Chairman, members of the
11 Commission, I kind of like being accused of magical
12 thinking. It's sort of flattering. But I have another sort
13 of preliminary thought for today. As you can probably tell
14 from my gray hair, my formative years were the 1960's, which
15 were the Vietnam War years. Those of us who were protesters
16 against the war, when we thought we wanted to be really
17 funny, what we'd say is "what if they gave a war and nobody
18 came?"

19 I was thinking about that with this hearing,
20 because if we didn't show up on behalf of Indonesia, that's
21 exactly what you'd have here today, because as you've just
22 heard, the Chinese haven't showed up. But we wouldn't leave
23 you in a position of having a war with nobody coming.

24 So we're here, and I have two important points to
25 emphasize in what we're going to tell you today. First,

1 contrary to what you heard from Mr. Thomas, this is a very
2 tenuous case presented by the Petitioner, and the most
3 fundamental weakness in that case is the Petitioner's
4 clearly not suffering present material injury.

5 That's true in 2013, and it's even more
6 dramatically true as to interim 2014. As to 2013, what
7 Petitioners claim to be poor operating results are in fact
8 nothing of the sort. This is apparent from examination of
9 two aspects of AJINA's financials, raw material costs and
10 SG&A expenses, neither of which has anything to do with
11 subject imports.

12 And as to 2014, the Petitioner's performance can
13 only be described as spectacular. Moreover, its success in
14 2014 was not the result of absence of subject imports from
15 the U.S. markets, because both Chinese and Indonesian MSG
16 continue to be sold in substantial quantities. Nor was it
17 the result of AJINA raising its prices.

18 Rather, the Petitioner's banner year results
19 almost entirely from two major cost factors, both unrelated
20 to imports: a sharp decline in raw material costs and the
21 second factor is other factory costs, again a factor
22 unrelated to subject imports.

23 My second point is a corollary to the first
24 point. Since there is demonstrably no case here of present
25 material injury caused by subject imports, Petitioner here

1 can prevail if at all only by arguing that there is a threat
2 of injury to it in the future, if anti-dumping duties are
3 not imposed.

4 On this issue of threat, we want to focus on
5 imports from Indonesia. In a threat case, you have
6 discretion not to cumulate Indonesian imports, and we will
7 show you why it is both fair and economically sound to issue
8 a separate determination as to Indonesia, and when you do
9 so, it will be clear that imports from Indonesia have not
10 caused and do not threaten material injury.

11 Indonesian imports are a small portion of total
12 subject imports. When Mr. Thomas says he's going to really
13 focus today on Indonesia, this really is the tail wagging
14 the dog, I must say. They're an even smaller portion of
15 total imports, as opposed to total subject imports, and a
16 minuscule percentage of U.S. apparent consumption.

17 There's no rising trend of Indonesian imports.
18 Their first significant sales in the U.S. came in 2012, and
19 they haven't increased significantly above their 2012
20 volume. There's no likelihood that Indonesian imports will
21 increase substantially in the future. There's no available
22 excess capacity, no plans for future capacity increases.

23 The U.S. market is a tiny portion of CJ's sales,
24 and the company has a very large domestic market and large
25 and growing markets in other countries. Finally, CJ's

1 pricing has not adversely affected AJINA's pricing.

2 To the extent that I can do so without violating
3 confidentiality, I'm going to spend a few minutes later
4 today walking you through the pricing products, to make it
5 clear how Petitioner has, especially with respect to
6 Indonesia, seriously mischaracterized the pricing data.

7 Those then are our two basic points, and in
8 addition to those two major points, we'll be making a number
9 of suggestions to help the Commission in its analysis of the
10 data. But I want to return for a moment to that
11 introductory remark I made about having a war and nobody
12 came.

13 Chinese respondents, who represent the great bulk
14 of the subject imports, and who are roundly criticized in
15 Petitioner's brief for reducing their prices late in the
16 period of investigation, aren't participating in this
17 hearing, haven't filed briefs.

18 When a party, especially one responsible for the
19 bulk of the subject imports fails to appear, it's only
20 natural that the Commission will look more skeptically at
21 that party's side of the case. Frankly, I have no problem
22 with that, as to a party that doesn't appear.

23 But I am concerned that such justifiable
24 skepticism as to China should not adversely impact the
25 Commission's consideration of Indonesia. I would therefore

1 make two suggestions. Number one, I urge you to make a
2 particular effort to consider Indonesia's arguments fully,
3 separating them clearly from any concerns you may have as a
4 result of China's failure to participate.

5 Number two, I suggest that a decumulated
6 analysis, which is possible, since this is a threat case, is
7 the best way to make sure that the recalcitrance of the
8 Chinese companies does not unfairly infect the analysis as
9 to Indonesia. Thank you.

10 MR. BISHOP: Would the first panel, those in
11 support of the imposition of anti-dumping duty orders,
12 please come forward and be seated. Madam Chairman, all
13 witnesses have been sworn.

14 CHAIRMAN BROADBENT: I want to welcome the panel
15 to the ITC. You may begin when you're ready.

16 MR. McPHIE: Thank you, Madam Chairman. My name
17 is Iain McPhie. I'm with the law firm Squire Patton Boggs,
18 here on behalf of the Petitioner, AJINA. We'd like to get
19 straight into our affirmative presentation, beginning with
20 Brendan Naulty, who's senior vice president at AJINA,
21 responsible for their MSG business.

22 I'd like to first just note for the record that
23 Mr. Naulty's presentation does include a short slide view,
24 along with a video. We don't have a hard copy of that here
25 today, but an electronic version has been placed in the

1 record. Brendan.

2 MR. NAULTY: Good morning, Commissioners. I'm
3 Brendan Naulty. I'm the senior vice president of Ajinomoto
4 North America, Inc. We also refer as to it as AJINA. I've
5 served as senior vice president since July 2012, and prior
6 to becoming senior vice president, I was president of
7 Ajinomoto Food Ingredients, LLC, which was the entity
8 preceding AJINA.

9 In both positions, I've been responsible for the
10 operations of Ajinomoto's monosodium glutamate business in
11 North America. I first became involved with MSG, with the
12 MSG market in 1987, when I was with another employer. I've
13 seen many changes in the business, but none as dramatic as
14 I've seen in the last few years. It's been a period of
15 sustained, aggressive, unfair competition from both
16 Indonesia and China, which has now culminated in our
17 decision to take this action.

18 My parent company, Ajinomoto, based in Tokyo,
19 Japan, is an international food products, bioscience and
20 pharmaceutical company. Ajinomoto is both the name of the
21 first product we made, and it's our overall company name.
22 When it's translated, it has the meaning of essence of taste
23 in English.

24 MSG is the purest taste of umami, which has been
25 confirmed to be the fifth taste. The umami taste, which is

1 better known in the west as monosodium glutamate, was first
2 identified as a taste in 1908 by Mr. Ikeda of Tokyo Imperial
3 University. Dr. Ikeda was struck by the distinctive taste
4 of seaweed broth as being close to the taste of protein.

5 He isolated the molecule responsible for the
6 flavor, and showed that it was glutamate. Although taste
7 researchers have known about Ikeda's work for decades, it's
8 only recently that umami -- it's only recently that umami
9 has gradually gained wider public recognition around the
10 globe, probably because of the increasing exposure and
11 popularity of Asian foods.

12 I've already explained to staff in the
13 preliminary phase of the conference what MSG is, and where
14 it's used in foods. But for the Commissioners' benefit, I'd
15 like to provide some background. For that purpose, I'd like
16 to show a brief educational video, which was made by the
17 Glutamate Association of the United States, of which I am
18 the chairman.

19 [VIDEO PLAYED.]

20 MR. NAULTY: Good. MSG is a commodity consumed
21 worldwide with over 2.4 million metric tons of demand around
22 the globe. It's an important taste component of many
23 processed foods around the world and in the United States.

24 Here we have many familiar consumer brands which
25 use MSG as an ingredient. One unique food that all of us

1 are familiar with is shown here, the Dorito. This was in
2 the New York Times a few days before the preliminary
3 hearing. MSG gives Doritos its unique taste. When we have
4 a break, please sample some of these delicious snacks, but
5 please leave some of the Cheetos for me; they're one of my
6 favorites.

7 Another iconic brand which uses MSG is Kentucky
8 Fried Chicken. It is one of the secret ingredients which
9 makes it finger-licking good.

10 AJINA has been producing MSG at our facility in
11 Iowa for almost two decades and today, it is the sole
12 producer of this widely-used product. The Iowa facility is
13 located in the countryside, about two hours' drive from Des
14 Moines, in a region where there are few other opportunities
15 for industrial employment.

16 The plant is operated 24 hours a day on a
17 year-round basis. To produce MSG, the basic process is
18 fermentation, which is very similar to making beer, wine or
19 vinegar. Ajinomoto did not seek anti-dumping relief hastily
20 or without deep consideration. But without this action,
21 there would no longer be a domestic supplier.

22 The customers who oppose this action want
23 continued access to low-cost imports. This is a
24 short-sighted desire, because in the long run, absent a
25 domestic producer, prices would rise significantly, as has

1 happened with other food ingredient commodities which have
2 had their domestic production base closed.

3 Once free of competition from a domestic
4 producer, I respectfully suggest that the same playbook
5 would be used, as was the case in the past. With
6 competition eliminated, pricing power would rest with import
7 suppliers, and prices would increase. At that point in
8 time, those same customers would be wishing for the days
9 when there was a domestic supplier.

10 To understand how the imports have impacted our
11 business, it's first necessary to understand that our
12 continuous batch fermentation process requires that we
13 either run the plant at full production levels, or we shut
14 down. We cannot simply reduce production rates or run
15 smaller batches.

16 This means we keep producing MSG, even if we lose
17 sales volume, and even if the market price falls below a
18 level that profitable for us. In recent years, it was only
19 possible to continue the operation by impeding on price, as
20 the market was feeling the effects of low-priced MSG imports
21 which were entering the market.

22 Faced with this situation, I was able to convince
23 management to support an investment in scale, which would
24 bring down the overall cost of our plant. This action gave
25 us a position to be stronger in the face of global

1 competition. After this, the Iowa plant became profitable,
2 and at the end of 2010, however, unfair import competitors
3 began their actions again, which ultimately have resulted in
4 our decision to file this case.

5 They aggressively took down the price in the
6 market, which resulted in our lost volume and pricing in the
7 following year, netting resulting profitability which was
8 one-third of that prior year. We then moved forward with a
9 plan for a second phase of plant improvement, by installing
10 proprietary technology to further reduce costs in 2012.

11 Despite this improvement, we ended up running at
12 a loss in 2013, because of the actions of importers from
13 China and Indonesia. Business was lost; our inventories
14 more than doubled by the end of 2013 from the end of 2012,
15 so much so that we needed to engage additional outside
16 warehousing to store product which could not be sold in the
17 market.

18 Any claim that this product was unsellable
19 because of contamination is not true. Subsequent to filing
20 this case, our business has improved and our inventory has
21 been reduced. You will no doubt hear today from the
22 importers that our profitability has improved dramatically
23 in 2014.

24 I believe they will attribute this improvement to
25 the recent reduction in corn costs. At our company, I serve

1 as the buyer of the corn and constantly study the market.
2 It is true that corn costs per bushel have declined in
3 recent months. That decline is very recent, beginning in
4 the middle of May, and is based on the anticipation of a
5 good 2014 harvest, which is now just beginning.

6 The overall economics for our major raw material
7 is indeed linked to corn prices. But we use glucose as our
8 feed stock. There are additional cost in the glucose cost
9 equation. While we hope that the corn crops is nearly as
10 forecast, it is speculative at best to rely on predictions.

11 This is only one input cost, and other costs can
12 have a dramatic effect overall, such as the current increase
13 in the organic acid hydrochloric. I believe that every MSG
14 producer in the world had increased cost for the period
15 during 2011 to '13, but we were not able to increase price
16 to any meaningful extent. Price failed to keep up with cost
17 until we filed this case.

18 Even subsequent to filing the case, we have not
19 had a significant movement in pricing. There has been
20 improvements in our business, but the big improvements have
21 been in volume, market share and reduction of inventory.
22 The most helpful factors that have improved our performance
23 in 2014 are the additional volume we sold to U.S. customers
24 who had previously left us for imports.

25 In recent months, customers have increased their

1 requirements as they have drawn down the inventories that
2 were in-country at the beginning of 2014. In addition, the
3 stabilization of pricing has been helpful to our business
4 performance. We are convinced and have shown in the
5 addendum to our producers' questionnaire, that this is a
6 direct result of the preliminary findings in this case.

7 Although the purchaser's questionnaires indicate
8 that customer cite criteria such as quality, service and
9 availability as being important factors of their purchase
10 decision, my experience has convinced me that price far
11 outweighs these other factors in customers' decisions about
12 from whom to purchase MSG.

13 Many of our valued global customers negotiate
14 fiercely in order to save half a penny per pound on their
15 purchase of MSG during their annual negotiations. They do
16 not consistently barter over bag size, particle size or
17 grade. They focus on who can give them the lowest price.

18 The issues of quality, service and availability
19 only come after they have agreed on price, and have awarded
20 an annual contract to a specific supplier. Only at that
21 point demands of additional requirements are not only
22 raised, but they are expected to be granted, with no
23 associated value to the supplier.

24 Honestly, the only real issue to negotiate is
25 price. Sometimes I feel that the result of negotiations

1 would be no different if I sent a dog with a note versus a
2 highly qualified sales professional in these negotiations.
3 I believe that context needs to be laid, which goes beyond
4 the POI, in order to better understand the impact of imports
5 from Indonesia.

6 The main exporter from Indonesia, CJ, is not new
7 to the U.S. market. They are not new to the global MSG
8 market. They have been a formidable competitor for a long
9 time. Prior to producing in Indonesia, they were producing
10 and exporting their product from their plant in Korea. This
11 was during the 2008 period.

12 They decided to relocate production to Indonesia,
13 and abandoned the U.S. market in 2009 and '10. I want to
14 point out that was the same time that our operations became
15 profitable. Make no mistake. They are a major supplier to
16 the U.S. market. They've supplied nearly 22 million pounds
17 in the period 2008 and '09, I believe.

18 The question raised is how did Indonesia so
19 readily gain a foothold in 2012 and expand their business in
20 2013? As explained in our producers' questionnaire,
21 Addendum A, the Indonesia supplier approached major accounts
22 and bought their way into the market by underselling us.

23 At one account, our position was cut from 50
24 percent supplier position to ten percent position, even
25 though we reduced our price. This customer has a contract

1 period that would begin in July 2013 and runs until June
2 2014. Another large customer was booked by the Indonesian
3 supplier in February 2013 by offering an attractive price.

4 And a third customer was offered an attractive
5 package for the period October 2012 through September 2013.
6 These three actions took important pieces of business away
7 from us, and contributed to our inventory growing
8 dramatically during 2013, as we ran the plant but could not
9 sell volumes that had been with AJINA in 2012.

10 In the spring of 2014, the same customer who cut
11 us from 50 percent to ten percent, specifically informed us
12 that Chinese and Indonesian competitors would honor their
13 price offers despite what happened in the anti-dumping case,
14 and that additional anti-dumping duties would be the
15 supplier's own costs and not the customers.

16 That story quickly changed when the preliminary
17 duty rates were announced. The record shows that Indonesian
18 imports have nearly all but stopped in 2014. This seems to
19 be perfect timing, so they would avoid the risk of
20 additional duties imposed based on critical circumstances.
21 That customer came to us at the end of Q1 2014 and booked
22 their requirement with AJINA, which now begins a contract at
23 the period July 2014.

24 For the period between January and June 2014, we
25 believe that customers was supplied out of stocks of subject

1 imports already in the market. There's clear evidence that
2 the Indonesian supplier actively participated in
3 negotiations for 2014 with multiple customers, and that this
4 activity, which was prior to the preliminary finding,
5 inhibited us from having a price increase accepted in the
6 market.

7 The Indonesian supplier has claimed that they do
8 not sell 100 pound drum configurations in the U.S., and
9 therefore there is no damage related to that product form.
10 While it is true they do not offer their MSG in 100 pound
11 drums, that does not prevent their selling to Chinese food
12 service segment.

13 Drum packaging is used by Ajinomoto to service
14 the Chinese food service segment. It is a package offering
15 that Ajinomoto established and is preferred by restaurant
16 operators. MSG in a commercial kitchen is commonly exposed
17 to heat and steam. When exposed to that environment, MSG
18 will react in exactly the same way salt acts in your home
19 when there's high humidity. It cakes and it's not able to
20 be poured.

21 Therefore, operators like to have drums which
22 have resealable tops. This keeps moisture out of the
23 product and it remains free-flowing. The daily amounts
24 needed are put into smaller containers, and they close the
25 drum. However, while this is the preferred packing form, a

1 number of food service customers buy 50 pound bags from
2 Chinese or Indonesian suppliers, because the pricing offered
3 is more attractive.

4 In those instances, the customers commonly dump
5 that 50 pound bag of imported product into one of our drums,
6 and in this way, they get the desired protection from heat
7 and moisture. CJ did in fact participate in the Chinese
8 food service segment by producing a private label brand,
9 Wechan brand.

10 It is a 50 pound bag for distribution based in
11 California and across the United States. We have
12 documentation showing these sales by CJ. Since Ajinomoto
13 provides a really nice quality drum, it serves as a
14 container for Indonesian product once it reaches the
15 restaurant operator.

16 It is therefore simply not correct to say that
17 Indonesian imports do not compete in this segment of the
18 market. Chinese origin product in bags also flows in the
19 same way I've described in this Chinese food service market.

20 I'd like to add some comments about Chinese
21 competitors. The Chinese producers are not present today,
22 and have not cooperated with the Commission's investigation.
23 Over the POI in this final phase, China accounted for more
24 than 90 percent of the imports. They are the 600 pound
25 gorilla absent from this hearing room.

1 At the same time, as our experience in Europe has
2 shown, imports from Indonesia are more than taking up the
3 slack, have been injuring us and they need to be addressed.
4 Throughout the period 2010 to 2012, there were multiple
5 announcements in China of facility expansions that were
6 extremely large and quite frankly of great concern to our
7 company.

8 These expansions were significant enough to crush
9 local market producers like our facility in Iowa.
10 Recognizing this threat and movement in the structure of the
11 industry, Ajinomoto took actions previously explained, that
12 is investment in scale, followed by investment in
13 technology.

14 Despite this volume from China, which was 56.6
15 million pounds in 2011, that was up from 29.7 million pounds
16 in 2010. In 2012 and 2013, imports were 57 million and 58
17 million pounds, respectively. According to Chinese MSG
18 export statistics, the price to the U.S. decreased 14
19 percent in 2013, followed by another four percent in 2014.

20 This compares to the data in Table C-1 from the
21 staff report, which shows nearly a 12 percent decline in
22 average unit import value from 2011 to '12. In closing, I'd
23 like to mention just a few developments that have occurred
24 in the Addyville operation since the beginning of 2014,
25 after the preliminary determination.

1 As our volume has increased, we've seen
2 additional activity, which has allowed us to add support
3 resources in our customer service area. We've also added a
4 position to assist customers in regulatory documentation
5 compliance. In the plant, we've moved to more permanent
6 positions for employees, from less costly temporary
7 positions, and we plan to continue this trend as the
8 business becomes more stable.

9 We have engineering teams making improvements in
10 equipment and systems. They are also doing some simple
11 things, such as they've installed LED lighting system, which
12 conserves energy, but also gives off a nice bright light and
13 makes the work environment more pleasant.

14 These changes would not have been made without a
15 business which is now generating profit. The productivity
16 of the operation has improved. I attribute this in part to
17 the employees' pride, and more intense focus, because the
18 operation has a brighter future which we can now reinforce
19 and grow.

20 I thank you for your attention, and I'll ask Iain
21 McPhie to speak next.

22 MR. MCPHIE: Thank you. For the record, again,
23 this is Iain McPhie. As you've just heard from Mr. Naulty
24 and as the staff report confirms, AJINA very clearly has
25 suffered material injury caused by the subject imports. The

1 volume of the subject imports has been extremely large and
2 growing throughout the POI both absolutely and relative to
3 domestic consumption. This is not in dispute.

4 The prices of the subject imports declined during
5 the POI even as AJINA's production costs increased. This
6 also is not disputed.

7 And the record makes clear that these trends have
8 been the primary factor in driving AJINA's operating income
9 from a decent profit to a significant loss as the company
10 lost sales to the subject imports and was prevented from
11 raising prices to keep up with its costs.

12 CJ nevertheless assumes in its brief that this is
13 quote, "a threat of injury case only." End quote. You heard
14 this again from Mr. Cunningham this morning. I would
15 therefore like to address some of the treat arguments that
16 CJ has raised.

17 The most striking failure of CJ's threat
18 arguments is that they are focused exclusively on CJ's
19 operations in Indonesia and its imports into the United
20 States. CJ ignores the fact that there are other large MSG
21 producers in Indonesia that contribute to the threat
22 presented to the domestic industry. Even more importantly
23 CJ does not even attempt to argue that the Chinese and
24 Indonesian industries together present no threat of material
25 injury for the very obvious reason that there is no such

1 credible argument.

2 CJ raises no valid basis for decumulating
3 Indonesian from Chinese imports for the threat analysis.
4 The record makes clear that MSG from Indonesia is fully
5 interchangeable with and competes directly against both
6 imports from China and domestic MSG.

7 CJ's claim that it was absent from the U.S.
8 market for one year of the POI is irrelevant and its claim
9 that it does not compete in the food service market is
10 simply false.

11 As Mr. Naulty explained, the fact that Indonesian
12 MSG is not sold in drums does not prevent restaurant
13 customers from purchasing it in bags and using it to fill
14 drums from other suppliers.

15 We have PIERS import data proving that CJ
16 competes in this segment. We will provide it in our brief.

17 CJ's claim regarding customer complaints about
18 yellow coloration of some Chinese MSG is shown to be a
19 nonissue in the purchaser questionnaire responses.

20 Finally, CJ's argument that it would be unfair to
21 cumulate CJ with absent Chinese producers is baseless. And
22 moreover ignores the fact that other Indonesian producers
23 and importers also were absent.

24 When the Indonesian and Chinese industries are
25 assessed cumulatively for threat, it becomes clear why CJ

1 has not even attempted to address this issue. The subject
2 imports have rapidly penetrated the U.S. market since 2010,
3 achieving a combined market share of nearly 50 percent. The
4 industries combined have massive production capacity which
5 has been greatly expanded since 2010 and they have unused
6 production capacities many times the size of the total U.S.
7 market.

8 The subject imports have been shown to suppress
9 and depress prices in the domestic market. The Chinese
10 industry furthermore has been shown to benefit from
11 significant countervailing subsidies. But even if the
12 Indonesian industry is assessed separately, as CJ suggests,
13 the record still shows that the Indonesian industry by
14 itself presents a very real threat of material injury.

15 As I mentioned before, the discussion of the
16 threat factors in CJ's brief focuses on CJ alone and ignores
17 the remainder of the Indonesian MSG industry including other
18 producers not affiliated with AJINA that have large
19 production capacities and are export oriented.

20 For example, Miwon is, just like CJ, a
21 Korean-owned MSG producer that was subject to the recent
22 European Commission MSG investigation. Miwon's website
23 states that it exports MSG to many countries in Asia,
24 Europe, Africa, Middle East, and Australia.

25 This Commission also should note that CJ is no

1 small mom and pop operation, but instead is part of a large
2 Korean food and entertainment conglomerate with ties to
3 Samsung and other global businesses.

4 CJ's brief includes the incredible statement
5 that, quote, "Shipments of MSG from Indonesia have not
6 increases substantially during the POI." End quote. That's
7 at page 26.

8 The public import data show that imports were
9 145,000 pounds in 2011; 8.8 million pounds in 2012; and over
10 10 million pounds in 2013. If that is not a substantial
11 increase, then I do not believe this Commission has ever
12 seen one.

13 CJ also points to the decline in its shipments
14 during 2014 as evidence that Indonesian imports present no
15 threat. But it's obvious to the entire industry that CJ's
16 decision to stop importing in 2014 was in direct reaction to
17 these proceedings, and the risk of being subject to
18 substantial antidumping and countervailing duties.

19 Finally, CJ's argument that it lacks the capacity
20 to increase shipments of MSG ignores a very significant
21 recent development. That is the European Commission's
22 imposition of preliminary measures against MSG from
23 Indonesia.

24 The European Commission's report found that CJ
25 and Miwon together shipped more than 24,000 metric tons of

1 MSG to Europe during the recent one-year investigation
2 period. That's more than 52 million pounds, or five times
3 what CJ shipped to the United States in 2013. Some or all
4 of it now could be added to CJ's already large shipments to
5 the United States.

6 Till Muller-Ibold represented AJINA's European
7 affiliates as the petitioner in that European proceeding.
8 He's here today to tell you more about it, including its
9 implications for the U.S. market.

10 MR. MULLER-IBOLD: Thank you very much. Good
11 morning, ladies and gentlemen, members of the Commission.
12 I'm very happy to have the opportunity to tell you a little
13 bit about the EU proceedings.

14 My name is Till Muller-Ibold. Just for the
15 record, I'm a partner at Cleary Gottlieb Steen and
16 Hamilton, the Brussels office and I have practiced in this
17 field of trade for the last 20 years.

18 Next slide, please.

19 Just by way of introduction to the two pairs of
20 antidumping proceedings, you no doubt will all know that it
21 is the European Commission and its directorate, general for
22 trade that is exclusively responsible in the European Union
23 for dealing with antidumping investigations. Presently it
24 is dealing with two cases relating to monosodium glutamate,
25 MSG, both initiated at the request of Ajinomoto Foods Europe

1 which is Aginomoto's European affiliate and to which I will
2 refer simply by AFE.

3 The two proceedings are a sunset review as
4 regards imports of MSG from China and a new investigation as
5 regards imports of MSG from Indonesia.

6 The two cases are procedurally in somewhat
7 different stages so that the Commission has adopted
8 preliminary measures with respect to Indonesia. So I can
9 tell you a little bit more authentically about the
10 Commission's thinking in this regard. And it has initiated
11 the sunset review which means that the existing measures
12 with respect to China continue.

13 Next slide.

14 This slide is only meant to give you a brief
15 overview of timing and things. I think three things I want
16 to mention orally. First of all you see that in the new
17 complaint, in the new proceeding with respect to Indonesia
18 there are provisional measures adopted. That part is absent
19 from the European sunset review proceeding, and that
20 explains why we have a statement from the Commission with
21 respect to Indonesia and yet silence on China.

22 The second point is that in the Chinese
23 proceeding as in this proceeding, apparently, none of the
24 Chinese exporters presented their case. So we expect, even
25 though I obviously can't guarantee the future, that measures

1 will continue with respect to China unchanged and it is a
2 feature of the sunset review process that it is essentially
3 a binary decision for the European Commission. They can
4 either extend the measures typically by five years, or they
5 can terminate the proceeding and have no longer any
6 measures. But as I said, we are fairly confident that
7 measures will be continued.

8 And I should just mention the two dates,
9 disclosure and publication of definitive measures. That is
10 future-looking, so, again, I cannot guarantee them their
11 approximate dates.

12 Let me turn then to Indonesia. There -- and I
13 think a copy of the Commission's preliminary duty regulation
14 is in the file -- the Commission has found three things,
15 first that the European Union industry suffered material
16 injury, in particular price depression, reduced volumes,
17 declining profitability that the material injury of the
18 union industry was caused by dumped imports from Indonesia.
19 And the dumping margins are on the slides that vary between
20 seven and 28 on 4 percent.

21 The next slide is the nonconfidential version of
22 a slightly more complex slide that we have been showing to
23 the European Commission. The confidential version has also
24 -- yes, cost information with respect to Indonesia and it
25 has price and volume information with respect to AFE. Since

1 these data are confidential in the EU proceeding I'm not at
2 liberty to disclose them here, but I will be able,
3 particularly if there's interest, to perhaps later describe
4 you a little bit how these other numbers fit into this
5 picture.

6 What I want to achieve with this chart right now
7 is to show essentially the price sensitivity that was
8 measurable and visible in the EU market with respect to the
9 sales of MSG. What you see is in green exports -- or rather
10 imports into the European Union from Vietnam and in red
11 Indonesia. The green data show the line is price, the bars
12 are volumes.

13 The green data show that Vietnam started at a
14 relatively low price and was able to gain market share
15 quickly. When Indonesian exporters began to match that
16 price, they caught up fairly quickly and then when you move
17 to quarter one of 2012, where the second dotted line is,
18 that is more or less the point when the prices actually fell
19 below the costs in Indonesia.

20 At that point the Vietnamese producers decided
21 that they would not continue in the race. They put up their
22 prices and as a result were eliminated from the market very
23 quickly.

24 That was not an option for the European industry
25 and, you know, unfortunately, I can't show you the graph,

1 but you would see that the European prices stayed much
2 closer to the Indonesia prices, that the volume nevertheless
3 only can remain more or less at the same level as they were
4 before. They managed in the end to regain some of their
5 market share, but at the expense of significant losses. And
6 that's the essential story behind the European case against
7 Indonesia.

8 Next slide.

9 Let me turn to China. Again, measures were
10 already adopted in 2008. They were for European standards
11 reasonably significant. As a result of the sunset review,
12 these dumping margins remain in place for the time being and
13 while the investigation is conducted.

14 The European Commission, and I apologize, this
15 slide refers to the Commission which is the European
16 parlance. So, no confusion intended.

17 So the European Commission initiated its expirer
18 review based on prima facie evidence and it explained in the
19 notice of initiation two main lines of thought. It noted
20 that Chinese MSG production capacity increased very
21 significantly from 2009 to 2012. Those were the most recent
22 numbers that were available when we filed the petition.

23 And it noted that Chinese exports were at very
24 low prices so that compared to the already depressed price
25 level in the European Union, it was still very attractive to

1 redirect sales to other countries at these very low price
2 levels to the European Union. On the basis of these two
3 considerations, the Commission decided that it was likely
4 that dumping and injury would reoccur and therefore
5 initiated that sunset review.

6 On the next slide I will just, you know, very
7 quickly say that Chinese exporters used a number of
8 techniques to continue to sell to Europe, but avoid paying
9 the antidumping duties.

10 I am happy to give you a little more flavor
11 perhaps at question time if you're interested. But they
12 really tried everything that was possible to still sell but
13 not pay duties.

14 Let me therefore just quickly conclude my main
15 thoughts. The update I have provided you on these EU
16 proceedings was meant to do the following: The developments
17 in Europe, I think, are instructive on how MSG markets
18 function throughout the world and on the attitude or with
19 respect to the attitude of the main players in this market.

20 First you can note there's a number of large
21 customers like Unilever that buy MSG throughout the world.

22 Second, they buy from a limited number of
23 suppliers which include CJ, large Chinese producers and
24 Aginomoto, all of whom are qualified to provide MSG to such
25 large buyers.

1 Chinese producers have a significant volume of
2 under-utilized capacity that is available to supply the EU,
3 but also the U.S. markets; and Indonesian producers have
4 shown, and that goes back to the slide I've been showing
5 you, have been able to penetrate the EU market very rapidly
6 when they offered MSG at declining prices at times when
7 their costs went up. And as a result of the fact that
8 provisional measures are now in place in the EU, we've just
9 mentioned that. And second that Chinese exporters have
10 increasingly exported to Indonesia, I would expect that
11 producers in Indonesia have a strong incentive to sell to
12 the United States.

13 I have more particularly read CJ's prehearing
14 brief. My main reaction to that based on the situation in
15 the EU, of course, is surprise at their claim that they have
16 not been and are not likely to be a serious competitor in
17 the U.S. market.

18 CJ is supplying MSG to large worldwide buyers
19 today and there is really no reason to suggest that they
20 would not continue to do here what they have done in Europe,
21 namely to offer MSG at low dumped prices if there is an
22 opportunity for them to sell product and increase output.

23 Thank you very much.

24 MR. MULLER-IBOLD: I'm obviously available for
25 questions as needed.

1 MR. MCPHIE: Madam Chairman may we please check
2 our time remaining before proceeding?

3 MR. BISHOP: You have 17 minutes remaining.

4 MR. MCPHIE: Thank you.

5 MR. MALASHEVICH: Good morning Madam Chairman
6 and members of the Commission, especially the newest members
7 of the Commission. It's a pleasure to see you. I'm
8 President of Economic Consulting Services, LLC. My name is
9 Bruce Malashevich. I'm appearing today on behalf of
10 counsel to Petitioner which we are calling AJINA.

11 As some Commissioners and staff will recall I
12 have appeared as an economic expert before this Commission
13 on numerous occasions in my 38 year career. It has always
14 been a pleasure even though the font and the page seems to
15 be getting smaller over the years.

16 Normally my testimony would focus on rebuttal of
17 the various economic and financial arguments of CJA's
18 pre-hearing brief but the prevalence of APO data involved
19 makes this impossible in a public setting. So at this time
20 I will just make a few affirmative points and one suggestion
21 to the Commission.

22 My first affirmative point addresses the
23 attempted analysis of price effects contained in CJ's
24 pre-hearing brief at pages 8 through 14. Try as it might,
25 CJ cannot distance itself from the cumulative effects of

1 being grouped with China in this case. AJINA's pre-hearing
2 brief addresses this point in detail at pages 18 through 22.

3 Additionally staff addresses the market-wide understanding
4 that MSG from China and Indonesia are interchangeable.

5 At page II-17 of the pre-hearing report CJ also
6 overlooks a significant discrepancy in reporting its own
7 pricing data compared to what it reported in the preliminary
8 phase of this investigation. Correcting for this
9 discrepancy subverts that attempting pricing analysis in
10 CJ's pre-hearing brief. It's an important change.

11 In this respect I encourage the Commission to
12 review page 51 of AJINA's pre-hearing brief for the complete
13 details.

14 My second affirmative point concerns CJ's
15 unwarranted calculation of AJINA's reported financial data.

16 On pages 19 and 20 of CJ's pre-hearing brief the counsel
17 argues that the profit and loss information reported in full
18 in AJINA's US producer's questionnaire should be adjusted in
19 several ways. It is an attempt to show that AJINA's
20 financial harm was actually caused by other factors internal
21 to AJINA's operations, not the consequence of subject
22 import. Their attempt fails.

23 It reminds me that when I was, I hesitate to
24 admit, an intern at the State Department in the early 1970's
25 an elderly service officer once said you know son, with a

1 sufficient number of if's you can fit Paris in a bottle and
2 the bottle is not big enough to accommodate the many if's in
3 CJ's analysis.

4 The Commission has a long history of accepting
5 the petitioning domestic industry "as it is". In reporting
6 its profit and loss to the Commission AJINA relied on its
7 accounting records maintained in the ordinary course of
8 business and made no modifications other than those required
9 in the questionnaire's formal instructions. All such
10 adjustments were fully disclosed and quantified and then
11 were subject to staff's usual careful review.

12 I reviewed the Commission's report in the
13 preliminary phase and staff's pre-hearing report in this
14 final phase. AJINA's financial information was reported
15 and analyzed in the usual manner without issue. In fact no
16 arbitrary adjustments to AJINA's reported profit and loss
17 information are warranted. Nor would they advance the
18 Commission's analysis in this case. In practice the
19 Commission expects that under normal competitive conditions
20 a domestic industry should be able to raise its prices to
21 cover cost increases, especially when demand has been rather
22 firm.

23 AJINA cannot control the world price of its major
24 raw material corn any more than it can control the global
25 price of copper but it should be able to recover cost

1 increases through higher prices for its MSG. Until the
2 filing of this case in late 2013, AJINA was unable to do so
3 owing to the cumulative price suppression and depression
4 caused by subject imports. The case is that simple.

5 My last affirmative point concerns CJ's various
6 allegations that during a certain time in the POI AJINA
7 experienced reduced capacity and was unable to meet the
8 demands of its customers. I believe Mr. Naulty's testimony
9 effectively refuted those allegations with the facts as
10 opposed to CJ's speculation.

11 I had further support to Mr. Naulty's testimony
12 having closely reviewed each of the roughly 30 purchaser's
13 questionnaires received to date. And I catalogued the
14 responses to questions II-2, 3-11, and 2-15 all of which
15 were specifically cited in CJ's pre-hearing brief.

16 For each of these questions CJ chose to cite only
17 a handful of responses of which the plain language of
18 certain of those few responses actually contradicts CJ's
19 allegations but that's a side point. I would argue that
20 question III-11 is most on point because it explicitly asks
21 if any firm refused, declined, unable to supply et cetera,
22 et cetera. CJ cites in its brief only two responses that
23 arguably support their theory.

24 But I went further I studied those two responses
25 and calculated their share of aggregate U.S. consumption of

1 MSG which is represented by these purchasers and the share
2 was de minimis. So the few instances that arguably support
3 their theory just don't matter. I would be happy to share
4 with the Commission and staff a complete and fairly lengthy
5 detail of my analysis as a supplement to AJINA's
6 post-hearing brief if granted permission to do so it would
7 save staff a lot of work.

8 In closing on this topic CJ's counsel portrays
9 AJINA's reported profitability in interim 2014 as
10 extraordinarily high. In fact, the reported operating
11 income as a percentage of sales, a traditional Commission
12 measure, is about at the same level as in 2010 and well
13 underrates enjoyed in prior years outside the POI.

14 Here's my one suggestion which concerns the
15 prevalence of APO data in both parties briefs. I reviewed
16 CJ's brief very carefully, naturally paying particular
17 attention to arguments involving the economic and financial
18 data in the record. My conclusion is that every one of
19 CJ's arguments is effectively refuted in AJINA's pre-hearing
20 brief and it would be, excuse me, in the per-hearing brief
21 and as supplemented in today's testimony.

22 If granted permission by the Commission, it would
23 be most efficient if I prepare a supplemental submission to
24 AJINA's post-hearing brief. This submission would annotate
25 CJ's pre-hearing brief's electronic version such that the

1 Commission staff can have a "road map" for matching AJINA's
2 rebuttal to each and every economic and financial counter
3 argument contained in CJ's pre-hearing brief. That way
4 the Commission's deliberations will be advanced, I thank you
5 very much for your attention.

6 MR. THOMAS: Thank you, I'm Ritchie Thomas and
7 I'm going to cover just a couple of legal points that are
8 implicated by CJ's arguments in the pre-hearing brief. I
9 hope not to be too boring. CJ's arguments rest on three
10 principal premises and must magical thinking and mishandling
11 of data as we have already said. Those premises are AJINA
12 has not been injured because it's condition substantially
13 improved in the first half of 2014.

14 This CJ assets therefore is only a threat of
15 injury case, a context in which the Commission has
16 discretion whether or not to cumulate subject imports from
17 various countries in its analysis. CJ then claims its
18 exports should not be cumulated with those from China
19 because A: it's imports were not present in the U.S.
20 throughout the POI. B: it would be "unfair" to cumulate
21 imports from Indonesia with those from China when Indonesian
22 producers cooperated with the investigations and Chinese
23 producers did not.

24 3: There is no threat of injury from Indonesian
25 imports they claim, because Indonesia does not care that

1 much about the U.S. market and has little capacity due to
2 ship here. The law and facts rebut CJ at every point.
3 First, this is most emphatically a present injury case.
4 The information collected by the staff shows substantial
5 volume effects, notably an increasing loss of volume and
6 market share by the domestic industry to the subject imports
7 in the 2011 of 2013 POI and in addition price depression and
8 suppression and consequent loss of profitability and the
9 industry's falling operating losses.

10 The data on which CJ relies would show the
11 domestic industry improving its condition in the first half
12 of 2014, this for a period that followed the filing of the
13 Petition in September 2013. Congress has explicitly
14 provided the circumstances where there is a significant
15 change in the condition of the domestic industry in the
16 post-petition period.

17 19 USC 1677 7(I) states that "the Commission
18 shall consider whether any change in the volume, price
19 effects or impact of imports of the subject merchandise
20 since the filing of the Petition is related to the pendency
21 of the investigation and if so the Commission may reduce the
22 way the courted data for that period after the period of the
23 filing of the Petition".

24 The House report on this provision states courts
25 have repeatedly recognized that the initiation of

1 antidumping and countervailing duty proceedings can create
2 an artificially low demand for subject imports, thereby
3 distorting post-petition data compiled by the Commission.

4 The imposition of provisional duties in
5 particular can cause a reduction in import volumes and an
6 increase of prices of both the subject imports and the
7 domestic-like product. Similarly improvements in the
8 domestic industry's condition during an investigation can be
9 related to the pendency of the investigation.

10 The new statutory provision emphasizes that the
11 Commission should consider whether changes in the volume of
12 imports, their price effects and their impact on the
13 domestic industry occurring since the filing of the
14 petition, are related to the pendency of the investigation.

15 This provision is also intended to make clear
16 that when the Commission finds evidence on the record of a
17 significant change in data concerning the imports or their
18 effects subsequent to the filing of the Petition and the
19 imposition of provisional duties, the Commission may presume
20 that such change is related to the pendency of the
21 investigation.

22 In the absence of sufficient evidence rebutting
23 that presumption and establishing that such change is
24 related to factors other than the pendency of the
25 investigation, the Commission may reduce the wait to be

1 accorded the effected data. The Senate report is to the
2 same effect.

3 In these investigations the substantial changes
4 in volume and the impact of subject imports were
5 demonstrably related to the pendency of these
6 investigations. I won't walk through the timeline for you,
7 but that can be demonstrated. Although CJ asserts that "CJ
8 was not under any import restrictions in 2014" there was in
9 fact subject to the real potential of antidumping measures
10 throughout the period and the actual imposition of those
11 measures in early May 2014. More to the point, in the end
12 CJ admits that "these investigations had a chilling effect
13 on the market" and they also affected CJ's pricing behavior
14 in the first half of 2014.

15 Please look at page 26 of CJ's brief. As the
16 House report quoted above makes clear, it is precisely such
17 post position reductions in demand and the consequent effect
18 on the market and the domestic industry that Congress has
19 considered distortive and to which it authorized the
20 Commission to give little way.

21 Second, even in the threat of injury context
22 where cumulation is discretionary, subject imports from
23 China and Indonesia should be cumulated. First, there is
24 no legal support for CJ's claim that imports from a
25 particular source must be present throughout the POI in

1 order to be cumulated with subject imports from other
2 sources, either at a current injury or threat analysis.
3 There is no such requirement in the statute or judicial
4 holdings and the Commission's Juris Prudence is to the
5 contrary.

6 The Uruguay Round Agreement Act statement of
7 administrative action expressly notes that the new
8 cumulation provisions in that act "will not affect current
9 Commission practice under which the statutory requirement is
10 satisfied if there is a reasonable overlap of competition."

11 There are many investigations in which the
12 Commission has cumulated subject imports from various
13 countries that were in the U.S. market simultaneously for
14 part but not all of the POI and we will be happy to provide
15 cites in the post-hearing brief if desired.

16 In these investigations as the pre-hearing report
17 and AJINA's brief demonstrate, subject imports from both
18 countries were present in the U.S. market in significant
19 quantities in the most recently two full years of the three
20 year POI and competed with each other and with the domestic
21 product in both principal distribution channels. This is
22 more than a reasonable overlap.

23 B. Similarly the failure of another Respondent
24 to cooperate with the Commission's investigation is not a
25 statutorily listed factor to be considered in determining

1 whether or not to cumulate. CJ's pre-hearing briefs sites
2 no ITC authority where a Respondent was decumulated because
3 another Respondent did not cooperate and our search have
4 uncovered none. This is a policy argument, it failed
5 because it not only would complicate the Commission's
6 analysis but it would also reward uncooperative foreign
7 producer exporters.

8 All parties which imports are decumulated
9 benefit, not merely the cooperative parties. Consequently
10 decumulation on the basis of one or another party's failure
11 to cooperation would reward the failing party or parties and
12 it would be bad policy. Moreover here there is not in fact
13 that much difference between the responsiveness of the
14 Chinese and the Indonesian producers. In each investigation
15 only one producer exporting to the U.S. responded.

16 Third, as demonstrated in AJINA's pre-hearing
17 brief and Mr. McPhie's testimony, examination statutory
18 factors the Commission is to consider in assessing material
19 injury shows the U.S. industry was in fact threatened with
20 renewal and aggregation of the material injury it had
21 experienced in the POI in the event the subject merchandise
22 is allowed to enter the U.S. without discipline of the
23 antidumping measures.

24 I would refer in this connection to the actions
25 taken in the EU, both with respect to China and most

1 recently with respect to Indonesia. I would direct the
2 Commission's attention specifically to 19 USC 1677(F7)(F3)
3 where the Commission is to consider whether dumping in the
4 markets of foreign countries is evidenced by dumping
5 findings or antidumping remedies in the other WTO member
6 markets against the same kind of class of merchandise,
7 manufactured or exported by the same party as under
8 investigation suggests a threat of material injury to the
9 domestic industry. Thank you very much that concludes my
10 remarks.

11 CHAIRMAN BROADBENT: Thank you to the panel. I
12 appreciate you coming, taking time away from your businesses
13 to be here today. Mr. Naulty, let the record show I have
14 this big bag of delicious Doritos between me and your name
15 tag so I may forget it, it looks good.

16 Are you all going to explain anything on the
17 table? Just out of curiosity like what I could eat on my
18 diet there?

19 MR. NAULTY: Excuse me Commissioner I don't know
20 your diet, but I think they are all very delicious products.

21 CHAIRMAN BROADBENT: I would agree yeah, they
22 look good, thank you. Mr. Naulty could you talk a bit about
23 the large company that you do work for and your sort of
24 global strategy and so forth. I notice that you have got
25 the company just bought some frozen food firms in Texas and

1 has a 30 or 40% share of the ethnic food market, Chinese
2 ethnic food market is that right?

3 MR. NAULTY: Well the acquisition you are
4 referring to is Windsor Foods. It's not a closed deal yet,
5 it's estimated to close in November so it would be pe-mature
6 for me to really talk about that particular entity. It is
7 fair to say they are in the ethnic food business. If you
8 would like to understand more about Ajinomoto from a global
9 perspective, is that the direction you would like me to go?

10 CHAIRMAN BROADBENT: Well this is sort of
11 vertical integration so you can supply the merchandise here,
12 the MSG to what I view would probably be a growing market,
13 if that's a clear production is that right?

14 MR. NAULTY: The ethnic food category is indeed
15 increasing faster than some of the traditional food
16 categories therefore it is of great interest to our company
17 on a global basis. Being Japanese and Asian based, it is a
18 segment that we are interested in. The particular
19 acquisition you are referencing in fact is not a customer of
20 us for MSG and in fact in some of their brands they
21 advertise no MSG is used.

22 So as far as forward integration goes, I think
23 it's very premature to assume that there would be forward
24 integration there.

25 CHAIRMAN BROADBENT: Okay. Yeah I appreciate

1 that. In terms of this case in particular, can you talk to
2 me about imports from your affiliates fill out your ability
3 to offer produce and so forth and why you might be importing
4 from affiliates of non-subject countries at a time that you
5 are also increasing inventories here in the U.S. which is
6 what I think I saw in our staff report.

7 MR. NAULTY: So I think you are referencing a
8 period, an annual period, one particular year when imports
9 had gone up to I believe about 2,000 metric tons from
10 Brazil. And in that particular year I referenced in my
11 statement we had injected a technology investment which
12 required at that time would require a period of interruption
13 in our production so we brought material to the country to
14 support our customer requirements in case something did not
15 go well with that technology change and in fact the record
16 shows that by the end of that year, remaining inventory of
17 that material was 500 tons and if you do the analysis from
18 the information in the producer's questionnaire, you will
19 see that 1500 tons which was sold into the market represents
20 just a few weeks of sales.

21 CHAIRMAN BROADBENT: And then I guess what we'll
22 have to wrestle with here is sort of trying to decide
23 whether this increase in the subject imports is significant
24 if this increase really occurred during a time when there
25 wasn't much excess capacity in the market. I mean there

1 was a shortage in the market as I understand it.

2 MR. NAULTY: Well I would not say there was a
3 shortage in the market. There was a temporary interruption
4 in our process which we covered by non-subject imports.

5 MR. THOMAS: Madam Chairman it's Mr. Thomas. We
6 would like to address that question in the post-hearing
7 brief in a little bit more detail, however, my recollection
8 and I don't have the report in front of me was not that the
9 imports with which you are concerned increased over the POI.

10 CHAIRMAN BROADBENT: Well I'm not talking about
11 the affiliate imports at this point, I'm talking about the
12 subject imports at a point when we are looking into
13 increasing imports, are they significant. They occurred
14 during a time when there was very little excess capacity in
15 the U.S. market and perhaps a shortage.

16 MR. THOMAS: I understand the question.

17 CHAIRMAN BROADBENT: Got it thanks. Mr. Naulty
18 can you talk to me about the Umami trend and what you are
19 expecting in terms of demand in the future this taste, I
20 guess that the New York Times is writing about.

21 Mr. NAULTY: I think that the concept of Umami
22 has been popularized around the globe in the last decade,
23 about the last ten years. More and more consumers are
24 beginning to be familiar with this taste. It is being more
25 and more accepted as a mainstream taste among consumer

1 foods. It adds an additional taste dimension to many, many
2 products.

3 If we look at the global demand, the global
4 demand grows at about 3% per year. In some markets it's
5 higher, particularly in developing markets such as Africa
6 where the Umami taste is being discovered and can be used to
7 simply improve the taste of some poor quality proteins that
8 are in the market. In more developed markets, like the
9 United States, it's relatively mature but it is not
10 declining. It's growing in our estimation about 2% a
11 little bit behind the global rate. And that's in reference
12 to MSG there's other forms of Umami and there's interest in
13 adding this taste dimension to foods.

14 CHAIRMAN BROADBENT: Is there other additives
15 that compete with MSG to get the Umami taste, is that
16 correct?

17 MR. NAULTY: MSG is the pure taste of Umami.
18 Anything else you taste compared to the MSG will have other
19 attributes associated with it. Basically we are talking
20 about the glutamate molecule and you can find it in soy
21 sauce, you can find it in various yeast extracts, however
22 for the food processing industry, those options are multiple
23 times more expensive than using MSG.

24 CHAIRMAN BROADBENT: Okay that's interesting.
25 Could you talk to me a bit about corn prices during the

1 period of investigation and I know you mentioned that in
2 your opening statement but if you could go over that again
3 please.

4 MR. NAULTY: Yeah I mean it was in my statement
5 and there's a kind of a complete overview of corn prices and
6 our glucose costs and factors of production. I believe
7 it's in Addendum C so I would reference the Commission to
8 review Addendum C which gives you the trend lines of all of
9 our major import materials.

10 CHAIRMAN BROADBENT: Okay, but your view is the
11 dramatic fall in the price of corn, it was not, you were not
12 able to translate that into better property income?

13 MR. NAULTY: That's what my statement has said.
14 I mean the dramatic falling in corn has recently come and
15 is just now being played out in the 2014 harvest and I think
16 our opposition counsel is arguing that that reduction in
17 corn prices is directly responsible for our improved profits
18 in 2014. It's a lot more complicated than that.

19 We have referenced a new technology and I would
20 just say we have the most advanced technology for
21 manufacturing of MSG now in place in our Iowa plant which
22 has significantly improved our business regardless of what
23 corn has done and other than that I don't want to go further
24 in a public environment.

25 CHAIRMAN BROADBENT: Understood. I will yield

1 to Vice Chairman Pinkert.

2 VICE CHAIRMAN PINKERT: Thank you Madam Chairman
3 and I join the Chairman in thanking you for being here today
4 to help us to understand this industry. In your brief at
5 page 55 you indicate that AJINA has embarked on a new
6 capacity improvement project. Can you give us some idea of
7 when the project was started and how much additional
8 capacity you expect to have when the project is completed?

9 MR. NAULTY: Again I'm not going to go into that
10 in a public environment here. We have indeed started
11 looking at engineering and I think your question goes to how
12 do we plan to supply the U.S. market. I can tell you that
13 we have diverted exports to the U.S. market and we are now
14 supporting our market of Mexico and Canada through our
15 imports from our Brazilian affiliate, which has given us
16 more capacity for the U.S. market.

17 That and combined with future plans I think we
18 will be in a position to supply the requirements in the U.S.

19 MR. THOMAS: It's Ritchie Thomas again.
20 Commissioner Pinkert we will respond more fully to that
21 question with the post-hearing brief.

22 VICE CHAIRMAN PINKERT: Thank you. Now Mr.
23 Malashevich you heard Mr. Cunningham's analysis of the
24 changes in profitability that occurred after the petition
25 was filed. I'm sure that he will go into greater detail

1 later today but can you show us that the changes in
2 profitability are tied to the effect of the petition on the
3 subject imports?

4 MR. MALASHEVICH: Yes Vice Chairman I think we
5 have the part of the point of supplementing the standard
6 producer's questionnaires with three addenda, A, B and C
7 knowing full well it would be difficult to discuss the
8 details in a public hearing, we volunteered those addenda to
9 answer that question and I think rather precisely and one of
10 the addenda, quite frankly I forget which one at the moment
11 directly links those changes and measures them in terms of
12 dollars to the agreed which progress of the case events
13 changes in customers, changing prices, changes in market
14 share, each one is measured with some as much precision as
15 can be expected and I think you will find the vast majority,
16 vast majority of the net improvement in operating
17 profitability is directly attributed to the progress of this
18 case.

19 And what makes this case a little bit unusual is
20 with one U.S. player you don't have the sort of
21 multi-faceted statistical noise that if we had 10 U.S.
22 producers all selling different things at different times
23 but we are covering the universe of one U.S. player so we
24 are able to do the calculation very directly linking
25 improvements and profitability, practically all of which

1 were going through changes in purchasing patterns and prices
2 directly linked to the case.

3 If there is something missing from the addenda,
4 as has been submitted, we'd be happy to supplement it to the
5 extent necessary.

6 COMMISSIONER PINKERT: Thank you. I would
7 suggest that we make sure that the points that Mr.
8 Cunningham is making are responded to either in your
9 addendum or elsewhere.

10 MR. MALASHEVICH: Yes, sir. We will.

11 COMMISSIONER PINKERT: Thank you. Now, in
12 staying with this issue of the effect of the petition, I
13 wonder if Mr. Muller Ibold can explain whether there's been
14 a similar impact of the antidumping proceedings in Europe.

15 MR. MULLER-IBOLD: Mr. Vice Chairman, I don't
16 have the level of detail that I would need to really respond
17 to this.

18 What I can say is, yes, as soon as provision
19 measures were adopted, the impression was that prices were
20 able to be increased, but the statistical information, given
21 that the provisional measures were adopted just a month ago
22 is just not there yet to allow a more precise answer to
23 that.

24 If you were interested in the situation with
25 respect to China from five years ago, I think there we can

1 show that provisional measures had a very clear effect. In
2 fact, if my recollection is correct, we saw an up-tick of
3 imports just prior to the imposition of provisional measures
4 and then a significant reduction right after provisional
5 measures were imposed.

6 MR. MALASHEVICH: If I may just add, I've seen
7 some of these data myself, and all of this is correct. I
8 would just add that not only did imports declined, as they
9 have here, but the condition of the Europe industry sharply
10 improved to a similar degree and a similar manner as it did
11 here in the first half of this year.

12 MR. MCPHIE: Commissioner Pinkert, this is Ian
13 McPhie, if I could just add to that.
14 One important distinction with the U.S. system and the EU
15 system is the possibility of critical circumstances causing
16 a retroactive application of measures here in the U.S.,
17 which often drives the timing of when imports cease. That's
18 not a possibility in Europe and so when the provisional
19 measures were imposed August 20 that's really when that
20 effect takes place. It doesn't apply backwards 90 days like
21 you have here in the U.S.

22 So, with those measures just going into place on
23 August 20, it's really just too recent to observe an effect
24 yet.

25 COMMISSIONER PINKERT: Thank you. No, Mr.

1 Malashevich, I understand the arguments about price effects,
2 but I want to ask you a hypothetical question. If we find
3 mixed underselling and overselling, based on the record of
4 this case, could we still find significant price suppression
5 based on the data that we have?

6 MR. MALASHEVICH: Yes. I think thinking over the
7 years and ways in which the Commission has defined -- not so
8 much defined, but considered the issue of price suppression
9 there's more than one analytical path.

10 You can look at changes in the ratio of costs to
11 goods sold or operating expenses in the aggregate against
12 net sales. I think you have a basis for finding price
13 suppression on that score here in the record of this case.

14 Secondly, one, prices can be suppressed in
15 absolute terms even if the ratio is not shrinking between
16 costs and sales. Cost price squeeze is often a basis for
17 price suppression findings at the Commission, and it makes
18 sense in economics. But in this case in addition to having
19 price suppression shown by change in that ration, there are
20 numerous instances in the record.

21 And once again, I have to call your attention to
22 the addenda provided where in the case of major customers,
23 and perhaps Mr. Barbour might want to add what I'm saying
24 because he's been in sort of the front line of that effort.
25 At individual, major customers absolute selling prices were

1 reduced in response directly to competition from subject
2 imports. And I would call that a type of evidence of price
3 suppression and price depression to prevent prices rising
4 even if justified by competitive pressure from lower-priced
5 imports.

6 MR. BARBOUR: For the record, I'm David Barbour,
7 consultant to AJINA. Prior to my retiring, I was in charge
8 of the selling and a lot of negotiations in contracts. And
9 what we found was that we would -- had a number of major
10 customers try to increase prices as cost were up, and we
11 were unable to do so because we were meeting much lower
12 prices from imports where they were suppression the price
13 and reducing prices.

14 COMMISSIONER PINKERT: Thank you.

15 MR. MALASHEVICH: One other thing, Vice Chairman.
16 I think it's important -- Addendum A is important in a
17 couple of respects.

18 First of all, it shows how directly the progress
19 of this case brought about the improvement in the domestic
20 industry's condition in the first half of '14, roughly. But
21 it also provides what I would call, hypothetically, kind of
22 a mirror image calculation of the injury suffered prior
23 thereto.

24 If you study the details of that addendum, it
25 provides some history as well as updating that history for

1 developments caused by the progress of this case.

2 COMMISSIONER PINKERT: I'm going to have to cut
3 you off right there. I'm passed the end of my round. Thank
4 you.

5 CHAIRMAN BROADBENT: Commissioner Williamson?

6 COMMISSIONER WILLIAMSON: Thank you. And I want
7 to thank the witnesses for their testimony today.

8 Mr. Naulty, you've already talked somewhat about
9 the capacity to expand, and I'm trying to get a better
10 understanding of that, and also can you briefly talk about
11 the need to run at high capacity utilization.

12 And I guess the question is you're using the live
13 microorganism and I guess you need a container to do that.
14 And so what I'm trying to get at is it that, in effect --
15 plant do you have one of these so and so you've got to run
16 that all the time? Do you have multiple lines? And if one
17 were to cut back would one cut back on a line? I'm just
18 trying to understand better since we didn't get a chance to
19 visit the factory.

20 MR. NAULTY: I can explain briefly. And I think
21 we did explain in the preliminary conference about the
22 production operation in Iowa.

23 Let me just say that there are multiple main
24 fermentation tanks that are run in series as what we call
25 batch. We have continuous batch. So, you're starting one

1 fermentation at the same time another fermentation is
2 finishing, so this is done on a timing basis. So, you
3 continuously are completing your fermentation batches.

4 But the operations, and I would surmise that all
5 MSG operations are similar. You either run your tanks full
6 out. They're matched to the downstream purification
7 isolation and drying operations. Once you start to
8 imbalance that it makes an unstable operation, so you have
9 to run full out. And obviously, with that you're getting
10 your best economic from covering your fixed cost point of
11 view.

12 So, I think that may address your question,
13 Commissioner, as far as the plant setup. Is that helpful?

14 COMMISSIONER WILLIAMSON: I think so. If you
15 have three plants and you had to cut back, you could close
16 one plant. You wouldn't shut down in all three.

17 MR. NAULTY: Correct.

18 COMMISSIONER WILLIAMSON: You wouldn't reduce
19 operations in all three.

20 MR. NAULTY: Correct. And Ajinomoto has done
21 that. And historically, we have closed a number of
22 operations when they became uncompetitive and either
23 expanded at other operations or changed the configuration to
24 just be a packaging plant or utilize that asset in a
25 different way.

1 COMMISSIONER WILLIAMSON: Thank you. You talked
2 about a shift from Korea to Indonesia, and I was just
3 wondering why did they do that and what does that have
4 relevance for this case?

5 MR. NAULTY: Well, I talked about a shift, and I
6 do have to correct one thing from the record. The years
7 that I had referenced of 22 million pounds were actually the
8 period 2005 to 2006, which was very significant in the U.S.
9 market. They were a major player. Their motivation for
10 changing their operation on my part would be speculation,
11 but I would think they could explain that better, but
12 typically, those decisions are driven by economics, maybe
13 environmental reasons.

14 I'm not that familiar with location of their
15 former operation in Korea, but my point was to the fact that
16 it is the same organization. It's not a new supplier to the
17 market, and they did shift their production base, but I
18 don't think that is a predictor in change in behavior.

19 COMMISSIONER WILLIAMSON: From your knowledge,
20 what about shall we say the distribution network, their
21 customers in the U.S. when you have that kind of shift? Do
22 those things stay in place, and is that an explanation why
23 they ought to come back in the market?

24 MR. NAULTY: I can just give you from my
25 observational experience. When they left the market,

1 obviously, a number of their customers came to us. Where
2 quite frankly, they were surprised. They walked away from
3 contractual arrangements and just left the market. When
4 they came back, I was quite surprised those same customers
5 had amnesia as to how we helped them. And CJ came right
6 back in by simply offering a low price.

7 COMMISSIONER WILLIAMSON: Mr. Malashevich?

8 MR. MALASHEVICH: Commissioner, if I may answer
9 as well your question of how is it relevant. A person in
10 the street picking up the pre-hearing report in this case
11 would see Indonesia going from zero or practically zero to a
12 quite considerable level in a short period of time. And
13 it's reasonable for such person, not knowing about the
14 background, to conclude, well, they're a new entrant, and
15 they're small, and it's a very competitive market. And CJ
16 argues, somewhat, in its pre-hearing brief that they're not
17 a threat. They don't have the wherewithal to expand much
18 further in U.S. market.

19 So, I think the experience of what CJ supplied to
20 the U.S. out of Korea, which is a multiple of what they
21 recently have provided here is a very, very good indication
22 of the threat of future injury to the U.S. industry, absent
23 antidumping measures, and their experience in Europe and the
24 volume being supplied by Indonesia together. I mean all
25 companies in Indonesia is another measure of the goods

1 subject to diversion response to European measures.

2 So, that history is very relevant. CJ is not a
3 new player. It's not a new entrant, and it managed to
4 expand back to roughly half its historical level in just 18
5 months.

6 COMMISSIONER WILLIAMSON: Thank you. So, Mr.
7 Naulty, are you saying it was selective amnesia not complete
8 amnesia?

9 MR. NAULTY: Selective amnesia. Commissioner,
10 I'd like to make a comment also on top of Bruce's comments.

11 Another point for the Commission in listening to
12 opposing counsel's opening statement as positioning CJ to be
13 a small player and not a threat and not interested in
14 markets other than Asia, I just don't buy it. Okay. They
15 also have another facility in Indonesia which could be
16 possibly fired up again. It was an older MSG factory where
17 they moved from that factory to their new factory.

18 So, even though they're referencing their current
19 capacity, there's also additional assets in Indonesia, which
20 could come into play in the future years.

21 COMMISSIONER WILLIAMSON: Thank you.
22 Petitioners, you're arguing that our pricing data are not
23 probative due to their coverage. Their coverage is similar
24 to or better than what we see in many cases. Why should we
25 not rely on the pricing data?

1 MR. MALASHEVICH: This is Bruce Malashevich.
2 Forgive me, but I don't recall making any statement like
3 that. The coverage is quite good.

4 What I had to speak about obliquely was a
5 difference in the pricing data reported in the preliminary
6 versus the final that we think is unwarranted for reasons
7 described on page 51. And further testimony here makes me
8 even more confident of that.

9 No, it has nothing to do with coverage or the
10 probativity of the pricing data, per say. It has to do with
11 the change in how the data were reported for Indonesia
12 between the preliminary and the final.

13 MR. MCPHIE: If I could just add to that. This
14 is Ian McPhie. I think our point is that at first the
15 public import statistics are very useful in this case
16 because it's a very clean HTS category. It's all MSG.
17 Almost all MSG is in that category, and there is essentially
18 nothing else in that category because you have very clear
19 indication of what's coming into the country. And so the
20 AUVs from that public import data give you a complete
21 picture and they tell a very clear story. They show a very
22 clear trend.

23 And in addition to that we're not saying
24 disregard the pricing data that you've collected. Look at
25 that also. I think it confirms for you the story that the

1 public import AUVs tells.

2 COMMISSIONER WILLIAMSON: Thank you.

3 MR. MALASHEVICH: Please forgive me,
4 Commissioner, for interrupting, but one other point that's
5 in our brief that's relevant here.

6 I think it's possible, maybe it was not as
7 artfully drafted as I would've liked, but our point is not
8 that your pricing data is not probative, but it's based on a
9 subset of the total subject imports coming in from China.

10 So, there are importers out there that failed to
11 respond to the Commission's questionnaires, and we provide
12 statistical proof, in my humble opinion, that those
13 importers were lower priced, in general, than the importers
14 cooperating with the Commission's investigation. It's a
15 very important point, but it doesn't discredit the coverage
16 of the Commission's questionnaires. But we proved that
17 those not participating were lower priced.

18 COMMISSIONER WILLIAMSON: Thank you. Thank you
19 for those answers.

20 CHAIRMAN BROADBENT: Mr. Johanson?

21 COMMISSIONER JOHANSON: Thank you, Chairman
22 Broadbent. And I would like to thank the witnesses for
23 appearing here today. It appears that some of you came a
24 long distance to be here, so thank you for participating in
25 this hearing.

1 This first question is perhaps more of a
2 background question, but I have in front of me a copy of a
3 press release from the Food and Drug Administration from a
4 couple of years ago concluding that MSG is safe, but
5 apparently this was issued in response to persistent
6 questions from customers about MSG.

7 I also have a Los Angeles Times article from
8 earlier this year with a list of Chinese restaurants in that
9 area, which commit to serving MSG-free foods. And you have
10 a number of products here in front of us, all of which
11 contain MSG, but it's my impression that sales of this type
12 of food are, perhaps, on the way down. Perhaps I'm not
13 correct on that.

14 And I'll point out as well I think I told you all
15 at the beginning of the hearing, or at least prior to the
16 hearing, that I consumed Japanese food last weekend, and so
17 I've recently enjoyed MSG. So, I'm not questioning whether
18 or not it is safe because I certainly have ingested it
19 myself recently. But I was a little surprised to find out
20 in our staff report that the demand has been fairly stable
21 in recent years. I would estimate that it would be going
22 down. Could you all please comment on this?

23 MR. NAULTY: I would say that there are probably
24 some segments where the consumption of MSG is going down.

25 Commissioner, you use a personal experience. I

1 have no perfect knowledge of your personal experience, but I
2 can relate one of my personal experiences. Obviously, I go
3 to many, many Asian restaurants, and many times they will
4 have a sign on the table or the door that says "We don't use
5 MSG."

6 In fact, I will ask the proprietor do you use
7 MSG, and many times they'll be, shhh, don't bring up. I'm
8 like, no, no, I like MSG. I actually work for a company
9 that manufactures MSG. And sometimes they will say, no, we
10 don't use MSG. And I will ask them then do you use
11 ajinomoto. Oh, yes, we use ajinomoto.

12 If they don't use ajinomoto, I ask them do you
13 use Totolee? Oh, yes, we use Totolee. Totolee is about 45
14 percent MSG. If you don't use Totolee, do you use
15 Leekankae? Oh, yes, we use Leekankae. So, I go down the
16 list, okay. And in the end, if they say no to all of them,
17 I pick up the bottle of soy sauce and I tell them there's 40
18 percent glutamate in here. You're adding MSG to your food
19 through this. So, that is one of my personal experiences.

20 The processed food industry does continue to use
21 MSG. If you look at Asian soups, a lot of these cup soups
22 and noodles and ramanes are all using MSG. So, in our
23 experience in the U.S. that additional demand is offsetting
24 some reductions in some other companies.

25 COMMISSIONER JOHANSON: Thank you for your

1 response. And once again, I'm not questioning the FDA on
2 this. If something is approved by the FDA, I think it's
3 fine. That's just for the record. But I was curious about
4 this because when I first saw the numbers in the staff
5 report I was a little surprised that the numbers were going
6 in that direction. Thank you for that background
7 information.

8 Given Ajinomoto's unique position in having
9 basically invented MSG or at least been the first to market
10 it, does this brand have a heightened claim to consumer
11 loyalty?

12 MR. NAULTY: I would say yes. The Ajinomoto
13 brand does have a heightened claim to consumer loyalty.
14 Unfortunately, in the United States it's not as strong as
15 international countries. Of course, being based in Japan
16 and having many, many operations throughout Southeast Asia,
17 the brand is very, very strong there.

18 It's a minor brand in the United States as far as
19 Ajinomoto, but probably the most famous direct addition MSG
20 product on a consumer level is the brand Accent, which is
21 made in our factory and packed at another plant by one of
22 our customers up in Portland, Maine.

23 MR. MCPHIE: If I could just add to that
24 Commissioner Johanson -- Ian McPhie -- as Mr. Naulty just
25 testified, and please correct me if I'm wrong on this, that

1 brand loyalty helps you out when you've got a bag on a
2 retail shelf that a consumer is buying directly, but that's
3 really only a very small part of the market. And that brand
4 loyalty doesn't help you with the huge volumes that get sold
5 to major food companies like Frito Lay and Nabisco. They
6 just need MSG, and the brand really is not so relevant
7 there.

8 COMMISSIONER JOHANSON: Right. And thank you on
9 that.

10 MR. NAULTY: That's correct. Yes.

11 COMMISSIONER JOHANSON: But would that extend,
12 though, to certain Asian restaurants?

13 MR. NAULTY: Certain Asian restaurants do prefer
14 an Ajinomoto brand for the reasons I described in my
15 testimony this morning. It's more to do with the
16 traditional 100-pound red drum, which they look at as a
17 symbol of quality and reliability.

18 COMMISSIONER JOHANSON: And my apologies if this
19 was included in the staff report or the briefs. There's a
20 fair amount of material involved in each of these
21 investigations, but do you all have a breakdown in the
22 United States as to what percentage of MSG goes into
23 packaged foods as opposed to let's say the restaurant
24 sector?

25 MR. NAULTY: Yes, I believe that's in the product

1 definitions.

2 COMMISSIONER JOHANSON: I can find that out then.

3 MR. NAULTY: I think it's in the producers'
4 questionnaire. But yes, I mean it is broken down and the
5 smallest segment is the retail segment. I believe we
6 estimated it in our petition also, but we can identify that
7 in our brief.

8 COMMISSIONER JOHANSON: All right. Yes, I'd
9 appreciate that.

10 MR. MALASHEVICH: Excuse me. Also, Commissioner,
11 I think whatever degree of brand loyalty exists in the
12 marketplace, and the relevant segment I think is the retail
13 segment, if at all, in my experience the change in market
14 share, the shift in market share over the brief three-year
15 period of the POI -- I think the exact number is APO, but
16 it's extraordinarily large and a signal to me that if there
17 are loyalists out there they're in a distinctly small
18 minority or otherwise there just wouldn't be that kind of
19 switch.

20 COMMISSIONER JOHANSON: Yes. And one of the
21 reasons I'm asking is that this could be somewhat unique,
22 and you have what, in effect, I think is a commodity product
23 and is there a loyalty to a commodity product? And there
24 can be. It all depends. There are certain commodity
25 products at a grocery store, let's say a certain brand of

1 rice you might really like, but at the end, it's just a
2 commodity product. So, that's why I'm trying to get into
3 this. This is somewhat a possible unique situation.

4 MR. NAULTY: This is Mr. Naulty. Commissioner, I
5 would say this from an industrial consumer point of view, or
6 a food processor point of view, I would surmise that the
7 buyers would tell you they would prefer Ajinomoto brand as
8 long as you got the same price.

9 MR. MALASHEVICH: Forgive me, Commissioner. One
10 thought occurred to me that I think would help you out on
11 this. I made reference to an analysis of purchasing
12 questionnaires, and I think that the Commission got a pretty
13 good representative sample of the various channels, be it
14 Chinese restaurants or big soup process food companies. As
15 my testimony indicated, and if I'd be permitted to submit
16 the full analysis in the post-hearing brief, I think it'll
17 be very clear.

18 You have some very big players out there that say
19 the non-price factors don't matter. And certainly, I can't
20 think of a single one in the entire sample of 30 purchasers
21 that said that brand loyalty was a factor in their
22 purchasing. I couldn't find a single one.

23 COMMISSIONER JOHANSON: All right, thank you for
24 your responses. And I'll try to get one more question in
25 here. I was wondering why is there only one producer of

1 this product in the United States, and are there certain
2 barriers to entry in this industry? And one reason I'm
3 asking this is I know your base product is corn, and the
4 United States is probably the largest producer of corn in
5 the world. I was wondering why there were not more
6 producers here.

7 MR. NAULTY: Well, I would go back to history.
8 There was another producer in the marketplace, Archer Daniel
9 Midland Company was a domestic producer, and of course, tied
10 in with their corn refining operation; however, they decided
11 to leave the market. And I would suspect -- and this is
12 before my joining Ajinomoto, I would suspect they left for
13 economic reasons and that it was not a very profitable
14 product for them to manufacture and sell into the
15 marketplace, given that there was Ajinomoto, ADM, and many,
16 many importers from Southeast Asia.

17 MR. MCPHIE: And if I could just add to that.
18 Again, Ian McPhie. Corn happens to be the starch source
19 that AJINA uses, but it's not essential to making MSG.
20 Other starch sources are available in other markets; tapioca
21 and molasses both are commonly used in Indonesia, for
22 example. So, there's nothing unique about the presence of
23 corn in the U.S. market.

24 COMMISSIONER JOHANSON: All right. Thank you.
25 But we have so much corn, or at least right now we have,

1 that it's hard to not think about that. Thank you for your
2 answers and my time has expired.

3 CHAIRMAN BROADBENT: Commissioner Schmidtlein.

4 COMMISSIONER SCHMIDTLEIN: Thank you. First,
5 I'd like to thank the witnesses as well for appearing here
6 today. I'll just note that, you know, I was born in
7 Washington, Iowa, which I think is probably sort of close to
8 Eddyville, if I saw the map correctly. It's over on that
9 side of the state, and then I grew up in a small town about
10 an hour from the Iowa state line in Missouri.

11 So it's all corn country and soybean country
12 where I'm from. So anyway, so I enjoyed the photograph for
13 that part of the country. You don't see it too much out
14 here.

15 I want -- I guess I'll follow up my first line
16 of questions has to do with corn and the price of corn, and
17 your raw material costs, and if you can, I'd just like to --
18 because it seems as though there's a bit of conflicting
19 evidence on the record, and I know you spoke to the fact
20 that the price of corn started to decline recently in 2014.

21 But in the record, the staff's prehearing
22 report indicates that the price of corn in the United States
23 fell over the entire period of the investigation. Is that
24 consistent with your experience in the market or, you know,
25 what is your view in terms of was the price of corn going up

1 or down?

2 Then I'd like to also follow up, is that the
3 primary driver of your raw material cost, and if not, what
4 is?

5 MR. NAULTY: So I think the statement from
6 staff is correct. That is the statement, but I do believe
7 it starts at one point and ends at another point, and I
8 would surmise that the Commission should look at the entire
9 period and the trend of the pricing through that period.

10 So if you take Point A and Point B and it's
11 the same, a lot can happen in between, and corn was
12 predominantly up during the in between period. So I would
13 encourage you to look again at Addendum C, where we have our
14 trend lines for all of our major input costs, and when your
15 reference corn, again, I just want to be perfectly clear to
16 the Commission, we cannot take corn and put it into our
17 plant. That's not what we do.

18 We use glucose. So we have to have glucose
19 made first before we can do anything with it. That starts
20 with corn, and there are inputs to making glucose, and there
21 are baseline costs with that, and then in addition to that,
22 there are other factors which are explained in our Addendum
23 C.

24 COMMISSIONER SCHMIDTLEIN: So do you make the
25 glucose from the corn?

1 MR. NAULTY: We do not.

2 COMMISSIONER SCHMIDTLEIN: Oh. So somebody
3 else does that, and you purchase glucose?

4 MR. NAULTY: We purchase glucose.

5 COMMISSIONER SCHMIDTLEIN: I see, okay, and
6 maybe this too much into confidential information, but can
7 you talk about what the other factors are that drive your
8 raw material cost, or how much glucose or the price of corn?

9 MR. NAULTY: Oh, there's various other inputs
10 as far as energy. There's other chemicals that are used in
11 the process, acids and bases. We introduce a sodium ion to
12 get the sodium glutamate. But they're all detailed in
13 Addendum C, and we went through a quite detailed explanation
14 of that, I think, in the preliminary. So again, I would
15 reference you to that, as opposed to disclosing that type of
16 information in a public forum.

17 COMMISSIONER SCHMIDTLEIN: Okay. One other
18 thing I'd like to understand is how the price of subject
19 imports impacts your contract prices. My understanding,
20 from having read the briefs, is Ajinomoto sells pursuant to
21 annual or short-term contracts, maybe a little bit on the
22 spot market.

23 Indonesia sells mostly, excuse me, on the spot
24 market. I can't recall what the Chinese, how the Chinese
25 product is sold. Is that some in contract, some on the spot

1 market? But can you kind of walk me through how the price
2 of imported product affects your contract negotiations, what
3 time of the year that happens?

4 Are you negotiating these contracts at all
5 different times of the year? Are they generally all in the
6 third or fourth quarter of the year? So we can sort of have
7 an idea, especially since the Chinese product has been in
8 the market, you know? It increased obviously during certain
9 periods. The Indonesian product wasn't, then came in and
10 increased.

11 So I'd like to understand, I guess, a little
12 bit about that potential time lag, if you will.

13 MR. NAULTY: So first of all, many customers
14 do negotiate their annual requirement. During the period of
15 -- let's say beginning late October through the end of
16 December; not everybody is the same. Some are staggered
17 because of business reasons, not wanting to negotiate all
18 their contracts at the same time.

19 But generally they are done toward the end of
20 the year, with an award to one supplier or one major
21 supplier and one minor supplier. How do the imports affect
22 that? It's pretty simple. I mean they come in with a low
23 price, and then the buyer says well, you're not going to get
24 any business next year.

25 COMMISSIONER SCHMIDTLEIN: No, I know. But

1 what we're looking at here, I mean in an ITC case, when
2 we're trying to decide is there causation, are the prices of
3 imports causing you injury, right, and I'm looking at one
4 thing, annual AUV data, right, and we're looking at that.
5 Then we've got pricing products, and we're looking at
6 quarterly pricing data, and I'm thinking okay, you all
7 negotiate, I don't know, all of your product via annual
8 contracts, some short-term contracts?

9 So what I'm trying to get here is more of an
10 understanding of is it all annual contracts, and if it is,
11 can you talk to maybe a lawyer would be the better one to
12 answer here. Can you walk us through, and if not now, then
13 in your post-hearing brief, how it is that when the
14 Indonesian product came in in a very small amount at the end
15 of 2011, did that affect your 2012 prices? Because it was a
16 very small amount, right? The Chinese product was already
17 in the market. So was that affecting your 2011 prices? Was
18 that affecting your 2012 prices?

19 We're trying to look to see, so that we can is
20 there a causal connection? So yeah. I understand sort of
21 generally that whole concept, but that doesn't really help
22 me.

23 MR. NAULTY: So I think what you're looking at
24 there, in the case of Indonesia, was some products starting
25 to come in, a negotiation period toward the end of 2011,

1 which took business, as I explained in my testimony, away
2 from us, which affected us throughout the entire period of
3 2012.

4 COMMISSIONER SCHMIDTLEIN: So go ahead.

5 MR. McPHIE: We'd be happy to explain it all
6 in further detail in our brief. But I think it's safe to
7 say that customers are well aware of what the spot prices
8 are when they sit down to negotiate contracts with AJINA and
9 they're aware of what they expect the trends in the spot
10 prices to be. Those absolutely are factors that drive the
11 negotiation.

12 COMMISSIONER SCHMIDTLEIN: Even though the
13 Indonesian product was such a small amount at the end of
14 2011? You think that affected your 2012 product?

15 MR. NAULTY: Of course it did. They needed to
16 bring product in and get requalified on their new facility.

17 MR. THOMAS: Commissioner, it's Ritchie
18 Thomas. A couple of things. In the first place, it's by no
19 means the case that the preponderance of AJINA's sales are
20 so-called annual contracts.

21 If you'll recall the testimony that Mr. Naulty
22 gave this morning, specifically with respect to Indonesia,
23 he mentioned three different sets of contracts which were
24 impacted by competition from Indonesia, and as I recall, I
25 don't have it in front of me.

1 But as I recall, those contracts all started
2 at different times of the year. So that you have during the
3 year, you have -- well, you may have several different
4 contracts with different purchasers coming up for
5 renegotiation, resale and at that point, wherever it may be
6 in the year, you're dealing with the import competition and
7 its impact.

8 COMMISSIONER SCHMIDTLEIN: Okay. Well that's
9 sort of what I'm trying to get here. When are they
10 negotiated? How many of them are negotiated towards the end
11 of the year? Are they staggered throughout the year? So if
12 you could follow up on that in your post-hearing, I think
13 that would be very helpful.

14 MR. NAULTY: Yeah. Again, I have to reference
15 the Addendum A. A lot of that is in Addendum A. But we can
16 summarize again. There's a lot of particular instances,
17 specific account information, volume information and price
18 information in Addendum A.

19 COMMISSIONER SCHMIDTLEIN: Okay.

20 MR. MALASHEVICH: Also Commissioner, if I may
21 suggest, that taking a look at the APO version of the staff
22 report, and look at what people report the importers versus
23 AJI, etcetera. There's quite a wide variety of shares of
24 the total sales that are under long-term versus medium term
25 versus spot sales. There's quite a bit of diversity.

1 COMMISSIONER SCHMIDTLEIN: Among the
2 importers.

3 MR. MALASHEVICH: Among everybody reporting to
4 the Commission. And so if you're at the point of -- if
5 you're a big industrial consumer, a food processor or
6 whatever, and you have a contract with AJI and it's an
7 annual contract, and the contract comes up for
8 renegotiation, and let's just say more often than not in the
9 fourth calendar quarter of the year.

10 They can make a very small commitment to make
11 somebody, for a spot sale. There's no obligation to buy a
12 further amount from that particular supplier, and that
13 supplier may not be willing to enter into an annual or six
14 month contract. But nevertheless, the spot seller can get
15 his or her sale, and that sale can be used in the course of
16 negotiating a contract with AJI.

17 Are they -- is AJI going to continue to get
18 hypothetically 70 percent of this customer's business, or
19 will it be reduced to ten percent? But AJI's stuck with the
20 contract for a year, and as Mr. Naulty was explaining to me
21 during the course of preparing for the hearing, without
22 going into detail if you just eyeball the prices AJI
23 reported for products, you know, one, two, three, four,
24 etcetera, the reason why they are what they are is largely
25 because AJI is selling under an annual contract negotiated

1 last fall, based upon the price competition then in
2 progress, and they were stuck with that.

3 But the good fortune in that regard is we're
4 now, and correct me if I'm wrong, Mr. Naulty, entering a
5 period where those contracts are expiring, and there will be
6 good upside potential, assuming the anti-dumping remedies
7 are in place.

8 COMMISSIONER SCHMIDTLEIN: Okay, all right.
9 Thank you. I'm sorry. My time is up.

10 CHAIRMAN BROADBENT: Okay. Mr. Naulty, could
11 you explain whether reverse options and electronic bidding
12 are having more of an impact on the market? Is there more
13 of that going on now?

14 MR. NAULTY: Well, I think in 20, probably
15 beginning around 2010, that practice really came into this
16 marketplace, and I mean it has a -- has a profound effect on
17 your ability to negotiate anything other than price with the
18 customers. And for, you know, 2014, it's too early to say
19 which customers -- or for 2015, it's too early to say which
20 customers are going to use that practice or not.

21 But it is definitely utilized in this industry
22 in buying many, many food ingredients by the major food
23 processor.

24 MR. McPHIE: And if I could add to that. This
25 is Iain McPhie. Those forms of bidding have been used only

1 in certain instances, and they do have a direct effect
2 themselves. But their greater significance is that they
3 showed it for many other purchasing decisions. Price is
4 really the driving factor, and for most customers, you know,
5 they talk about quality.

6 Of course, this product needs to meet the
7 spec. But in the end it really comes down to the price, and
8 that's what electronic bidding shows.

9 CHAIRMAN BROADBENT: Maybe for Mr. Malashevich

10 --

11 MR. MALASHEVICH: Bruce would be fine.

12 CHAIRMAN BROADBENT: It would make it easier,
13 and I think I can ask as kind of general question. I don't
14 want to get into specifics on the underselling data, because
15 I know it's confidential. But I wanted to get your view on
16 how we should weigh the underselling in this case.

17 The data seems essentially there are similar
18 levels of underselling to similar levels of overselling, and
19 it's pretty equally weighted. Can you explain again, and I
20 know you've gotten at this on a couple of angles, but how
21 this supports your affirmative case?

22 MR. MALASHEVICH: Yes. I think going back
23 through recent history, there have been a number of cases
24 which have gone affirmative at the final stage, despite
25 having what's euphemistically called a mixed level of

1 underselling, because I'm not a lawyer. I hope you realize
2 that. But just from sitting through a lot of hearings, and
3 you know no single factor is dispositive.

4 So even in the event, hypothetically, because
5 I don't think it would be appropriate in this case. But in
6 the event you decide to give little weight to the
7 underselling data, the volume effects are just huge,
8 proportionate to the size of the industry, as are the
9 effects on the industry's overall condition.

10 I guess this gets to Vice Chairman Pinkert's
11 question earlier, the red light interrupted us. But what --
12 part of the importance of Addendum A is in many cases where
13 you have ten U.S. producers and maybe five countries, there
14 could be a lot of things going on. There could be an
15 industrial recession. There could be a strike at one.
16 There's a lot of noise that can confuse the benefits of the
17 case, versus other factors.

18 In this case, there's nothing of the sort.
19 There was no disruption in demand. This is not a cyclical
20 product generally. There are no other U.S. producers in the
21 industry. So Addendum A's calculation of the benefits of
22 the cases is in fact also a calculation of the magnitude of
23 the injury suffered previously, owing to the subject
24 imports.

25 It's a calculation that works in both

1 directions. It's a proof of the case's benefits, and it's
2 also a very precise calculation of the injury. In my
3 experience, it's very unusual to be able to do such a
4 calculation, but it's very instructive, I think, in this
5 case.

6 MR. MCPHIE: This is Iain McPhie. If I could
7 add to that on the underselling analysis. There are mixed
8 results throughout the period, without regard to the timing,
9 if you just want to compare total results against each
10 other. But as we discuss in detail in our prehearing brief,
11 there are clear trends, with far greater instances of
12 underselling in the later periods.

13 In addition, as Mr. Malashevich testified
14 earlier, there's a lack of coverage in the pricing products.
15 It appears that the lower -- lower-priced suppliers are the
16 ones that declined to respond, and therefore skewing the
17 results. You can see that by comparison against the AUVs in
18 the public import data.

19 MR. MALASHEVICH: That's a very important
20 point Mr. McPhie makes. Once again, as I responded to
21 Commissioner Williamson, we are not criticizing the coverage
22 of the Commission's pricing products per se. We're calling
23 your attention to how many importers failed to report at
24 all.

25 So there's an upward bias in the import prices

1 being compared for Products 1 through 4, versus what you
2 find when you look at the AUVs for a very clean HDS number,
3 segregating those importers who responded, the residual
4 being those who didn't, and the residual's AUV is much
5 lower, especially in a case where, as Mr. Naulty indicated,
6 purchasers fight for half a penny per pound.

7 MR. THOMAS: It's Ritchie Thomas. Finally, I
8 would add there is substantial precedent for the Commission
9 finding adverse price effects in cases where there's quote
10 "mixed underselling," and we'll be happy to provide those
11 examples in the post-hearing brief.

12 CHAIRMAN BROADBENT: Okay. Mr. McPhie, in
13 Respondent's prehearing brief, I think it's page 19 to 20,
14 Respondents argue that non-import factors affected AJINA's
15 financial performance during the POI. Either now or in your
16 post-hearing brief, could you respond to these allegations?

17 MR. McPHIE: We absolutely will respond to
18 those in our post-hearing brief. The short answer is we
19 completely disagree with that analysis, and we'll walk
20 through all the details. But it's clear that it was the
21 subject imports that had the primary impact.

22 CHAIRMAN BROADBENT: Okay. Mr. Thomas, can
23 you comment on your decision to withdraw the petition with
24 respect to the CBD investigation on imports of MSG from
25 China?

1 MR. THOMAS: Thank you, Madam Chairman. I'm
2 going to leave that to Brendan to respond to, if I may.

3 CHAIRMAN BROADBENT: Mr. McPhie? No Brendan.

4 MR. NAULTY: No, I believe that's a question
5 for me. Thank you, Commissioner. That decision really was
6 an unanticipated decision, and it was due to other factors
7 and extraordinary circumstances, which really do not affect
8 the merits of this case at all, and other than saying that,
9 I would suggest that we could explain further in the
10 post-hearing brief, with some more details.

11 CHAIRMAN BROADBENT: Yeah. That would be
12 helpful, just so we can get a full picture of the
13 competition you're facing and so forth. Mr. Naulty, back on
14 the question of how consumers are reviewing the use of MSG
15 in food. What are the long-term trends and do they affect
16 imports and the domestic product equally?

17 MR. NAULTY: Commissioner, you're referencing
18 forecast of demand in the marketplace?

19 CHAIRMAN BROADBENT: Impressions of the
20 product. I was really struck by reading some of the
21 background information how, you know, really there was some
22 sort of a strong campaign against the product that you were
23 never able to sort of -- and I didn't -- it seemed like you
24 had made a decision not to try to market, that it was in
25 fact a healthful product according to the FDA, etcetera.

1 I don't see much of that. It's sort of --
2 you're sort of accepting kind of the low-lying prior nature
3 of this product, and I'm wondering whether you might do
4 better with a more positive marketing campaign that would
5 reinforce your strengths, which are domestic product that's
6 very trusted.

7 MR. NAULTY: Commissioner, I appreciate your
8 comments, and I wish it were that simple.

9 CHAIRMAN BROADBENT: Laughing.

10 MR. NAULTY: It's a complex consumer issue.
11 Consumers -- let me just say this. The overall demand in
12 the United States for MSG could be better than it is today,
13 if indeed consumers accepted MSG for what it is, a natural
14 ingredient which is essential for human life. I believe in
15 the preliminary, I explained that we need MSG in our
16 biological system every single day.

17 Your brain produces it and exports it to every
18 cell in your body, and it's utilized for neurotransmission,
19 your nerves, your brain function. Everything depends on MSG
20 or on glutamate. So as far as that goes, it is a safe, safe
21 material.

22 From a marketing perspective, unfortunately in
23 food marketing, there are a lot of very intelligent
24 marketing managers and brand managers who are trying to get
25 an edge against their competition, and will use a position

1 of no something, in this case no MSG in my product, in order
2 to make the impression to a consumer that their product is
3 better than their competitors.

4 As a company, Ajinomoto feels that is not
5 helpful overall to the food ingredient industry, and we do
6 have efforts to try and improve that. We have worked on, as
7 I stated earlier in the hearing, umami, the concept of
8 umami. Over the last ten years, we've put money into
9 promoting that very, very intentionally, and we're now
10 transitioning that messaging to umami being the pure taste
11 of MSG.

12 So we do have efforts in that area, and the
13 video you saw this morning is one element of that. However,
14 as an ingredient company, we don't have funds to go out and
15 run \$50 million advertising campaigns to improve the image
16 of MSG. So we work with individual customers, through trade
17 associations and try and do the best we can to improve the
18 image.

19 CHAIRMAN BROADBENT: Vice Chairman Pinkert.
20 Sorry for that, my time.

21 VICE CHAIRMAN PINKERT: Thank you, Madam
22 Chairman. Staying with you, Mr. Malashevich, I heard your
23 testimony about volume impact, and I think I understand what
24 you mean by that. But in a commodity market, if you push a
25 large volume of alternative supply into the market, wouldn't

1 you expect a price decline in that situation? I mean how do
2 you separate the volume impact from the price impact on this
3 kind of market?

4 MR. MALASHEVICH: Well, the textbook
5 definition of a commodity market is where the goods are
6 freely interchangeable, and therefore in order to improve
7 whatever the base case is, let's say it's 50-50 market share
8 between two suppliers. The only way you could increase
9 market share if you can't differentiate your product is to
10 lower the price.

11 And that's the essence of the theory of
12 commodity markets, and I think we have that here, that you
13 have a huge increase in market share, which practically all
14 purchasers say is of interchangeable products from a
15 commercial point of view. So the only way the subject
16 imports, we're not talking about marginal change of one or
17 two percentage points, as you know; we're talking about a
18 very big sort of Continental shift in market share over a
19 short period of time.

20 The only way that could have happened is by
21 those increasing their relative share, selling at a lower
22 price than other suppliers. I mean that's the theory. I
23 think the pricing data is consistent with that theory. By
24 pricing data, I mean products 1 through 4, supplemented with
25 the bias that I think we prove in not taking account of the

1 clearly lower-priced importers that simply didn't submit
2 questionnaires.

3 So it's not a criticism of the Commission.
4 It's just a criticism of the behavior of the universe of
5 importers, in some cooperating, some not.

6 VICE CHAIRMAN PINKERT: Thank you. Now
7 turning to some of the legal arguments concerning threat, do
8 the volume and price trends support your position on
9 cumulation, for purposes of a threat analysis?

10 MR. McPHIE: They do absolutely. The subject
11 imports followed similar price trends. In terms of volumes,
12 they were slightly different but not meaningful so. As we
13 discussed, the Indonesian imports began at a lower level in
14 2011, before substantially increasing for 2012 and '13.

15 But for those second two years of the three
16 year POI, they were present in the market at substantial
17 volumes, in direct competition with the Chinese imports
18 which were present throughout at very significant levels.

19 VICE CHAIRMAN PINKERT: For the post-hearing,
20 I would ask in particular that you take a look at the market
21 share for the two subject countries, and tell me whether the
22 trends with regard to market share support your position on
23 cumulation for purposes of threat.

24 MR. McPHIE: We'd be happy to do so.

25 VICE CHAIRMAN PINKERT: Thank you. Now on

1 pages 27 and 39-40, a footnote 171 of your brief, you
2 indicate that the current questionnaire data does not
3 include all of the purchasers that employ reverse auctions
4 and electronic bidding. How much of the market do you
5 believe is not being covered, and this goes to the comment,
6 I think, that Mr. Malashevich was just making?

7 MR. MALASHEVICH: Well the -- excuse me, the
8 electronic auctions is a different subject from the pricing
9 data. But the basis for that is we had a question during
10 the preliminary staff conference on this very point, and
11 AJINA prepared a list to the best of their knowledge of
12 purchasers who use electronic trading or so-called Internet
13 auctions.

14 There are more players on that list than were
15 self-identified in the Commission's purchasers'
16 questionnaires. So we discussed that. Mr. Naulty, you
17 could tell me if I'm wrong, but basically AJINA, from its
18 own experience, stands behind the list submitted in the
19 preliminary phase, based upon its real time interaction with
20 these customers, and that's the basis for the brief's
21 mention.

22 But that's a distinct issue from the
23 non-reporting importers providing upward bias in the pricing
24 data for Products 1 through 4.

25 VICE CHAIRMAN PINKERT: Got it. Mr. Naulty.

1 MR. NAULTY: Yeah, and I would just say, I
2 mean from our knowledge, I don't -- I think we included all
3 participants that we know that used that type of bidding on
4 the listing.

5 MR. MALASHEVICH: This is Bruce Malashevich
6 again. Vice Chairman, what I suggest we do -- we didn't do
7 this at the time of the preliminary -- but we'll look at the
8 lengthier list submitted by AJINA in the preliminary phase,
9 and to the extent we receive purchaser questionnaires from
10 those same customers, we can perform the calculation that
11 you requested.

12 At the very least, we can perform a
13 calculation of a downside minimum percent of consumption by
14 those using those techniques, based on what they
15 self-identified in reporting to the Commission. So we can
16 give you kind of a range. This is AJI's list. This is the
17 purchaser questionnaire list, and our best calculation of
18 the two.

19 VICE CHAIRMAN PINKERT: Please do. Thank you
20 very much. Thank you, Madam Chairman.

21 CHAIRMAN BROADBENT: Commissioner Williamson.

22 COMMISSIONER WILLIAMSON: Thank you. I was just
23 wondering, just to be clear, are you asking us to extend our
24 normal period of investigation, in this case to include a
25 fourth year, 2010?

1 MR. McPHIE: I would submit that information for
2 2010 is on the record, having been collected during the
3 preliminary phase investigation and in certain respects it
4 is relevant and it's illuminating to review, particularly
5 regarding trends in volumes.

6 COMMISSIONER WILLIAMSON: So you're saying for
7 purposes of substantiating what the trends --

8 MR. McPHIE: Yes, in certain contexts, yes, we do
9 think the Commission should review 2010 data.

10 COMMISSIONER WILLIAMSON: Okay. Thank you.

11 Mr. Naulty, you were talking -- you mentioned
12 three actions. I think it was December 2012, three
13 particular sales where the imports ceased business. And I
14 was just wondering what happened after that? What happened,
15 say, in the next year, or during the course of the year with
16 those?

17 MR. NAULTY: Well, in the first instance I
18 described that that particular customer came to us and once
19 the competitor -- I don't know exactly what they did, but
20 the customer in question made a contract with us for all of
21 their requirement.

22 In another case the customer is just now
23 finishing their annual contract. And in the third case we
24 got a percentage of the business for that customer. But,
25 again, we believe that the early part of the year was

1 supplied through imports that were already in country.

2 COMMISSIONER WILLIAMSON: Okay. Thank you.

3 MR. NAULTY: I mean that was -- just one more
4 comments. I mean, that was a big part of the recovery of
5 our volume which helped us reduce the inventory toward the
6 end of 2013.

7 COMMISSIONER WILLIAMSON: Okay. Thank you.

8 Now, you're arguing that -- Mr. Malashevich, I
9 think we've already discussed about price addition in
10 addition to price suppression. And sort of looking at the
11 data regarding pricing, and some of these we can further
12 discuss post-hearing this issue of why you find -- I think
13 we should find price depression.

14 MR. MALASHEVICH: Certainly I will. But also I
15 think it's significant -- I can't remember precisely the
16 quarters, but toward the end of the period surveyed for
17 pricing data products one through four, it's a wonderful
18 example of how prices can be suppressed with or without a
19 change in the relationship of the COGs to net sales.
20 Because remembering my earlier testimony and Mr. Naulty's
21 testimony about the timing of these contracts, those reduced
22 prices. Those subject imports, late in the POI, formed the
23 climate for negotiating the next contract. And it's in that
24 way prices can be suppressed as kind of a forward market for
25 where prices would be headed were it not for the remedies of

1 the case. So that's one way of looking at that, but I will
2 expand on that with APO data.

3 COMMISSIONER WILLIAMSON: And particularly, does
4 that also mean that there's price depression as well as
5 suppression?

6 MR. MALASHEVICH: Yes, that's part of our
7 argument, quite frankly. Notwithstanding the Commission's
8 finding of price suppression, and not significant depression
9 in the preliminary phase. There were dramatic developments
10 in the additional roughly year's worth of quarterly data
11 picked up which we addressed in our brief that we believe
12 provides a basis for price depression on top of the
13 individual anecdotal evidence provided in the addenda to the
14 U.S. producers questionnaire which also could serve as a
15 basis for price depression as well as suppression.

16 COMMISSIONER WILLIAMSON: Okay. Thank you for
17 that answer. And with that, I have no further questions. I
18 want to thank the panel for their testimony.

19 CHAIRMAN BROADBENT: Commissioner Johanson.

20 COMMISSIONER JOHANSON: Thank you, Chairman
21 Broadbent.

22 Can the domestic industry meet the needs of the
23 entire United States market? Even in 2014, it appears that
24 your production capacity is fairly high, yet imports still
25 have a significant market share. And also you have just one

1 production facility and that is locate in Iowa. And are
2 there any reliability concerns that leave purchasers in a
3 bind if there is indeed ever a production shortage?

4 MR. NAULTY: Well, the first thing to go to your
5 question, some of the measures we've taken very recently
6 after the preliminary for 2014 and going into 2015 is we
7 have now taken export product, which was going to both
8 Mexico and Canada from our U.S. facility, and we're selling
9 material from our affiliate out of Brazil. So that's step
10 one which makes more product available for the U.S. domestic
11 demand.

12 I won't dispute we're running at a high
13 production ratio. However, our engineers are very good at
14 what they do and they're pushing very hard and getting
15 better and better daily production numbers which are helping
16 to support the overall U.S. market.

17 And in addition to that, I don't know that we
18 need to support the entire market. Still today there are
19 imports and longer term we are now in a period where our
20 management has allowed us to develop plans for additional
21 capacities, and there are two ways to do that. One is with
22 physical addition of fermentation capacity another is
23 through technology. So at this point we are exploring both
24 of those. And we are committed to basically right sizing
25 our business to the U.S. market.

1 In the case of some unforeseen event that
2 interrupts our supply ability from the Iowa facility, we
3 would then, as a company, do the best to meet our
4 commitments by utilizing production from some of our other
5 facilities and that would be a responsible thing to do.

6 MR. THOMAS: It's Ritchie Thomas again. There's
7 something that perhaps should be added here. And that is
8 that the antidumping provisions don't necessarily foreclose
9 access to the U.S. market. It simply says that those who
10 compete in the U.S. market must do so on a quote, "fair"
11 basis. And so that it is certainly conceivable our friends
12 from Indonesia I believe have already said that given the
13 antidumping duty that they provisionally face, they're
14 restarting sales in the United States. So, if that's true,
15 one assumes that they would be able to continue to sell some
16 quantities here, but at fair prices.

17 COMMISSIONER JOHANSON: Thank you for your
18 responses.

19 Mr. Muller-Ibold, in its prehearing brief CJ
20 states that the U.S. market was only one of many markets in
21 which it participates and that exports to the United States
22 are much smaller than their shipments to their own home
23 market. Could CJ have said the same thing about its exports
24 to the EU market?

25 MR. MULLER-IBOLD: I believe that Indonesia is a

1 very large market. So that CJ presumably will sell a lot of
2 its production in Indonesia. Nevertheless, CJ exported a
3 significant volume to Europe. I don't have the exact data
4 at the top of my head, but I'm sure we can help provide some
5 of that. And as a result of developments following the
6 provisional measure imposed by the EU, I think there will be
7 significant volumes available.

8 The second thing that I mentioned very briefly in
9 my presentation is another observation and that was that the
10 volume of Chinese exports to Indonesia have increased very
11 significantly. And, again, if memory serves me right,
12 faster than the rate of growth of the Indonesian consumption
13 which means that a share of the pie in Indonesia for the
14 domestic producers is probably getting smaller which will
15 again mean that the material is available for sale.

16 Now, in my own mind, it's simply economically
17 rational for people like CJ and other large Indonesian
18 producers in these circumstances to look for markets that
19 are known for -- you know, that are known for that fact that
20 price levels there are corresponding to high levels of
21 customer service demands and some other things. So Europe
22 and the United States are markets with prices that should be
23 attractive for these people. And that's the basis for my
24 conviction that it is quite likely that what cannot be sold
25 into Europe anymore that the primary target of that will be

1 the United States.

2 COMMISSIONER JOHANSON: And perhaps it would be
3 useful for you to answer this question, or any other members
4 of the panel, but do you all know how per capita demand for
5 MSG in the United States compares to that in other parts of
6 the world?

7 MR. NAULTY: Let me just say this, we do have
8 that data and if it's of interest to the Commission we can
9 provide you -- it's so many milligrams per kilo of body
10 weight consumed by different populations.

11 As I remember correctly, the U.S. market is about
12 one-tenth of the Asian market on a daily basis. So my
13 management consistently is pushing me to tell me, we're
14 under performing based on the rest of the consumption on a
15 global basis.

16 COMMISSIONER JOHANSON: All right. So I guess
17 Asia is no longer seen as a growth market? It's already
18 saturated, perhaps?

19 MR. NAULTY: I wouldn't say that. I mean, the
20 demand in Asia, I think is continuing to grow. Certainly
21 food trends in Asia are changing a bit. But as some of the
22 traditional foods that are utilizing MSG are replaced with
23 things such as Kentucky Fried Chicken throughout China, it's
24 a consumption that moves from one bucket to another bucket.

25 COMMISSIONER JOHANSON: Yes, Mr. Malashevich.

1 MR. MALASHEVICH: If I may, Commissioner? I have
2 another perspective on that. And I can't speak to the per
3 capita demand or saturation of demand, but I can speak to
4 the saturation of supply which is, the essence of the
5 problem leading to this case fundamentally.

6 The Commission's own data and the prehearing
7 report as well as the testimony of my colleague, Teale, made
8 clear that there is very substantial excess capacity in
9 China looking for a home. So whatever the situation is with
10 respect to demand, the supply is saturated, which is one
11 reason why we're here.

12 COMMISSIONER JOHANSON: Thank you. And I have
13 time just for one more question. But, Mr. Muller-Ibold, I
14 was wondering, looking at the EU as comparing to the United
15 States as far as MSG goes, in the United States there's only
16 one producer of the product. Do you know if that's the
17 situation in Europe as well?

18 MR. MULLER-IBOLD: That is the same situation
19 today. And, again, I'm looking back, I think certainly more
20 than 20 years, yes, there were others. When faced with a
21 similar question from the Commission, our answer to why that
22 is the case was this. The typical plant size of a modern
23 MSG plant has increased. And as a result, at least in
24 Europe, the thought was that it would be difficult for
25 someone with a market that is -- in terms of its consumption

1 -- relatively mature to implant a second plant in the
2 typical size -- if memory serves me right -- is between 60
3 and 80,000 tons a year production capacity. And the
4 existing capacity of Aginomoto in Europe is around that
5 volume.

6 If you would implant today a second plant, you
7 would generate an over capacity that would very difficult to
8 justify and that would be to economic consequences that
9 would not be beneficial to either of the two producers which
10 exist.

11 So, as a result, we have attributed in our
12 discussion there that the fact that there's only one, if you
13 want natural size of an operation -- of a modern MSG
14 operation, that would satisfy more or less the demand in
15 Europe and that it was therefore economically rational that
16 there was only one producer in Europe at this time.

17 COMMISSIONER JOHANSON: All right. Thank you for
18 your responses and my time has expired.

19 CHAIRMAN BROADBENT: Commissioner Schmidtlein.

20 COMMISSIONER SCHMIDTLEIN: Thank you.

21 David has covered the topic that I was going to
22 ask about primarily which was the utilization in U.S.
23 demand.

24 I had one question that may be more of a
25 curiosity. In footnote 179 of the petitioner's brief you

1 say that of the lost sales and lost revenue allegations,
2 that you've only provided representative examples of those
3 lost sales from late 2012 and early 2013. And I was just
4 wondering why, if you have other examples of lost sales
5 sales and lost revenue allegations why those weren't
6 provided.

7 MR. McPHIE: We feel that exemptions we provided
8 were a pretty lengthy list and represent very substantial
9 revenues and volumes both. We just didn't do an exhaustive
10 list of every single instance going back all three years.
11 It just seemed like too much and it was not necessary.

12 MR. NAULTY: Maybe to put it in perspective, if
13 you look at our overall food ingredient business in the
14 United States, we have over 800 customers. Many are very
15 small. And so to include those, I think, is not so
16 beneficial in this overall analysis. So what you have is a
17 very good representation of the majority of the impact.

18 MR. MALASHEVICH: Bruce Malashevich. I agree
19 with all the above, but there was another reason. Over time
20 I've been -- it's been suggested by staff and Commissioners,
21 you know, they'd rather have a shorter list of instances
22 where the volume is substantial, customers are substantial,
23 and where there's confidence in the allegation. That it's
24 better to have a shorter list with a high volume and high
25 confidence interval than it is to have 100 instances where

1 60 of the customers may never respond to the Commission's
2 questionnaire. It just creates hassle for staff without
3 really advancing the cause.

4 COMMISSIONER SCHMIDTLEIN: Okay. All right. I
5 don't have any further questions. So, thank you very much.

6 CHAIRMAN BROADBENT: Thank you. I just had a
7 couple of questions. Mr. Naulty, how many employees do you
8 have in Europe and how many employees do you have in the
9 United States? I think in the United States you have around
10 88; is that right, something like that?

11 MR. NAULTY: That's correct. I don't have the
12 number for Europe.

13 CHAIRMAN BROADBENT: Is it on the same --
14 relatively same amount?

15 MR. NAULTY: Higher.

16 MR. MULLER-IBOLD: A little bit higher. Yeah, we
17 can get you that number quickly.

18 CHAIRMAN BROADBENT: Okay.

19 MR. MULLER-IBOLD: It's in the same ballpark.

20 MR. NAULTY: Yeah, and I mean, just to put it in
21 perspective, though, the plant size in Europe is larger than
22 the plant size in the United States.

23 CHAIRMAN BROADBENT: Okay. And their
24 consumption, is it about the same as in the U.S. per kilo or
25 your measurement?

1 MR. NAULTY: As far as the per capita
2 consumption?

3 CHAIRMAN BROADBENT: Yeah.

4 MR. NAULTY: Yeah, I'd have to look.

5 We do have a chart that shows kind of different
6 populations and consumption.

7 CHAIRMAN BROADBENT: But they're as enthusiastic
8 about it as the U.S. basically? There's not a big
9 difference?

10 MR. NAULTY: Yeah, it's probably not much -- in
11 the western taste versus the Asian taste.

12 CHAIRMAN BROADBENT: Okay. Got it. And then it
13 looks like your employment figures are pretty good and your
14 wages are going up in terms of what you've been able to pay;
15 is that correct?

16 MR. NAULTY: Yeah, I mean, our employees would
17 say they need to go up more, but it's a management issue we
18 have to wrestle with.

19 CHAIRMAN BROADBENT: All right. Good. Well, I
20 just want to thank all the witnesses for their time. It's
21 been a really interesting product. I think we're all
22 looking forward to some chicken or wonton soup for lunch.
23 And I appreciate everything you've had to do. I have to
24 read something here. So hang on one second.

25 (Pause.)

1 CHAIRMAN BROADBENT: Oh, yeah, does the staff
2 have any questions for this panel?

3 MS. HAINES: Elizabeth Hines, the staff has no
4 questions.

5 CHAIRMAN BROADBENT: And respondents, do you have
6 any questions?

7 MR. CUNNINGHAM: No questions.

8 CHAIRMAN BROADBENT: Okay. In that case it's
9 time for our lunch break. We'll resume at 1:20, in an hour.
10 The hearing room is not secure, so, please, don't leave your
11 business confidential information out.

12 And I want to once again thank all the witnesses
13 for coming today. It's been very interesting.

14 MR. MALASHEVICH: Madam Chairman, I just wanted
15 to indicate that these are consumables for lunch. Yeah, so
16 seriously, enjoy. Just leave some Cheetos for --

17 CHAIRMAN BROADBENT: We're going to have to call
18 in our agency ethics official I think.

19 (Laughter.)

20 (Whereupon, at 12:20 p.m., the hearing was
21 recessed to be reconvened this same day at 1:20 p.m.)

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AFTERNOON SESSION

MR. BISHOP: Will the room please come to order.

CHAIRMAN BROADBENT: Mr. Secretary, are there any preliminary matters for the afternoon session?

MR. BISHOP: Madam Chairman, I would note that the panel in opposition to the imposition of the antidumping duty orders have been seated. All witnesses have been sworn.

CHAIRMAN BROADBENT: Thank you, Mr. Secretary. I want to welcome the afternoon panel to the ITC. And again, I'd like to remind the witnesses to speak clearly into the microphones, and state your name for the record for the benefit of the court reporter. You may begin when you're ready.

MR. CUNNINGHAM: Thank you. Madam Chairman, members of the Commission, I'm Dick Cunningham, Steptoe & Johnson, counsel for CJ Indonesia and CJ America. With me here today is my partner, Joel Kaufman. Also, with me from CJ America here to correct me when I'm wrong and to answer your questions are James Kim, the Managing Director for Sales and Bio Division, and Michelle Lee the Product Manager for the Food Division. They are the two people directly in charge of the MSG operations of CJ America, which I might add is not the major product of either CJ America or CJ Indonesia. Other chemical and food additive products are

1 their major products. And indeed, much of their sales to
2 the United States are ancillary sales of MSG to customers
3 who need that as an accompaniment to sales which are
4 substantially larger for the CJ Group of certain other food
5 products.

6 I have first a matter of housekeeping. I've
7 provided to the secretary written copies of my introductory
8 statement this morning, of my statement today, this
9 afternoon, and Mr. Kaufman's statement this afternoon. I
10 would like those to be entered in the record.

11 Before I turn to my written statement, I'd like
12 to make two introductory points. First, I'd like the
13 Commission to step back and think for a moment of what this
14 hearing would've been like this morning had the Chinese been
15 here. The Chinese are vastly the largest source of subject
16 imports. They are in AJINA's presentations at the
17 preliminary and in their pre-hearing brief the Chinese are
18 the major factor in what they talk about.

19 It is very clear that they have tailored their
20 presentation here, knowing that the Chinese aren't going to
21 be here, to focus on Indonesia. It also should've been
22 clear to you that they're focusing on the tail that's
23 wagging the dog and even though they're focusing on
24 Indonesia, their presentation was replete with stuff about
25 China cutting prices, particularly at the end of the period,

1 about the large volume from China, about the huge, excess
2 capacity in China, all different from Indonesia. And I
3 submit to you that if China had been here, you'd see
4 obviously what this case is all about.

5 Now, the second thing I want to say before I
6 start with my written presentation is that contrary to what
7 was alleged today our presentation is not based on adjusting
8 or manipulating either AJINA's financials or the staff
9 report data. What we give you is straight from the staff
10 report. All the magic in our magical thinking comes right
11 from the staff report.

12 And there's a good reason for that. The staff
13 report basically, as I will make clear today, makes the case
14 that Indonesia wants you to see.

15 Now, I'd like to focus on some important aspects
16 of this case. Aspects that you need to recognize because
17 they affect how the data must be analyzed. My presentation,
18 unfortunately, is going to have to be a bit cryptic in parts
19 due to the confidentiality of data in this single-Petitioner
20 case. That's one of the reasons that I have given you, as
21 you know I don't always do, a written statement because some
22 of the things I'm going to be walking you through have
23 references to the staff report, step-by-step things that I'm
24 going to ask you to do in analysis. And it occurred to me
25 it would be a lot easier for you to follow me if I had it

1 here in writing.

2 Let me turn first to volume-related issues. And
3 I submit the Petitioner has a real problem on volume
4 affects, despite the fact that imports are up and despite
5 the fact that the imports market share is up. The problem
6 that they have stems from two facts. First, the
7 Petitioner's MSG plant, as you heard today from them, is
8 designed in such a way that except for breakdowns and
9 maintenance it must run at full capacity 24 hours a day, 365
10 days a year.

11 This means that absent a plant breakdown, AJINA
12 is always operating at essentially full utilization of
13 capacity. There is no argument to be made that AJINA's
14 production is diminished in the slightest by imports because
15 they always operate at full capacity, unless there is an
16 outage. And we'll come to one example where there was
17 apparently something like that, and I'll ask you to focus on
18 that.

19 The second important fact is that Petitioner uses
20 imports from its foreign affiliates to supplement its U.S.
21 production. This means that when AJINA sells more than it
22 produces it uses these affiliated imports to make up the
23 difference. That's important too. That's important too
24 because when you look at the affect on AJINA's sales and
25 shipments by subject imports you need to consider the

1 interplay between AJINA's shipments from its domestic
2 production and AJINA's shipments from its foreign
3 affiliates.

4 These two facts, the plant operating always at
5 full capacity and the supplementing of its U.S. production
6 by its affiliate imports have several significances for your
7 analysis. First, when you examine Petitioner's share of the
8 U.S. market, you need to look both at AJINA's U.S.
9 commercial shipments, and I've noted the staff report pages
10 and tables in it as we go through here. In general, I won't
11 refer to them because it will disrupt the flow.

12 You need to look both at AJINA's U.S. commercial
13 shipments and at AJINA's imports from non-subject sources;
14 otherwise, you don't have a full understanding of what was
15 happening and what affect imports may have had on AJINA's
16 role in the marketplace. And remember, this is an
17 antidumping statute that protects domestic industries
18 domestic production and domestic shipments. And so where
19 the U.S. producer chooses to supplement domestic shipments
20 by its foreign affiliates that's not a loss of domestic
21 shipments to import competition in the sense that the
22 statute deals with, not the subject import competition.

23 And that's my second point, that any claim by
24 Petitioner the decline in its U.S. shipments shows volume
25 loss to subject imports has to be examined in that context

1 of how AJINA operates. If AJINA's imports from non-subject
2 sources rose that demonstrates that AJINA simply chose to
3 supply some of its U.S. sales by those imports or perhaps
4 had to do so because of production or other problems.

5 Now, in particular, I urge you to examine the one
6 year in the POI in which Petitioner's production was
7 significantly below its reported capacity, and there was
8 reference to this several times by Mr. Naulty, and you had
9 some questions about this. I urge you to inquire closely as
10 to that.

11 We believe you will find, and I think Mr. Naulty
12 was pretty candid on this, that that shortfall in shipments
13 below production of capacity in that year was nothing to do
14 with the effect of subject import competition rather we
15 believe you will find that it had to do with some combination
16 of plant production problems or product quality problems, or
17 lack of available raw materials.

18 We don't have to the answers for that. Mr.
19 Naulty was a little bit vague as to precisely what was going
20 on. I urge the Commission to get to the bottom of that.

21 Then what you should do is you should look at
22 AJINA's total U.S. commercial shipments in that year,
23 including both its shipments from U.S. production and its
24 imports from non-subject sources and add those two together.
25 And then I suggest you do that same addition for the next

1 year when there was not a shortfall of production below
2 capacity. This will enable you to determine whether subject
3 imports did or did not deprive AJINA of volume in the year
4 when its U.S. shipments, a figure in Table 3, line 1,
5 dropped significantly.

6 So, I submit they have a problem with their
7 volume effects because the subject imports clearly are not
8 taking business away from AJINA's U.S. production because of
9 those two facts.

10 The third fact that actually relates to that is
11 the question that you asked, which is does AJINA have the
12 capacity to supply the entire U.S. market? Now, I can't
13 give you a yes or no answer of that. I think the answer
14 that was implicit in Mr. Naulty's response to your question
15 the answer is absolutely clear if you look at the staff data
16 on apparent consumption versus AJINA's capacity, much less
17 it's production.

18 Now, let me turn to some factors relevant to your
19 analysis of price effects because if AJINA has trouble with
20 its volume affects argument it has even more trouble with
21 the price affects argument.

22 Now, it was pretty clear today, as was clear from
23 the briefs and the staff report that your staff found no
24 predominance of underselling by subject imports. They found
25 exactly what you would expect in a commodity market, prices

1 tend to coalesce with some overselling, some underselling,
2 but no predominance of either one.

3 Now, AJINA clearly realizes this fact, and it
4 bothers them. So, it asks you to walk away from your
5 staff's analysis. You heard them say this today. Look, go
6 to the average unit values of Chinese imports rather than
7 the data in your pricing products and rely on those instead.
8 Needless to say, you shouldn't do that. Average unit values
9 are not product specific. They can't be used in the way
10 that you use the product pricing categories to analyze price
11 trends or analyze underselling or causation.

12 Moreover, remember that those are import values.
13 They're not the values to which the material is sold in the
14 U.S. marketplace. Indeed, they're definitely are going to
15 be lower. They don't include markups. They don't include
16 transportation costs. They don't include other things. No
17 point in you going to average unit values. Stick with what
18 you do normally. Stick with what the staff does. Stick
19 with the product pricing comparisons and the underselling
20 analysis.

21 Now, in the absence of any predominance of
22 underselling, Petitioner goes to great lengths to do -- and
23 you heard Mr. McPhie talk a little bit about this, this
24 morning -- to do what one does in a case when you're a
25 Peticioner and you see a mixed underselling and overselling.

1 What you do is you look at the product pricing categories,
2 look at the columns of the prices for the U.S. producer, the
3 column of prices for the Indonesians, the column for the
4 prices for the Chinese, and you try to trace trends and
5 relationships and do cause and effect, who is being pulled
6 down by what. And that's what they try to do, and that's
7 just the whole race to the bottom argument that you've heard
8 a lot about in the briefs and today.

9 But, and this is really, really important, when
10 you look at the staff's pricing product analyses, they
11 demonstrate that this allegation of lower import prices,
12 particularly Indonesia and lower import prices, pulling
13 AJINA down in a race to the bottom just doesn't hold water.
14 It's not true. As to Indonesian imports, it is not accurate
15 as to any of the product categories.

16 Now, I can't go into detail here because the data
17 are confidential. But let me describe in general terms the
18 types of mischaracterizations that Petitioners use to try to
19 create the impression that the pricing product category
20 analysis from your staff shows something that, in fact, it
21 does not show at all.

22 Now, Petitioner alleges that Indonesia entered
23 the market for a product that prices below those of AJINA
24 and pulled AJINA's prices down. Well, you make look and
25 find, yes, Indonesian MSG was initially priced below AJINA's

1 price. But then you look over to the column for AJINA's
2 prices and you will find, starting from the point when the
3 Indonesian material entered the market that AJINA prices did
4 not decline, despite lower Indonesian prices.

5 Now, later in the POI when AJINA's price did
6 decline somewhat you're going to find the Indonesia price
7 had been rising, and rising for several quarters, and
8 reached a level above AJINA's price. The whole construct
9 that they put together of being pulled down by the lower
10 Indonesian price in a race to the bottom is just refuted by
11 the data in your pricing product tables.

12 There's another product where you'll find that
13 Indonesia's initial pricing was consistently and
14 substantially higher than Petitioner's price. Well, of
15 course, AJINA ignores that fact, and they contend that a
16 later reduction in the Indonesian price forced its prices
17 down, but the fact is during the three quarters when the
18 Indonesian prices declined AJINA's prices rose.

19 The causal relationships are not there. The
20 causal relationships don't work for Petitioner any more than
21 the underselling analysis works. And there's a discussion I
22 have as to a third product that there's same fallacies in
23 their analysis. I won't go through it all now.

24 In summary, the Commission must look through
25 Petitioner's persistent mischaracterization of price

1 relationships and trends. There is no predominance of
2 underselling and no evidence whatsoever that Indonesia
3 either triggered or led any so-called race to the bottom.

4 And finally, as to who is, in fact, the price
5 leader in the market, I suggest that the Commission would do
6 well to heed the views of participants in the market as set
7 forth at page V-6 of the staff report.

8 Now, they have problems with their volume
9 effects. They have problems with their price effects. They
10 also have problems, believe it or not, with the performance
11 of the U.S. industry. AJINA would have you believe that its
12 performance got worse and worse from 2011 through 2013, and
13 then recovered in 2014, but that was entirely because of the
14 asserted absence from the market of subject imports, and it
15 was that fact that allowed Petitioner to raise its prices.

16 Well, I'm going to let the numbers speak for
17 themselves, but I want to suggest to you some factors to
18 keep in mind as you evaluate those numbers going from
19 year-to-year, looking at AJINA's operations. Let's first
20 look at 2012, and I've listed four tables in the staff
21 report that you should look at here.

22 Let's begin with the variance analysis, and in
23 particular, with the volume variance for 2011/2012. I can't
24 tell you what it is. It's confidential. But in
25 interpreting that variance and in thinking about the extent

1 to which subject imports did or did not cause the change in
2 that variance, you need to consider the following.

3 First, remember, AJINA runs its plant 24 hours a
4 day, 365 days a year, except for breakdown and maintenance.
5 You'd expect, therefore, to see on Table 3-1 production
6 figures for this year that are pretty close to the capacity
7 figures. If in a particular year you see production
8 dropping well below capacity, you need to ask why? Such a
9 drop is not something explainable by subject imports and it
10 could clearly affect that volume variance analysis.

11 Second, you need to understand that the
12 commercial shipments figure on the first line of Table 3-2
13 doesn't represent AJINA's total sales in the U.S. market.
14 Rather you must add in the volume of AJINA's imports from
15 non-subject countries shown on the second line of Table 3-4.
16 You need to do that in order to assess whether a decline in
17 AJINA's sales and shipment volume was caused by losing
18 volume to subject imports.

19 If AJINA's U.S. production and shipments of
20 U.S.-produced merchandise fell for any reason, and if AJINA
21 used an increase in its imports from foreign affiliates to
22 make up that U.S. shipment shortfall, then you would not
23 conclude that an adverse volume variance in Table 6-2 was
24 attributable to subject imports.

25 In that event, you would find subject imports to

1 be a cause of injury only if they were the cause of an
2 adverse price variance. In that regard, take a look at the
3 first line for 2011 to '12 in Table 6-2. Have I got you all
4 confused now?

5 Let's proceed a little bit, and I'm sorry to have
6 to do this in a complicated manner. I have to do this with
7 some circumlocutions and some references because I can't do
8 the actual figures, which I regret because they're so
9 dramatically in our favor.

10 Let's move on to 2013. And I'm going to pose
11 briefly as an accountant, and ask you to focus on Tables 6-1
12 and 6-2. Look at the line for cost of raw materials in 6-1
13 and calculate the difference between 2012 and 2013. Now,
14 compare that change in raw material cost with the price
15 variance for 2012 to 2013 in the first line of Table 6-2.
16 And finally, go back to Table 6-1 and calculate the change
17 in gross profit from 2012 to 2013.

18 If you find the bulk of the change in gross
19 profit was attributable to the change in cost of raw
20 materials, and that is more of that than the price variance,
21 then you would conclude that the change in gross profit was
22 predominantly caused by a factor not related to subject
23 imports.

24 Let me pause here because when we're talking
25 about cost of raw materials the largest part of that,

1 downplayed today, but inaccurately by Mr. Naulty, is corn
2 price. Mr. Naulty, I'm sure inadvertently was also
3 inaccurate about when corn prices fell. That is absolutely
4 clearly shown in the staff report, in the table, in charts
5 5-1 on page 5-2, which is a non-confidential chart. No
6 problem with that I can actually talk about. It's so
7 refreshing. Where you'll see that the price of corn rises
8 up into the middle of 2012, then begins to decline, and then
9 falls off the cliff as you get into 2013. It goes way down
10 by mid-2013. It is not the case, as Mr. Naulty put it, that
11 the change in their cost of corn didn't happen until 2014.

12 What he's talking about there is yet another
13 change in the price of corn downward, which the Department
14 of Agriculture is forecasting to happen, which will even
15 further reduce AJINA's costs and make it even more
16 profitable. But clearly, in explaining what happened to
17 them in 2013 and determining the extent to which their cost
18 of raw materials was a major factor in that the price of
19 corn fell in that year and affected those costs.

20 Now, staying in 2013 and staying with Table 6-1,
21 let's look at the difference in SGNA expense between 2012
22 and 2013 and add that to the change in cost of raw
23 materials. If you find that this accounts for all of the
24 change in operating income, I suggest to you it's difficult
25 to conclude that the 2012 to 2013 changes in AJINA's

1 operating results had anything to do with imports. Rather
2 they were attributable to two factors, raw material costs,
3 and SGNA. And if that's what you find, that's where the
4 answer leads you.

5 Finally, I want to address Petitioner's
6 contention that a spectacular performance in interim 2014,
7 and it really is spectacular. I mean compare the figures
8 for profits and both of the two profits, operating income
9 and gross profit, with the entire rest of the period. I
10 mean it is spectacular.

11 All right, Petitioner contends that that only
12 happened because subject imports exited the market and
13 enable AJINA to raise its prices in the absence of import
14 competition. Petitioner's theory is the Commerce
15 Department's preliminary antidumping determinations in May
16 of this year caused the Chinese and Indonesia exports to
17 withdraw from the market. No part of that argument holds
18 water.

19 First, the Commerce Department's preliminary
20 determination was in May of this year. That's way too late
21 to have affected things -- affected any of this. That's
22 particularly true because of all the testimony you heard
23 this year as to how prices in the biggest sectors of the
24 market, the big contract prices are set. Those prices for
25 2014 were set back in the last three, four months of 2013.

1 Clearly, there's no affect of the preliminary
2 determination and damn unlikely there was any affect of the
3 case at all on those prices.

4 Now, second point, contrary to what you heard
5 from AJINA, neither the Chinese nor the Indonesian exporters
6 exited the U.S. market in the first half of 2014. Chinese
7 imports reduced somewhat, significantly, but continued in
8 quite significant volume. And here's a point I want to make
9 to you. For some purposes in terms of these trends you need
10 to look at sales in the U.S. market of subject imports
11 rather than subject import volumes as imports.

12 The reason for that is what happened, and a
13 classic example of why you should do that is what happened
14 with CJ in 2014. CJ had a dumping case going on. It also
15 had some quite substantial inventory in the U.S. that it
16 could sell out of. It used that inventory to satisfy its
17 customer's needs in the first half of 2014; thus, continuing
18 a significant presence in the market. And you can see that
19 in our questionnaire responses of the volume, but it doesn't
20 show up in imports. And so, when they say, yes, CJ was not
21 importing during the first half of 2014, that is, as one my
22 favorite movies says it's accurate, but not true.

23 Yes, no imports, but no, it doesn't mean they
24 weren't selling at significant volume, and they were selling
25 in significant volume.

1 Third point, while AJINA increased its sales
2 volume, the Commission, as to pricing, should look at the
3 price variance line for interim 2014 in staff report Table
4 6-2.

5 And finally, the real cause of Petitioner's
6 spectacular access in 2014 is readily seen in staff report
7 Table 6-1, two dramatic categories seen by examination of
8 the relevant lines in the sections on ratio to net sales and
9 on unit value per short ton are cost of goods sold-raw
10 materials, and other factory costs. Look at those closely.
11 It's clear that these two cost-site items I believe you will
12 find, not any affect of reduced imports on sales revenue
13 were the overwhelming factors in AJINA's success.

14 All of this should lead you, I submit, to the
15 conclusion there is no credible case here that the domestic
16 producer is at present suffering material injury caused by
17 subject imports. It has tremendously well in 2014. It did
18 just fine in terms of its operations and the absence of
19 affect from imports on its operations in 2013. That leaves
20 only the analysis of threat, and for that, I give you now to
21 my partner, Joel Kaufman.

22 MR. KAUFMAN: Chairman Broadbent, Vice Chairman
23 Pinkert, and Commissioners, before addressing the issue of
24 threat, I would like to briefly address the issue of
25 cumulation.

1 It's our position and we believe the facts
2 totally support it that imports from Indonesia and China
3 should not be cumulated particularly since this is, as Mr.
4 Cunningham pointed out a threat case. And no matter how you
5 gloss over the facts, I think the performances in 2014
6 clearly demonstrate that fact.

7 CJ only began to import MSG from Indonesia in
8 commercial quantities in 2012. And at that, it introduced
9 its MSG on a staggered basis, different crystal sizes got
10 introduced at different times, the last of which not until
11 2013. So it has not been in the market for the entire
12 period that the Commission is considering.

13 We've been told by our customers that they have
14 had problems with imports from China in terms of quality and
15 that's one reason why they're looking for an alternative
16 source of supply. We've also been told by our customers
17 that they're looking for alternative sources of supply to
18 domestic producers for a variety of reasons, none of which
19 relate to price.

20 CJA does not sell MSG in drums. It does not
21 participate in that part of the market that is serviced by
22 100-pound drums. We never have and we don't currently.

23 If you look at the pricing data for 100-pound
24 drums, you'll see in the final we did not report data.
25 That's correct because we don't sell them.

1 In the preliminary determination, CJA
2 misunderstood particularly what the Commission was asking
3 for and they reported pricing in that response for 900
4 kilogram bags. That's basically a ton. To sit there as
5 petitioners have done and to revise our pricing data to
6 incorporate prices for one-ton packs compared to 100-pound
7 drums is simply inaccurate. It's not representative.
8 They're not comparable.

9 Finally, the most important factor that we looked
10 to right now is the fact that we are here. We represent 100
11 percent of the imports from Indonesia. The Chinese
12 producers are not. For a threat in particular what that
13 means is that the data with one exception they're not, that
14 the data the Commission relies on to assess a threat of
15 future injury whether that injury is real and imminent is
16 not here. It would be grossly unfair to see CJ then to be
17 cumulated with Chinese producers on this issue. We believe
18 for these reasons that the Commission actually has grounds
19 to decumulate the imports not only for purposes of its
20 threat determination, which we think are unequivocally
21 there, but also on policy grounds to justify a decumulation
22 determination for all of the injury determinations. And for
23 reasons that Mr. Cunningham spoke to earlier. We really are
24 the tail of the dog. We are not the dog.

25 Getting to the threat issues themselves, there

1 isn't a threat of material injury by reason of imports of
2 MSG from Indonesia. CJI is the only exporter of MSG from
3 Indonesia. That's true today. It has been true throughout
4 the POI. It is CJI's data and their alone that should be
5 the focus of the Commission's analysis of the threat issue
6 as they relate to imports from Indonesia.

7 You heard them today, you've seen them in the
8 briefs, the petition has made multiple arguments about
9 Indonesian capacity. Despite the fact that we're the only
10 exporting company from Indonesia, the petition has requested
11 the Commission repeatedly to consider overall Indonesian
12 capacity. They've asked the Commission to consider the
13 capacity data presented by the three producers that did
14 respond. Alternatively they said they've requested adverse
15 inferences on the basis of the fact that additional
16 exporters -- not exporters -- additional producers in
17 Indonesia have not responded to the Commission's
18 questionnaires.

19 Inasmuch as CJI is the only exporting company
20 producing MSG in Indonesia arguments based on the remaining
21 producers really are irrelevant. And this conclusion is
22 heightened by the fact that of the two other producers that
23 have provided information to the Commission, they're both
24 related to the petitioner.

25 Unless the petitioner is suggesting that somehow

1 they're going to start exporting MSG to the U.S. from their
2 affiliates in Indonesia and that those affiliates represent
3 a threat to the U.S. industry, that data is clearly
4 irrelevant.

5 There's nothing in the record of this proceeding
6 that would indicate that either those producers or any other
7 producer in Indonesia whether affiliated or not, has any
8 intention of directing production to the U.S.

9 You heard this morning a suggestion that the
10 other Indonesian producer participating in the EU AD
11 investigation is export oriented. And they listed a number
12 of geographic areas that that producer exports to. I urge
13 the Commission to look back at the transcript. None of
14 those areas geographically are either North America or the
15 United States.

16 We are the only producer and that's the only
17 information the Commission has because that's the reality.

18 So arguments based on the data of other producers
19 are just simply an attempt to obfuscate the fact that CJI
20 does not have any current ability to ship additional
21 production to the United States.

22 As set forth in CJI's foreign producer
23 questionnaire response, CJI is producing now at capacity.
24 They entered the U.S. market simply to supply a demand
25 generated by its customers for a second source of MSG and to

1 compliment their purchases of other products and really the
2 major product line of CJI.

3 With the reorganization of its Indonesian
4 facilities, and production facilities, CJI was able to
5 satisfy that demand. CJI sent over small quantities in 2011
6 that were used for testing and certification purposes, but
7 commercial shipments did not begin until 2012.

8 And as I indicated earlier, the products were
9 introduced on a staggered basis. If you compare the 2012
10 and the 2013 shipments, you'll see that not only is the
11 demand for CJI's products fairly limited, but it's very
12 constant. CJI sales in 2013 were comparable, in fact, to
13 the level that it reached in 2012.

14 The petitioner has compared our import levels
15 from 2011 to 2013, but it's our belief that that comparison
16 simply is not probative. The only information really on the
17 size of the market for CJI and CJA for Indonesian imports is
18 really evidence in the 2012 and 2013 data.

19 CJA's market is very stable in the U.S. and its
20 sales in 2012 and 2013 are evidence of that.

21 More important to the Commission's threat
22 analysis, however, is that there's no -- as I indicated
23 before, there's no real capacity to increase shipments to
24 the United States in any meaningful manner.

25 Our capacity did increase in 2012, but then it

1 decreased in 2013. This was all part of an internal
2 reorganization at CJII and most significant for this
3 analysis, however, is that as a result of that
4 reorganization production capacity previously devoted to MSG
5 has been permanently closed. You've heard suggestions today
6 that, oh, we could always open up that additional
7 production, that is simply not the case. Equipment no long
8 exists, facilities are no longer available for MSGs
9 production. That change was permanent.

10 And CJII actually identified that in its
11 questionnaire response at page 10 when the Commission asked,
12 do you have other facilities? Is there other equipment that
13 you could use to produce MSG? CJII reported that it did not,
14 and accurately so.

15 The petitioner has suggested that, well, if you
16 look at the capacity numbers, maybe there's some question
17 here and it could go back and forth or whatever. That's
18 simply not the case. What you see in those numbers, if you
19 look at them, because CJII did report data for total
20 production in the facility, in the building where the MSG
21 production takes place, you actually can see the effect of
22 the reorganization because what you see is as MSG production
23 goes up and down, production capacity for other products
24 comparably changes.

25 Another factor for the Commission to consider in

1 its threat analysis is whether the current demand for CJI is
2 indicative of its ability to direct production and shipments
3 to the United States. CJI's domestic market is extremely
4 large and its export markets are large and robust.

5 CJI has never relied on the U.S. market. It's a
6 significant outlet for its MSG production and you can see
7 that by the percentage of the shipments that go to the U.S.
8 in CJI's response to the Commission's questionnaire. The
9 percentages are in our briefs. They're based on the data
10 supplied by CJI.

11 The petitioner repeatedly makes the argument that
12 Indonesian producers are export oriented as if that's some
13 kind of disease. That is partially correct. CJI does have
14 significant export markets. But it also has a large and
15 expanding domestic market. Moreover the fact that CJI is
16 export oriented is a complete red herring in this
17 proceeding, so is the petitioner. Or would never have built
18 MSG production facilities around the world.

19 There's no stigma to servicing a large and
20 growing export market in which CJI and other participate.
21 We've heard testimony from Mr. Naulty this morning that the
22 worldwide market for MSG is significant. He estimated it at
23 2.4 million. We think it's probably larger than that. But
24 he said the worldwide market for MSG is growing. We also
25 heard testimony that, for example, AJINA's case, the Asian

1 market is ten times the size of their U.S. market. These
2 are significant numbers. That is in large part our export
3 market.

4 Petitioners also argued at length that as a
5 result of the preliminary determination the EU dumping case
6 covering imports of MSG into the EU, there will be an
7 incentive to move shipments into the United States that
8 previously were destined for Europe. That simply is not the
9 case. First -- and I remind the Commission, this is a
10 preliminary determination, not a final determination, and
11 that final determination will not be issued for another
12 year. As is the case with the U.S. antidumping
13 investigation, CJI fully expects to see lower dumping
14 margins in the final than it did in the preliminary. Even
15 at 7 percent dumping margin EU imports, however, there's no
16 incentive contrary to petitioner's arguments, to ship
17 shipments from the EU to the United States.

18 Duty rates in the United States are significantly
19 higher and the transportation costs to the United States are
20 significantly higher as well. Thus the costs of doing
21 business in both countries is essentially equal even with
22 the 7 percent dumping margin in place.

23 And this is also true because of transportation
24 costs and other reasons that the comparison of the U.S. to
25 other markets is -- it leads to the conclusion that the U.S.

1 is one of the highest, if not the highest country with the
2 cost of getting product to market. And this has been a
3 significant factor, quite frankly in limiting exports of MSG
4 to the United States, the other being the lack of available
5 capacity.

6 As CJI's foreign producer questionnaire
7 demonstrates, CJI is operating at full capacity. There's no
8 excess capacity to redirect to the United States.

9 Even as shipments to the U.S. dropped in 2014,
10 the production was fully accounted for by its shipments both
11 domestically and to other markets. It is not building
12 inventory.

13 With the capacity production fully accounted for,
14 CJI has very limited flexibility to increase shipments to
15 the United States. Even if you consider current inventories
16 of MSG, that's the case. CJI's inventories in Indonesia
17 which support all of its worldwide sales have dropped
18 significantly and are currently at very low levels. Its
19 inventories in the United States are virtually nonexistent
20 at this point.

21 CJA has never aggressively priced MSG in the U.S.
22 The Commission's pricing analysis we believe bear this out.
23 And while we cannot provide details in the public forum as
24 Mr. Cunningham indicated to questions this morning
25 indicated, the price comparisons were non-conclusive at

1 best.

2 Moreover, neither the de minimus countervailing
3 duty rate determined for CJI, nor the approximately 5
4 percent preliminary dumping margin at the Department of
5 Commerce indicate that CJI is aggressively pursuing this
6 market through unfair prices.

7 There was also a lot of discussion this morning
8 about sales below cost. Let me reassure the Commission in
9 the preliminary determination, the Department did not
10 exclude any comparisons based on allegations of below-cost
11 sales. They investigated it. We had cost investigations,
12 but the Department did not -- could not conclude that we
13 were selling below cost in the home market, because we
14 weren't. Nor in that case were we selling below cost in the
15 U.S.

16 The petitioner strongly argues that its
17 performance in 2014 was directly tied to our absence of
18 subject imports from both Indonesia and China in the market
19 after the imposition of the preliminary measures. They've
20 also argued that absent an affirmative determination from
21 this Commission, this performance will deteriorate and the
22 continued existence of the domestic industry is at risk.
23 Quite frankly nothing could be further from the truth

24 First, as to Indonesia, the effective date of the
25 preliminary measures did not begin until May 8th. There

1 never has been a critical circumstances allegation made with
2 respect to imports from Indonesia in the dumping case. So
3 any suggestions of dates going back to March clearly did not
4 apply to Indonesia. May 8th was the effective date.

5 Second, if such a determination of an affirmative
6 determination from the Commission were so important to the
7 petitioner, why did AJINA withdraw the petition in the
8 Chinese CVD case and in the Indonesian CVD cases? It
9 required the revocation of the affirmative CVD determination
10 and critical circumstances determination in China. In
11 Indonesia our determinations were negative. But in China
12 they did get decisions, and they did get affirmative
13 decisions. And at that time they made the same arguments
14 they're making here today. Without an affirmative
15 determination from the Commission, our entire future is at
16 risk. If that's the case, why do you withdraw the
17 petitions. I'm glad the Commission asked the questions. We
18 tried to get an answer to that question when the petitions
19 were withdrawn, we couldn't get one. We certainly are not
20 getting one here today in the public forum. Hopefully in
21 the post-hearing briefs there will be some explanation of
22 why a petitioner would put two countries of respondents
23 through the expense of going through the CVD process only to
24 get a determination and two days later withdraw the
25 petitions.

1 Third, as noted above, and as Dick noted earlier,
2 while the imports temporarily stopped in 2014 for Indonesia,
3 the sales didn't. We were continuing to make sales in 2014.

4 And one final comment on the drop in corn prices.
5 Mr. Cunningham noted that earlier. We will submit
6 information in our post-hearing brief with respect to the
7 most recent pronouncement from the USDA in assessing the
8 corn harvest this year was a record corn harvest. Prices
9 are currently quoted in the \$3.11 range per bushel, which I
10 believe is well below any of the numbers that were on the
11 staff's -- that the staff had seen in their staff report.
12 Futures are trading at 332 on the strength of the forecast.

13 Between the manufacturing improvements that
14 petitioner acknowledged here today and the projected
15 extremely low prices for corn which, while it may not be the
16 direct input for the petitioner, it certainly is the input
17 for the raw materials the petitioner uses. And I would
18 suggest that a part that the Commission look at in their
19 addendum, as they kept noting this morning, the price of
20 glucose because that is the raw material that they purchase.
21 We believe that the good fortune we've seen in 2014 for the
22 petitioner will continue in the immediate future.

23 And this leads to one final point. This industry
24 is not in a vulnerable position. You've seen that in the
25 financial data for 2014, and it's just the opposite. It's

1 healthy and extremely so. The factors that account for the
2 current financial condition of this industry are not
3 forecasted to change. The improvements they've made are
4 going to be there. The improvements they're making will
5 make them even more efficient.

6 Presumably prices are not going to go up. Raw
7 material prices, if anything, are going to drop further and
8 certainly beyond the point that they reported in their 2014
9 data. Thus, for all these reasons, we don't see any real or
10 imminent threat of injury to the domestic industry,
11 certainly not by reason of imports from Indonesia.

12 Thank you.

13 MR. CUNNINGHAM: Let me add two -- this is Mr.
14 Cunningham. Let me add two footnotes to Joe's presentation.

15 First, one of the things you look at as a threat
16 indication is whether there's a trend of increasing imports
17 from the country. Petitioners are going to say, ah-ha,
18 imports from Indonesia are up, they're not up a lot, but up
19 in 2013 over 2012. This is another instance where I'd
20 suggest to you that you need to look at sales in the U.S.
21 market rather than imports. Because sales in the U.S.
22 market of Indonesia product between 2012 and 2013 are
23 definitely not up.

24 Let me finally make one point about why you
25 should not consider these two countries cumulatively if you

1 have the option not to cumulate them. And the point is that
2 the analysis for the two countries on threat would be
3 totally different. Think about it for a second. One has a
4 massive share of the U.S. market, the other has a very tiny
5 share of the U.S. market. One has lots of excess capacity
6 according to the petitioner, and we have no reason to doubt
7 that. That is China has. Indonesia has no excess capacity.

8 China is criticized by the petitioner extensively
9 for cutting prices sharply late in the period of
10 investigation, that did not happen with CJ. It would be a
11 totally different analysis. They ought to be done
12 separately. The threat issues are entirely different for
13 the two countries, and you ought to treat them that way.

14 That concludes our presentation. You thank you
15 for your attention. We are here to be questioned, beaten
16 about the head and shoulders and all of those things.

17 CHAIRMAN BROADBENT: Thank you very much to this
18 afternoon's panel and also thank you, Mr. Kim and Ms. Lee
19 for joining us.

20 Vice Chairman Pinkert will start the questioning.

21 VICE CHAIRMAN PINKERT: Thank you, Madam
22 Chairman, and I thank all of you for being here today to
23 help us understand this industry.

24 My questions in this round are an effort on my
25 part to sort some things out between this panel and the

1 previous panel. And they may sound a lot like the questions
2 I asked the earlier panel, but I'm just -- I'm trying to
3 understand where you differ and where you agree.

4 And the first question has to do with this
5 argument about volume effects. And if I look at the market
6 share data in the staff report, it looks to me like market
7 share is going from the domestic industry to the subject
8 imports, not to the non-subject imports which you
9 highlighted or which you discussed in your testimony. So
10 help me to understand your argument about the volume effects
11 in this case?

12 MR. CUNNINGHAM: Sure. Sure. The petitioner,
13 AJINA, has a certain level of capacity and every year except
14 one, it's right at that level of capacity in its production.
15 It's not losing production to imports, that's clear. So the
16 question is, is it losing shipments to imports?

17 There is some question of losing shipment share
18 to imports between 2011 and 2012, I will grant you that. If
19 you look at 2012 to 2013, and again in 2014 -- 2014 we'll
20 let the petitioners say, don't look at that. But in 2012,
21 2013, do the computation that I suggested you do and I think
22 you will find that petitioner doesn't have a diminution of
23 its sales, the combination of its U.S. produced shipments
24 and its shipments from the affiliated foreign producers, and
25 therefore it did not lose any shipments to subject -- lose

1 any volume to subject imports. The volume it lost was the
2 volume that -- it was volume from its other affiliates.
3 That's not injury. That's not injury. At least not injury
4 caused by imports.

5 It's a very weak volume case because of the fact
6 that they can shift around between the two, that is their
7 non-subject imports and their U.S. production.

8 I'm a little frustrated because I can't do the
9 numbers precisely for you here, but I've tried to lay out
10 for you how you might do the numbers and I think you will
11 reach the same conclusion that I just reached.

12 Does that help you, sir?

13 MR. KAUFMAN: Let me add something to that. And
14 I think you see it in our briefs. We can't go into detail
15 obviously about it now, but when you look at the capacity
16 utilization of the petitioner, when you start making
17 comparisons based on imports as a percent of production,
18 imports as a percent of market share, you have to -- that's
19 only meaningful if the petitioners are losing that market
20 share to the imports.

21 If you're operating at capacity or near capacity,
22 and if you're operating 24/7, that's essentially what you're
23 doing. Unless your shipments are totally -- totally
24 different from your production, I don't think a market share
25 analysis necessarily has that same import in a case like

1 this as it would in another case.

2 If you had a domestic producer that was operating
3 at 50 percent of its production capacity and you've got a
4 volume of imports whatever that is, then when you look at
5 market share it's meaningful because what you're saying is,
6 they could -- that's market share they could have supplied.

7 Here what are they doing? They're supplying
8 whatever excess demands they have from their production
9 facilities in other countries. It's not a flex up in terms
10 of U.S. production, it's a flex up in terms of their foreign
11 affiliates. And you heard that this morning. So I think
12 that -- and that's what we've kind of cautioned in our
13 briefs is that when you look at some of the factors the
14 Commission has classically looked at -- we're not saying
15 don't look at them, but what we're saying is, you have to
16 kind of look at them somewhat with the concept of, is this
17 meaningful in this case? Not as a general proposition, but
18 in this case, what does that really mean?

19 MR. CUNNINGHAM: Could I point you to one other
20 thing that may help you with this? Think of the pattern
21 that I just gave you as my interpretation of how the figure
22 shake out which is, there's some case to be made in 2011 for
23 a loss of volume to imports, 2012, what appears to be a loss
24 of volume to imports is in fact factored out by the fact
25 replacing diminished U.S. production with imports from their

1 non-subject affiliates. And then there's no volume lost to
2 imports in 2013. That's the pattern that I think you will
3 find.

4 Look at your staff's variance analysis and look
5 at the line for volume variance and compare that with what
6 I've just portrayed to you.

7 VICE CHAIRMAN PINKERT: Thank you. So I will pay
8 attention to the capacity utilization figures as I'm looking
9 at the market share data. But this takes us into also the
10 impact on pricing. And I understand the arguments about
11 mixed, overselling and underselling, and I understand the
12 arguments about the price trends during the period, but I
13 want to ask you a question that kind of takes us into
14 counter factual territory. And that is, if the subject
15 imports had been present in the same market share, amounts
16 during the period of the beginning of 2014, that first part
17 of 2014, if they had been present the way they had been
18 present previously, would the industry have been able to
19 enjoy the benefits of that decrease in unit costs that you
20 talked about during your testimony? Did you get the counter
21 factual?

22 MR. CUNNINGHAM: Run that by me one more time
23 because I think I got it.

24 VICE CHAIRMAN PINKERT: Okay. So my question is,
25 if the market share of the subject imports had been steady

1 going into the first part of 2014, the part of 2014 that we
2 have the data for --

3 MR. CUNNINGHAM: Right.

4 VICE CHAIRMAN PINKERT: Okay. Then would the
5 domestic industry have been able to enjoy the benefits of
6 the decrease in unit costs that you testified about?

7 MR. CUNNINGHAM: Once, again, it's useful to you
8 to look at the variance analysis and look at -- in 2014 and
9 look at volume variance and price variance because that
10 tends to respond to a question here and I can't tell you
11 why, but it does.

12 Secondly, let me first answer it with respect to
13 Indonesia. And that is that the amount of volume in the
14 market for Indonesia was not significant in terms of -- in
15 2013, even assume that all of that left, and it didn't all
16 leave, but probably the majority of it left, but there's
17 still a substantial amount of it. That doesn't have a
18 significant effect in the 2014 industry results on a volume
19 basis.

20 On a price basis, the analysis that I went
21 through with you as to Indonesia and Indonesia not affecting
22 demonstrably through the product pricing tables to not
23 affecting the prices charged by AJINA, there's a reason for
24 that. It's not just the chart makes it clear that AJINA's
25 prices were not in any case dragging down the price that --

1 excuse me, that CJ's prices were not in any case dragging
2 down the prices of AJINA, there's a reason for that. The
3 reason is, we're too small a share of the market, we deal
4 with customers who -- not all of them, but the majority of
5 them want MSG from us because they're buying I2G and they
6 want that as a supplement to the I2G purposes. And now
7 you're going to ask me what I2G is and I'm going to ask them
8 to answer that. But that's okay. And because we're just
9 not a factor that makes a difference in the marketplace.

10 The China issue is a different issue. There is
11 more potential for effect on prices by China, I grant you
12 that. And in 2014, I grant you that. But, again, if you
13 look at the data, you're not going to see a substantial
14 effect in 2014 by anybody on prices from the data in the
15 report.

16 But my primary point is, whatever effect there
17 was on prices or in volume in 2014, Indonesia had absolutely
18 none. And China may have had some, but not much.

19 MR. KAUFMAN: Vice Chairman Pinkert, if I could
20 just add briefly? We have -- in our briefs we have dealt
21 with a number of issues, one of which was raw material
22 pricing which as you can see from corn prices has just
23 dropped off the face of the earth. That's a benefit they're
24 going to get no matter whether anyone else is in the market
25 or not.

1 They claim they've made efficiencies in terms of
2 production that I think I heard this morning they said also
3 could affect capacity. I don't see anything in the capacity
4 numbers that would reflect that, but presumably they have.
5 That doesn't change. We pointed to a number of difference
6 between the 2013 data and the 2014 data which I can't go
7 into here. And we've quantified what the impact would have
8 been or what the impact was in terms of 2013. And that
9 didn't change. That doesn't change. Those are 2013 factors
10 that have nothing to do with us and they have nothing to do
11 with 2014.

12 So in answer to your question, would those
13 benefits have still been there? Those benefits would have
14 been there whether the Indonesians were in the market or even
15 the Chinese in the market. And we were still selling in
16 that time period.

17 VICE CHAIRMAN PINKERT: Thank you. For purposes
18 of the post-hearing, I would direct that question also to
19 the petitioners to take a look at that and see what you can
20 tell us about that counter factual.

21 Thank you very much, Madam Chairman.

22 CHAIRMAN BROADBENT: Commissioner Williamson?

23 COMMISSIONER WILLIAMSON: Thank you for the
24 testimony. Post-hearing I'm not sure this is duplicating,
25 you told us a story about if we take a look at the total

1 sales in the U.S. market, their domestic production and
2 shipments and I'm just if we take a look at those numbers
3 and we don't see quite the same thing so I was wondering if
4 post-hearing you could run those numbers and explain to us
5 why you think they?

6 MR. CUNNINGHAM: Yep, we will do it.

7 COMMISSIONER WILLIAMSON: Many of your present
8 injury arguments are based on subject imports from Indonesia
9 alone and I also want to urge you post-hearing to make sure
10 you give us full arguments for cumulated subject imports.
11 What would you say if we were to cumulate the imports
12 represented in your report?

13 MR. CUNNINGHAM: We'll do that post-hearing.

14 COMMISSIONER WILLIAMSON: Good thank you. Okay
15 do you have any position on Axos' assertion in the
16 questionnaire that it is a producer of MSG?

17 MR. CUNNINGHAM: We have discussed that and we
18 have reached a very firm conclusion that we have no position
19 whatsoever.

20 COMMISSIONER WILLIAMSON: Okay, thank you.
21 Very firmly, okay. Yeah and what is your response to
22 Petitioner's argument regarding the use of the 2010 data?

23 MR. CUNNINGHAM: The Commission has a three year
24 period for a reason. Let me tell you a story let me tell
25 you a story. It's about time, but it's very short. The

1 first case I ever did was a 201 case involving stainless
2 steel. And the Commission in that case which occurred in
3 1971 I believe and looking to whether there was an increase
4 in imports, couldn't find one going back three years.
5 Couldn't find one going back 5 years, couldn't find one
6 going back 10 years, they went back 23 years on the theory
7 that there had been some forms of restraints on the market
8 and so they wanted a free marginal impact, 23 years and by
9 God they found an increase.

10 You have to have a cut-off. The cut-off here is
11 particularly reasonable because it encompasses all of the
12 activity of both Respondent countries in this market. The
13 fact that the industry was doing better at some further back
14 point is of any relevance, pretty marginal relevance, and I
15 would just urge you to stick with the three year period.

16 COMMISSIONER WILLIAMSON: Okay.

17 MR. CUNNINGHAM: I don't think if you go back
18 further, I don't think it changes all that much. It just
19 means that there were some declines or increases, it all has
20 to do with China, it doesn't have anything to do with us but
21 I think you need the cut-off, it's what you do and it's a
22 reasonable thing to do.

23 COMMISSIONER WILLIAMSON: Okay. Not to get
24 away totally from history but could you explain why CJ moved
25 its production from Korea to Indonesia. Let me finish the

1 question now, and given that history what does that say to
2 us about whether or not the Indonesia in 2000 is this new
3 entrant into the market, you know, a pretty small player if
4 you say that a network of distributors and contacts and the
5 market information is still with the company.

6 MR. KIM: James Kim, Managing Director of CJ
7 America. The season was totally economic and environmental
8 issues so at the time we had some of position capacity in
9 Korea, both in Korea and Indonesia. Indonesia is
10 relatively small, so total capacity has not been changing
11 this would be moved capacity from Korea to Indonesia because
12 of the economy and environmental shifts.

13 COMMISSIONER WILLIAMSON: Okay, thank you.

14 MR. CUNNINGHAM: The one thing I would add to
15 that is remember that MSG is not the major product that they
16 make.

17 COMMISSIONER WILLIAMSON: Yeah.

18 MR. CUNNINGHAM: First thing, secondly CJ group
19 is a major food producing group and they are a major
20 consumer and there is a lot of captive MSG sales. Then so
21 all of those things, to give a full answer to that we could
22 write a book on it but it is not anything that has anything
23 to do with the U.S. market as to why we shifted from Korea
24 to Indonesia.

25 COMMISSIONER WILLIAMSON: Doesn't it have some

1 relevance. The capacity of the company to enter into a
2 product line in the U.S. market like MSG given the resources
3 and the experience and expertise of already selling the
4 market and being a well-established company.

5 MR. CUNNINGHAM: I suppose in theory it does but
6 I mean it's not something that the company has essentially
7 utilized, we haven't gone much into the U.S. market, there's
8 not, I don't know maybe you can respond to that. Did you
9 have a lot of benefit from your what 10 year old
10 distribution network that no longer existed when -- well you
11 can respond.

12 MR. KIM: Can you repeat your question why CJ
13 didn't extend our --

14 COMMISSIONER WILLIAMSON: The question I'm
15 asking is CJ is not a, in 2011 when they came back into the
16 U.S. market for MSG you are coming in with significant
17 marketing distribution sales experience and all resources
18 for doing business in the U.S. market so it wasn't, the new
19 entrants who come in and have no experience or expertise in
20 the market and the new entries that come in with some
21 background and that was one of the questions I was pointing
22 to.

23 MS. LEE: Yeah this is Michelle Lee from CJ
24 America. Basically even though we've been out from the
25 market for a few years, we do have so another product as

1 Richard Cunningham mentioned. That product is pretty much
2 related with MSG, we call that I plus G simply and because
3 we have this relationship with this product, it was a little
4 bit easier to come back into the market.

5 COMMISSIONER WILLIAMSON: Okay. And also it
6 gets to the question the increase in imports from between
7 2011 -- 2012, I guess the characterization might explain
8 raising the question about why you call it irrelevant and
9 I'll ask the same question isn't it a significant increase
10 in import volume?

11 MR. CUNNINGHAM: Well I could say the small
12 figure you see for 2011 is basically the trial test show
13 those are not commercial, significant commercial shipments.
14 There is really no 2011, it's 2012 which came into the
15 market that's the starting point and you should measure
16 things from there.

17 MR. KAUFMAN: Also, Commissioner Williamson if I
18 could point out. If you look at 2012 and the reason we say
19 it's irrelevant is because percentage-wise any time you
20 start from virtually nothing to anything you are going to
21 wind up as a percentage basis a lot. What you saw there
22 was based on this as Miss Lee indicated the existing
23 customers and the demand for related product.

24 They were able to enter the market in 2012. The
25 2013 data is indicative of the fact that the market fair

1 entering, their piece of the market is a fairly limited,
2 very stable segment of the market. It's not, it should not
3 be interpreted and that's what I would just caution the
4 Commission. It should not be interpreted as well if they
5 went from this to this in 2011 to 2012. If we extrapolate
6 from there they can take over the world by 2016.

7 I think there's limits on what that increase
8 shows so maybe irrelevant was a little strong.

9 COMMISSIONER WILLIAMSON: Okay.

10 MR. KAUFMAN: But I think very little relevance
11 would probably, in terms of where this is going to take us
12 and where it will take CJA in terms of this market and I
13 think it has a very limited role in this. They have
14 exhausted that potential and when you look at the capacity
15 utilization, when you look at the markets they are now
16 servicing and how they have committed that capacity in this
17 2014 period, I think that's really the critical data for the
18 Commission to focus in on because they just don't have the
19 capacity and they don't have the inventories to start
20 shifting in any kind of significant amounts to the U.S.
21 market.

22 COMMISSIONER WILLIAMSON: Okay, I take it that
23 the change from 2011 and I don't base any future predictions
24 on the change from 2011 to 2012, that's a fair point.
25 Actually I'm not going to have time to get my next question

1 in so I will pass, thank you.

2 CHAIRMAN BROADBENT: Commissioner Schmidtlein?

3 Excuse me Commissioner Johanson?

4 COMMISSIONER JOHANSON: That's no problem at
5 all. I will continue where Commissioner Williamson left
6 off and it might be a bit repetitive but I'm going to ask it
7 hopefully in my own way and maybe get a bit more of an
8 answer here.

9 Because it is, the growth in coming from
10 Indonesia during that period of time was fairly substantial
11 as you all know. How should the Commission view the growth
12 of subject imports from Indonesia when the volume increases
13 were from a fairly low base? If perhaps we should be
14 comparing these current import volumes with volumes that
15 were previously coming from Korea, that was the case, please
16 provide us a way to do that.

17 And I guess kind of a basic question I have is
18 were the imports previously coming from Korea?

19 MR. CUNNINGHAM: They were. They were larger
20 in volume, they were from a different plant, a different
21 production scheme, different capacity situation, different
22 would serve different markets, and it was a long time ago.
23 It was we were creeping up on a decade ago.

24 If you ask what conclusion you should draw I
25 would -- my conclusion would be that whereas one might have

1 made a case that the Korean production facility had an
2 interest in the U.S. market and shipped fairly significant
3 tonnages here, the Indonesian production facility does not
4 and the difference between the two volumes tells you that
5 and the fact that once they entered the market they stayed
6 at the same level tends to confirm that.

7 COMMISSIONER JOHANSON: All right because just
8 looking at the numbers I was trying to figure out when I
9 first saw the numbers what are all these imports displacing,
10 because it looked like there was such a large --

11 MR. CUNNINGHAM: Which import are these? The
12 ones back in 2005-6-7?

13 COMMISSIONER JOHANSON: No 2011 I believe,
14 2011-2012.

15 MR. KAUFMAN: The 2011 numbers were pretty
16 small. The 2012 numbers came in at a time and as the
17 question this morning asks with Chairman Broadbent, I'm not
18 sure, it came in at a time when Brazilian imports increased
19 dramatically more.

20 COMMISSIONER JOHANSON: Um-hum.

21 MR. KAUFMAN: It came at a time when domestic
22 production as they have indicated in public documents was
23 done in 2012 so I'm not sure when you look at what was the
24 displacement factor there, I don't think that you can
25 conclude that the displacement was U.S. production. It was

1 independent of that or it was actually to supplement that
2 production if anything so I think that one way to look at it
3 would be to look at it in that context. I think that if
4 you look at Chinese increases over that time period they
5 were relatively modest, looking at 2011-2013. So to the
6 extent that there was any displacement it was probably more
7 Chinese than it was anything else and but I think what
8 you've got also is a demand that was there and it's a demand
9 that has to be filled by someone and I think you heard this
10 morning you know imports are going to be part of this
11 picture, they have to be.

12 Because the demand is there for that so I don't
13 view that as a displacement of U.S. production. I think
14 2012 was for whatever reason an --

15 COMMISSIONER JOHANSON: I'm not saying that
16 displacement is necessary of U.S. production but it just
17 seems like when you have so much product coming in at one
18 time, either the market is growing substantially or
19 something is being replaced with something else. I have to
20 figure that out.

21 MR. CUNNINGHAM: Could I make an analytical
22 suggestion to, it's not particularly in our interest, but
23 the accuracy, we probably should be talking about U.S.
24 shipments not U.S. production because as they have testified
25 absent a production shut-down they are going to be at full

1 capacity and they are going to be running the same
2 production every year.

3 Now in 2012 what I would suggest that you do is
4 look at the, the change between 2011 and 2012 in U.S.
5 producers U.S. shipments and look at the change and find
6 which countries were the countries that, and I think it's
7 only one that's a really important one, that the Petitioner
8 imports from - from its affiliates and look at the change
9 from 2011 and 2012 in those and if you find those are pretty
10 much the same then whatever we, whatever CJ, whosever place
11 CJ was taken, it wasn't taking the place of AJINA's
12 shipments, that's my hat.

13 COMMISSIONER JOHANSON: All right and to follow
14 up with this a bit more and I think you could probably
15 answer this but maybe not as clearly as would be helpful for
16 me. On page 25 of the Petitioner's pre-hearing brief you
17 all state that over the course of the period of
18 investigation one new plant was brought online as an old one
19 was retired.

20 The old plant was that in Korea? Is that what
21 we are getting at?

22 MR. CUNNINGHAM: The old plant is in Indonesia.

23 COMMISSIONER JOHANSON: Okay.

24 MR. CUNNINGHAM: It is produced in both
25 countries.

1 COMMISSIONER JOHANSON: Okay.

2 MR. CUNNINGHAM: Until the time they shifted to
3 Indonesia and they have since closed down an old plant and
4 have a new plant and it's that new plant that's in full
5 production, sorry it's that new plant that's in full
6 production.

7 COMMISSIONER JOHANSON: All right and there was
8 also an issue during the preliminary phase staff conference,
9 that was also being referred to as the Indonesia plant is
10 that correct?

11 MR. CUNNINGHAM: I wasn't around at the
12 preliminary conference I'm sorry.

13 COMMISSIONER JOHANSON: Okay. All right. Is
14 that correct though? Okay that helps out I'm just trying
15 to figure out what is where.

16 MR. KAUFMAN: And that's why you see the
17 printout, that's why you see the increase and then the
18 decrease in capacity because both were online for parts of
19 it that interim year and then the one facility was closed
20 down.

21 COMMISSIONER JOHANSON: All right and I would
22 like to get back to one other issue and Mr. Cunningham I
23 wished to bring this up at the very beginning but I got so
24 excited about Commissioner Williamson's questions it
25 generated new thoughts in my mind I forgot my original

1 intent. Thank you Commissioner Williamson. It was an
2 interesting line of thought though and I continued with it
3 because I do think it's important for today.

4 But Mr. Cunningham in the presentation you made
5 you were frustrated I could tell and that you could not
6 provide numbers and you wrote here that my presentation
7 unfortunately may be cryptic to some extent due to
8 confidentiality.

9 MR. CUNNINGHAM: Well what I should have said is
10 more cryptic than many of my presentations.

11 COMMISSIONER JOHANSON: Okay well it was
12 especially cryptic. I found and that's why I was hoping you
13 could build upon that and perhaps go to the post-hearing
14 phase and put some numbers in because I think what you are
15 saying is -- was possibly a problem, maybe very cozen but I
16 couldn't quite follow it.

17 MR. CUNNINGHAM: And I was sure that would be
18 the case. I wanted to write out for you all the elements
19 of it but I understand we have to put the numbers in and
20 it's our responsibility we'll do it.

21 COMMISSIONER JOHANSON: Okay I could tell your
22 frustration and I look forward to reading it in more
23 complete form of course. Another very basic question, why
24 is CJA not sold MSG in drums in the United States? That
25 seems to be an issue of concern to some today?

1 MS. LEE: What was the beginning of it?

2 COMMISSIONER JOHANSON: Why does CJA not sell in
3 drums in the United States?

4 MS. LEE: Basically at market we are not
5 interested in, first of all we have a limited capacity with
6 our overall original world line so we do not doing that drum
7 packing because you know, there are some other issues that I
8 cannot say in public but so we are not really into that
9 market at all. Even in the future.

10 COMMISSIONER JOHANSON: All right, thank you.
11 And I want to get back to the issue of feed stock and I
12 think I mentioned that this morning. Actually the issue of
13 corn in the United States was used or perhaps it's
14 Commissioner Schmidtlein, maybe both of us asked questions
15 on that but I understand that the main feed stock for I
16 believe it's gluten for production in Indonesia is tapioca?

17 What would have been the price trends in that
18 product compared to let's say corn?

19 MR. KIM: Just I can say tapioca price trend is
20 more stable than corn during the last two or three years so
21 I cannot say more than that here.

22 COMMISSIONER JOHANSON: Okay that's fine. Well
23 my time is expired but thank you and I have a few more
24 questions but I'll wait on those until the second round,
25 thank you.

1 CHAIRMAN BROADBENT: Commissioner Schmidtlein?

2 COMMISSIONER SCHMIDTLEIN: Thank you, thank you
3 very much, thank you to the witnesses for appearing here
4 today. Before I forget I would like to make the request
5 that CJA if you could follow-up in the post-hearing brief
6 with the explanation of why CJA doesn't sell in drums here
7 in the United States and why they are not interested in
8 that, she said it was confidential and so if you could put
9 that in the post-hearing that would be helpful.

10 So I'm also excited about this inventory or not
11 inventory question but this U.S. shipment and you know what
12 volume is being displaced and so some of these numbers
13 aren't confidential so I just want to make sure that I'm
14 following the argument here okay. So you know the number,
15 the drop in U.S. producers, U.S. shipment is confidential
16 right so we can't say that number.

17 But when you look at the quantity of shipments
18 from China and then Indonesia and I'm looking at table C1,
19 you know you see as you said that China's goes up modestly
20 every year. I'm looking at the C table, yes, yes, it is
21 that -- that's not what, I'm looking at the imports from
22 China and the imports

23 MR. KAUFMAN: You had indicated shipments and

24 COMMISSIONER SCHMIDTLEIN: Well U.S. shipments
25 from if I'm misunderstanding the argument here I thought

1 your argument was when you look at the volume and you look
2 at the drop in the U.S. shipments of the U.S. producer, that
3 you also need to look at the imports from the other sources,
4 primarily Brazil, because that's their affiliate and
5 therefore you will see that any imports from the subject
6 countries aren't displacing because U.S. producers making
7 this up with their affiliate correct?

8 MR. CUNNINGHAM: Right.

9 COMMISSIONER SCHMIDTLEIN: And when I look at
10 the numbers I see a bigger drop in the U.S. shipments.

11 MR. CUNNINGHAM: I see the problem.

12 COMMISSIONER SCHMIDTLEIN: Do you see the
13 problem, do you see

14 MR. CUNNINGHAM: You also need to look at the
15 change in the consumption too.

16 COMMISSIONER SCHMIDTLEIN: Well that's right so
17 the demand is going up, you have roughly --

18 MR. CUNNINGHAM: Well the drop is not displaced
19 by -- there may be some of it but you could argue it was
20 displaced either by AJINA or by China or by some combination
21 but it is a very, very small portion because there was a
22 change, I'm not allowed to say which change in apparent
23 consumption and a change in subject imports, I mean
24 non-subject imports, and you're getting pretty close then.

25 COMMISSIONER SCHMIDTLEIN: Okay well maybe it's

1 too difficult to do, I thought maybe we could do it but I
2 would appreciate you following up.

3 MR. CUNNINGHAM: Sure.

4 COMMISSIONER SCHMIDTLEIN: Because the change in
5 apparent consumption isn't that big.

6 MR. CUNNINGHAM: No.

7 COMMISSIONER SCHMIDTLEIN: The increase from
8 Indonesia is and then there is also an increase from China,
9 it's more modest so when you look at those numbers, those
10 sales from Indonesia are displacing something and I don't
11 think it's all made up by U.S. producers.

12 MR. CUNNINGHAM: I would say they are not
13 displacing any, I would say that the great bulk of it is not
14 displaced by the subject imports.

15 COMMISSIONER SCHMIDTLEIN: Okay well it would be
16 helpful if we could be precise in the post-hearing brief.

17 MR. CUNNINGHAM: Yeah.

18 COMMISSIONER SCHMIDTLEIN: Okay. My other
19 question with regard to this has to do with the inventory
20 quantity.

21 MR. CUNNINGHAM: Can I go back to this one
22 second?

23 COMMISSIONER SCHMIDTLEIN: Yes.

24 MR. CUNNINGHAM: If you could look at table 3-4
25 and look at the figure there in the second line in 2012 and

1 compare that with the change in U.S. shipments I think you
2 will come to a pretty obvious conclusion.

3 COMMISSIONER SCHMIDTLEIN: I mean maybe I need a
4 calculator.

5 MR. CUNNINGHAM: Do you see what I'm talking
6 about?

7 COMMISSIONER SCHMIDTLEIN: Yeah it's not I mean
8 there's still a bit of a different there so that's really my
9 question. Even if accepting you know, the theory here.
10 All right my other question.

11 MR. CUNNINGHAM: If you could just subtract,
12 take a look at table 3-2 and subtract the -- in the first
13 column subtract the number in the, either the number on the
14 first line or the number on the fourth line

15 COMMISSIONER SCHMIDTLEIN: Right.

16 MR. CUNNINGHAM: Of 2012 from the number in 2011
17 and you will get a certain number, okay.

18 COMMISSIONER SCHMIDTLEIN: Right.

19 MR. CUNNINGHAM: Compare that with the number on
20 the second line of table 3-4 for 2012 and that's the stuff
21 that's brought in there. So okay, I mean it's, we'll get
22 numbers all over the place.

23 COMMISSIONER SCHMIDTLEIN: Okay.

24 MR. CUNNINGHAM: You'll get so many numbers from
25 us that you won't ever want to see them.

1 COMMISSIONER SCHMIDTLEIN: It's not going to be
2 any different from any other case. The other question I had
3 about this is the increase in the U.S. producer's inventory
4 quantities. So how does that factor into your volume
5 effects analysis? And I believe that is confidential,
6 yeah. Those numbers are confidential.

7 MR. CUNNINGHAM: I had that at one point in my
8 mind, I don't have it now, can I do it in the post-hearing?

9 COMMISSIONER SCHMIDTLEIN: Yes, that would be
10 fine as well, yeah. All right I guess a couple of smaller
11 things the question about the interim periods and whether or
12 not Indonesia and China well, Indonesia I guess specifically
13 withdrew from the market and I think you made the point that
14 they were still present, they were selling out of inventory
15 and so I guess my reaction to that and I'd like you to
16 comment on it, isn't that consistent, though they are
17 selling out of inventory that is already in the United
18 States, correct?

19 MR. CUNNINGHAM: Yes.

20 COMMISSIONER SCHMIDTLEIN: Well if you are a
21 foreign producer faced with a prospect of a potential
22 anti-dumping duty, isn't that behavior consistent in terms
23 of their imports, their imports are dropping to the United
24 States, did drop out in the first quarter?

25 MR. CUNNINGHAM: I'm not going to argue to you

1 that this case had no effect on what they were doing. They
2 had obligations to their customers they wanted to maintain
3 the obligations to their customers. They found they could
4 do it out of inventory. They slowed down the taking of new
5 orders. They are now importing again, they are importing
6 significantly they have been taking new orders.

7 As soon as they got a preliminary determination
8 and saw they weren't going to have a substantial dumping
9 margin they went ahead and did that.

10 COMMISSIONER SCHMIDTLEIN: That's really my
11 point. Okay.

12 MR. CUNNINGHAM: I mean I live from time to time
13 I venture into the real world. I live in the real world so
14 it's true.

15 MR. KAUFMAN: Commissioner Schmidtlein if I
16 could point out is that the imports, the case was filed what
17 September 30th, the imports continued in the last quarter of
18 2013.

19 COMMISSIONER SCHMIDTLEIN: Um-hum.

20 MR. KAUFMAN: I mean it's not like everything
21 stopped on October 1st, that just simply did not happen.
22 And they continued to import and they continued to import in
23 significant quantities, I don't have the numbers in front of
24 me right now but I don't believe it was any kind of real
25 diminution of imports after that day.

1 Certainly it didn't prevent the Petitioners from
2 making critical circumstances allegations in the CVD case
3 before they pulled everything, so.

4 COMMISSIONER SCHMIDTLEIN: Were those sales
5 already locked in pursuant to short-term contracts or annual
6 contracts or were those spot sales?

7 MR. KAUFMAN: What we were importing and
8 importing?

9 COMMISSIONER SCHMIDTLEIN: In 2013.

10 MR. KAUFMAN: 2013, so I mean it continued on and
11 we were still selling in 2014.

12 COMMISSIONER SCHMIDTLEIN: I'm sorry do you know
13 the answer to that? Were the sales in 2013 that were
14 continuing to come in after the petitions were filed
15 pursuant to contracts that CJA had already committed to and
16 therefore would be in violation of if they stopped or were
17 they spot sales?

18 MS. LEE: This is Michelle. Basically as
19 Petitioner mentioned most of annual contract, long-term
20 contract started from late October until December so by the
21 time Petitioner filed this anti-dumping issue with MSG I
22 lost a lot of 2013 business, I mean 2014 business so by the
23 time at the end of the contract period there is a lot of
24 customer turning to Petitioner because they have a source of
25 MSG in the United States so --

1 COMMISSIONER SCHMIDTLEIN: So they were pursuant
2 to contracts? The product coming in 2013 was pursuant to
3 contracts that had been previously signed before the
4 petition had been filed in September?

5 MS. LEE: Right.

6 COMMISSIONER SCHMIDTLEIN: Okay. This is sort
7 of I guess a clarification of a legal position. Is it your
8 position that the imports should not be cumulated for
9 purposes of the present injury determination? I guess I
10 should ask, why don't I wait and ask that question in the
11 next round since I'm out of time.

12 MR. CUNNINGHAM: I can answer that if you like.

13 COMMISSIONER SCHMIDTLEIN: Okay.

14 MR. CUNNINGHAM: I think we're stuck. On
15 present injury very limited flexibility and I can't in good
16 conscience tell you we can make that clear distinction. I
17 think the law is unjust in its legitimacy of that but I'm told
18 I'm a lawyer and I'm told lawyers are supposed to follow the
19 law.

20 COMMISSIONER SCHMIDTLEIN: Yeah, okay, all
21 right. Well I think it's always good to follow the law.

22 CHAIRMAN BROADBENT: Mr. Cunningham, CJ Indonesia
23 export to other export markets? I understand you do. What
24 are your big ones? What are the company's big export
25 markets?

1 MR. CUNNINGHAM: Let me turn to Mr. Kim or Ms.
2 Lee. Is that for CJA or CJ Indonesia?

3 CHAIRMAN BROADBENT: CJ Indonesia.

4 MR. KIM: CJ Indonesia we are exporting more than
5 50 countries. We are selling Indonesia origin MSG to more
6 than 80 countries directly and indirectly, and one of the
7 largest sales is to our captive users in Korea. We are one
8 of the biggest MSG consumers in Korea for our own product,
9 processed food. And also, we are selling in quite large
10 volume in the domestic market in Indonesia.

11 For export market, I can tell you all details,
12 but we are exporting more than 50 countries.

13 MR. CUNNINGHAM: Why don't we give you a list of
14 the top five -- one of them, obviously, is going to be
15 Korea, because he just pointed out.

16 CHAIRMAN BROADBENT: Right.

17 MR. CUNNINGHAM: We'll give you a list of the top
18 five in the post-hearing brief.

19 CHAIRMAN BROADBENT: And what sort of demand
20 increases or decreases are you projecting in the next few
21 years?

22 MR. KIM: Well, growth rate of MGS market, as far
23 as we understand, is not so big. But as AJINA said, they
24 see the global market size as 2.5 million tons. We see a
25 little larger than -- not a little bit, but larger than that

1 figures. And as far as I understand, the U.S. market demand
2 is -- well, there is no official data.

3 MR. CUNNINGHAM: She's talking about other than
4 the U.S.

5 MR. KIM: Right.

6 CHAIRMAN BROADBENT: To both. In the U.S.
7 market, what do you see?

8 MR. KIM: U.S. market growth rate -- well, we
9 don't have specific data in mind, but what I'm trying to
10 tell you is the portion of the U.S. market size and global
11 market is very tiny. And also, our sales portion to U.S.
12 from our whole capacity is also very tiny, so we don't have
13 any intention to increase our sales for export to U.S. in
14 the near future.

15 CHAIRMAN BROADBENT: So, what's your assessment
16 of the umami market and the growth there?

17 MR. KIM: Sorry.

18 CHAIRMAN BROADBENT: This new market, the fifth
19 taste, called umami, which there's been some press reports
20 that that will be growing in the U.S.

21 MS. LEE: Basically, as Petitioner mentioned that
22 there's like a lot of trend right now. Asian food is
23 growing in the market, so I bet there's some growth in
24 there, but I don't have particular number, what percentage
25 that will be, but we do see the other region that has some

1 market are gradually increasing. So, I do see maybe
2 possible increase, but I cannot say like exactly what
3 percentage.

4 MR. CUNNINGHAM: It depends significantly on
5 Commissioner Johanson's consumption of Asian food.

6 CHAIRMAN BROADBENT: Which is a lot.

7 (Laughter.)

8 CHAIRMAN BROADBENT: What has changed in your
9 export situation to Europe, given the current complaint in
10 the European Commission concerning imports of MSG from
11 Indonesia?depe

12 MR. KIM: Well, still we don't know the full
13 antidumping case in EU. Still a preliminary stage, so as
14 Mr. Kaufman said -- well, even the duties in the EU is 3
15 percent, and duties in U.S. is 6.5 percent.

16 CHAIRMAN BROADBENT: Right.

17 MR. KIM: Even with the slightly more antidumping
18 duties, the expense to Europe can be higher than U.S. So,
19 even with the some antidumping duties it is not so -- it
20 would not be so beneficial for CJ to divert the volume from
21 EU to U.S.

22 CHAIRMAN BROADBENT: And then what do you expect
23 with regard to the Sunset Review of the EU dumping duty on
24 Indonesia -- I mean on China. I mean on China, the Sunset
25 Review on the imports from China.

1 MR. KIM: I think China will continue to have the
2 same rate.

3 CHAIRMAN BROADBENT: So, you expect them to
4 extend that?

5 MR. KIM: No, I don't think so.

6 MR. CUNNINGHAM: I think these are probably the
7 wrong people to ask that question to.

8 CHAIRMAN BROADBENT: I was just very interested
9 to see that --

10 MR. CUNNINGHAM: We'll give you a little page in
11 the brief about whatever we can find out about the effect on
12 us, certainly. I don't know whether we'll be able to tell
13 you much about the effect on China, but the effect on us of
14 the CJ Indonesia of the EU proceeding.

15 CHAIRMAN BROADBENT: Thanks.

16 MR. CUNNINGHAM: These people are CJ America.

17 CHAIRMAN BROADBENT: Understood. Yes. Got it.
18 Let's see, in the preliminary phase of this investigation
19 Petitioner noted an increase in the U.S. of reverse Internet
20 options and electronic bidding. What has your experience
21 been with electronic bidding?

22 MS. LEE: This is Michelle. Basically, there's
23 only a few customers who's actually doing that. My
24 experience there is only one customer. Basically, I pretty
25 much have a guide of my pricing, so past my experience I end

1 up dropping their cases, but it depends on customer
2 decision. Just because you got the lowest bid I think that
3 doesn't mean you're getting the full volume from customer
4 point because as we mentioned there's a lot of customers who
5 wants to have multi vendor because of their safety and
6 supply issue. So, I did have experience with the Internet
7 online bidding, but that wasn't my major intention to being
8 that customer with like a low pricing, so we kind of end of
9 dropping off. And then I can't tell you the more detail,
10 but that was the kind of situation I experienced.

11 CHAIRMAN BROADBENT: I just wanted for the
12 post-hearing submissions if you could respond. I think
13 you've got a lot of questions about the tote bags versus the
14 fiber drums and the pricing data for Product 4, so if you
15 could. The Petitioner I think is arguing that CJ's pricing
16 data for product 4 that was provided in the preliminary
17 phase should be carried over into the final phase. While
18 you I think are saying that you don't produce Product 4, to
19 some degree. But if you could explain that in the
20 post-hearing brief, I'd appreciate it.

21 Do issues such as granulation, size, shape, or
22 color affect the interchangeability between different
23 producers or country sources of MSG? Our staff report seems
24 to reference crystal-size, and I wondered if there was any
25 differentiation there based on the size or shape or color of

1 the product.

2 MS. LEE: It depends on where they use the MSG
3 they do care about the mesh size as well as the clarity.
4 Maybe on their quality issue because when they purify it, if
5 it is not purified enough it gets the more yellowish color,
6 so, yes, definitely most of customer -- pretty much like 100
7 percent customer review their MSG quality point and they
8 also use different meshes on different production based on
9 what they are using the product for end user.

10 CHAIRMAN BROADBENT: And then I just had one
11 other question here. During 2011 and 2013, I noticed that a
12 parent U.S. consumption for MSG was relatively constant, but
13 if we look back at the prelim we can see that the demand
14 increased rapidly from 2010 to 2011. What happened between
15 2010 and 2011, and why did the demand shot up during that
16 period and then plateau?

17 MS. LEE: As you hear from Mr. Joel that we do
18 have a limited production in Indonesia, and then back in
19 2010 there's like limited volume for our overall, worldwide
20 reason to cover with that capacity, so I'd say we will have
21 to give up on U.S. market at that time. And then they end
22 up -- like I said, when you do the preliminary hearing there
23 was a plant in Indonesia like we mentioned there was plant
24 in Korea. We moved that plant to Indonesia. And then by
25 the time -- there was like two plants at the time -- not at

1 that time, but there's like one plant in -- which is the
2 previous MSG plant, and we moved everything to our Jumbau
3 which is current plant.

4 So, during that transition we didn't have enough
5 capacity to cover the worldwide volume, so we had to give up
6 a certain region.

7 CHAIRMAN BROADBENT: I had a couple of questions
8 about demand in the U.S., but I'll get to those in the next
9 round. Vice Chairman Pinkert?

10 COMMISSIONER PINKERT: Thank you, Madame
11 Chairman. Do you have any customers that only buy MSG, or
12 are MSG sales always associated with the I2G?

13 MS. LEE: Major of my customers are willing to
14 combine those two products together because they fall under
15 their same food chemical category, so I wouldn't say 100
16 percent, but of our customers.

17 COMMISSIONER PINKERT: Thank you. Now, when did
18 you start seeing purchasers using reverse auctions or
19 electronic bidding?

20 MS. LEE: 2012 was the first time, and they did
21 2012 as well, but that was only one particular customer.

22 COMMISSIONER PINKERT: And since that time have
23 you observed the reverse auctions and the electronic bidding
24 in all of the channels of distribution or only in one
25 specific channel?

1 MS. LEE: There's all the vendors are involved at
2 the same time, but we don't see who's participating. So,
3 they show you what rank of your prices are, but that's about
4 it, so it's really hard to see who's getting that -- you
5 know, who has the lowest bid.

6 MR. KAUFMAN: I'm not sure that the answer was
7 directly the question. I think the question, though -- in
8 response to the question, it's only appeared with one
9 customer in both years.

10 COMMISSIONER PINKERT: But my question had to do
11 with channels.

12 MR. KAUFMAN: Okay, but it was only one customer,
13 so I think it would've been whatever that channel was. It
14 would only be that one channel. I thought that's what you
15 were asking was in which channels did you see reverse
16 bidding. Maybe I misunderstood the question. What I'm
17 saying is there was only one customer that actually
18 requested that.

19 COMMISSIONER PINKERT: Okay. And what do you
20 think the impact of that has been? It's only one customer,
21 I understand, but what do you think the impact of that kind
22 of bidding process has been?

23 MS. LEE: Well, it depends on how they spread --
24 they had to work with this customer, but from my point we do
25 have certain guide of pricing. So, even though they go way

1 below my pricing that doesn't mean I will be bidding on it.
2 So, I just keep my guide and then that's how I make a
3 decision. If I have to drop off, I have to drop off.

4 COMMISSIONER PINKERT: I understand that's been
5 the impact on you, but I'm asking more generally whether you
6 think there's been a broader impact on the process itself?

7 MS. LEE: If you're looking at like a live
8 auction you feel like you have to do something on it, but I
9 guess everybody else has the same type of the price
10 guideline of their own, so if that impacts like other
11 vendors I guess more customer willing to do that kind of
12 bidding. I don't think it was very successful from my point
13 of view, so still none of my customers doing online bidding,
14 same as that one customer.

15 COMMISSIONER PINKERT: Thank you. Thank you,
16 Madame Chairman.

17 CHAIRMAN BROADBENT: Commissioner Williamson?

18 COMMISSIONER WILLIAMSON: Thank you. In your
19 post-hearing brief, can you please comment on Petitioner's
20 revised pricing analysis for Product 4, as contained in
21 their Exhibit 11?

22 MR. KAUFMAN: Surely, but I just want to point
23 out again that in our estimation we were comparing totally
24 apples and oranges. I mean you're looking at 100-pound drum
25 and a 900-kilogram, almost a one-ton sack. So, the uses

1 really are not going to be interchangeable. I'll do the
2 numbers, but I think that to come back in knowing what was
3 involved there for Petitioners to come back in and try to
4 bring that product that we reported on in the prelim back
5 into the analysis is somewhat disingenuous. The cost of the
6 drums when you're talking in a 200-pound sack you're talking
7 20 drums, so that alone is a significant factor in terms of
8 the difference in the pricing, but we will. We'll comment
9 on the brief.

10 COMMISSIONER WILLIAMSON: Thank you. CJ
11 Indonesia restarted exporting to the U.S. during the POI.
12 What would prevent other Indonesia producers from suddenly
13 beginning to ship to the United States -- similar beginning
14 to ship to the U.S., other than the fact that they don't
15 have that experience that CJ had in the earlier period?

16 MR. CUNNINGHAM: I'm not sure how we can comment
17 on other producers. I mean they're other companies. They
18 have other strategies. I don't know. I mean if you're
19 asking are there barriers that they face that we don't face?
20 I don't know.

21 COMMISSIONER WILLIAMSON: Are there barriers that
22 would prevent them from coming into the market, into the
23 U.S. market?

24 MR. KAUFMAN: There are limits on this market
25 because of the duties and the cost of transportation and

1 getting it here actually is a factor. We've talked about it
2 before. It limits what CJI ships to the U.S. and it will
3 constantly do that, but I think at this point certainly we
4 couldn't comment on any of the other companies, except to
5 note that two of them are affiliated to the producer, to the
6 domestic producer.

7 As to the others, there's no indication in
8 anything, either in where they're currently selling or
9 anything else that they're even close to this market. As I
10 pointed out before, when the list was of market say service,
11 North America, as I was writing down the countries, it was
12 not one of those markets. So, you're talking a significant
13 shift for someone to all of a sudden try to come to a market
14 that is a very small player in the overall global market for
15 MSG.

16 COMMISSIONER WILLIAMSON: Thank you. I was just
17 wondering because if they're clearly globally competitive
18 they can sell in Europe.

19 MR. KAUFMAN: I'm sorry?

20 COMMISSIONER WILLIAMSON: I assume that they can
21 sell from Indonesia to Europe. It is possible that they
22 would also consider selling here?

23 MR. CUNNINGHAM: Different companies make
24 different judgments. Obviously, that company sees the
25 European market as a more attractive one than the U.S.

1 market, but we're not in a very good position to comment on
2 that.

3 COMMISSIONER WILLIAMSON: Thank you. And with
4 that, I have no further questions, and I thank the panel for
5 their answers.

6 CHAIRMAN BROADBENT: Commissioner Johanson?

7 COMMISSIONER JOHANSON: Thank you, Chairman
8 Broadbent. And this is similar to a question I asked this
9 morning of the Petitioners. Is it your experience that
10 Ajinomoto is able to extract a brand premium from purchasers
11 by nature of its long and pioneering history with MSG?

12 MS. LEE: I think they do. As you said, they're
13 they first one who actually came in the market. Some of the
14 customers actually whenever I try and approach they give me
15 the spec of Ajinomoto's MSG and then ask us to match it.
16 So, they do definitely have some priority from the market.

17 COMMISSIONER JOHANSON: All right. Thank you.
18 And in the course of the afternoon panel it has been
19 mentioned that CJ produces another product, which I've heard
20 described as 12-G or I-plus-G. And I actually was able this
21 morning I read an article on it, so I got a little
22 background on it. This is before we came in. Is this a
23 product that was brought to the market as a substitute for
24 MSG for purchasers who wish to avoid the MSG ingredient on
25 their label? And in terms of its taste, it is equivalent to

1 MSG, and what had been the demand trends in the U.S. market
2 for this product?

3 MS. LEE: U.S. demand for the I-plus is much
4 smaller. As I think Petitioner mentioned it earlier,
5 there's several other flavor enhancer that work as the MSG,
6 but they have high cost, such as --and then he mentioned a
7 couple other things. And I-plus is also one of the flavor
8 enhancer, but in some point if you use that product with MSG
9 you get additional flavor enhancing. I don't have technical
10 background here, but that's another usage of the
11 flavor-enhancing product, so it's a very small demand
12 compared to MSG. And I probably will have to look up the
13 exact demand of USA, but they usually do fall under
14 flavor-enhancing product or food chemical product from the
15 customer category. So, they do buy those products mostly
16 together under same category.

17 COMMISSIONER JOHANSON: And in terms of its taste
18 is it equivalent to MSG? Does it pose a potential threat to
19 MSG?

20 MS. LEE: I wouldn't say exactly the same, but
21 their usage in some point is pretty similar.

22 COMMISSIONER JOHANSON: Well, that concludes my
23 questions for the day. And Mr. Cunningham, I think I might
24 go out and get Chinese food tonight, actually. No, I would
25 get Korean food perhaps as well because there's actually a

1 new restaurant close to where I live, so I think I'll do
2 that just in commemoration.

3 MR. CUNNINGHAM: My client expresses its
4 appreciation.

5 COMMISSIONER JOHANSON: Certainly so.

6 (Laughter.)

7 COMMISSIONER JOHANSON: No, I mean I've been
8 thinking about MSG for the past few days, so it makes sense,
9 right?

10 MR. CUNNINGHAM: Right.

11 COMMISSIONER JOHANSON: Thank you again for
12 appearing here today.

13 CHAIRMAN BROADBENT: Commissioner Schmidtlein?

14 COMMISSIONER SCHMIDTLEIN: Thank you. I just
15 have one big picture question just so I understand your
16 theory of the case and what's driving what. I'm looking
17 back at Mr. Cunningham's statement today, and understand
18 that at least the Indonesian Respondent's theory is that the
19 Petitioner is losing money because its costs went up, raw
20 material costs, and they had an increase in SGNA expense as
21 well.

22 And so my question is -- and when you look at the
23 C Table that has the cogs ratio on it you see their cogs
24 ratio going up, which means that their sales are not rising
25 as fast as their cost of goods sold, right? They're not

1 able to increase their prices enough to at least maintain
2 that as a constant number.

3 So, what is your theory as to why the Petitioner
4 couldn't increase its prices to cover these additional
5 costs?

6 MR. CUNNINGHAM: I suppose I could come with a
7 theory as to what their problem was in that, but you have a
8 fairly flat market. You don't have a growing market here in
9 the United States. It grows a little bit, but not a whole
10 lot. And what's clear is that there's no correlation
11 between the imports, the subject imports and the
12 Petitioner's trends and prices. And once you say that,
13 well, there may be some other cause, but the question for
14 you is specifically can we, the Commission, tie subject
15 imports to the Petitioner's inability to raise prices? And
16 both on the standpoint of no predominance of underselling
17 and from the standpoint of no correlation between the
18 subject imports prices and any negative trends or any trends
19 at all in the Petitioner's prices. You don't have causal.

20 COMMISSIONER SCHMIDTLEIN: Do you see anything
21 else in the conditions of competition in this industry that
22 would prevent them from raising prices to cover these
23 increased costs?

24 MR. CUNNINGHAM: I haven't actually thought about
25 it. We'll give it some thought, and see what we can do on

1 the post-hearing brief on that.

2 COMMISSIONER SCHMIDTLEIN: I mean in trying to
3 determine causation, right, we're looking at what is
4 affecting what here.

5 MR. CUNNINGHAM: No, you're trying -- with all
6 due respect; you have a limited task of analyzing causation.
7 It is not your job to determine what, in fact, are all the
8 forces and how they play out in terms of their effect on
9 U.S. industry prices. Your task is to determine whether and
10 to what extent subject imports have an effect. That's the
11 causal relationship that is your mandate. And if you're
12 stumped as to what the cause was, but you know that imports
13 aren't the cause, you've finished your job.

14 MR. KAUFMAN: Commissioner Schmidtlein, if I
15 could just point in the briefs, and we'll go back to it in
16 the post-hearing brief, we actually did do an analysis of
17 year-by-year what the imports did and what the average unit
18 price for the producer was, so we'll highlight that again in
19 the post-hearing brief, but we did do that to show there was
20 really no causation.

21 COMMISSIONER SCHMIDTLEIN: And then I guess my
22 last question related to this is in the Petitioner's brief
23 at page 43 they argue that because the Chinese data is
24 under-represented that the Commission should use Census
25 data, and I just wondered if you'd like to react to that or

1 if you have a position on that?

2 MR. CUNNINGHAM: You can't use Census data for a
3 whole bunch of reasons. It doesn't do what you need to do
4 in your pricing analysis. It doesn't do underselling
5 because you have no product-specific prices. You just have
6 an overall average.

7 It is not prices in the marketplace. It is
8 prices at importation, and that's not even a price. It's a
9 value at importation to which must be added duties -- what
10 was it -- 6.5 percent right there, plus transportation and
11 probably packaging, things like that here in the United
12 States to get to a profit to get to a price in the U.S.
13 market. It's just not useable for you.

14 And I guess I just have a rule of thumb. My rule
15 of thumb is when you see a party urging you to walk away
16 from your staff's data I think you ought to raise an eyebrow
17 at that, and this is a case like that.

18 The other thing I would say is that Petitioner
19 makes an unbelievable leap. It says, okay, we've got these
20 prices, these average unit values and they're presumably for
21 all of the -- they are for all of the Chinese exporters.
22 We've got admittedly not quite comparable because of
23 different mix and all of that product pricing category
24 prices. The difference between them must be that only the
25 high-priced Chinese importer responded to the questionnaire

1 and the low-priced ones didn't do it.

2 I say, oh, where does that come from? What
3 possible rationale would that be? Why would that be the
4 case? And the logic isn't there, but worse than that, the
5 utility of the numbers isn't there. So, that would be my
6 response.

7 COMMISSIONER SCHMIDTLEIN: I mean I guess when
8 you have a near commodity product and an HTS heading that is
9 "clean" and if you're looking at AUVs versus AUVS, aren't
10 you comparing apples to apples?

11 MR. CUNNINGHAM: Well, demonstrably that's not
12 the case here.

13 COMMISSIONER SCHMIDTLEIN: It's not?

14 MR. CUNNINGHAM: Look at your pricing product
15 categories and look at the variance of prices among the
16 product categories. And so, there are differences among
17 those product categories, and you can't say it's a commodity
18 product in the sense that all of these are sold at
19 essentially the same price. It just isn't borne out by your
20 staff's own figures.

21 COMMISSIONER SCHMIDTLEIN: Well, that's not what
22 makes a commodity product though, that they're sold at the
23 same -- I mean obviously.

24 MR. CUNNINGHAM: For purposes of the analytical
25 task that you were just talking about that's what makes it

1 significant that it's a commodity product, which is that a
2 price -- what I thought you were saying was an average unit
3 value should be useable to show that the specific product
4 category prices are unrealistically low. That's the leap of
5 faith they make. That's wrong.

6 COMMISSIONER SCHMIDTLEIN: Well, I think I was
7 more asking what is it relevant for. I mean we have it.
8 Are you saying AUVs are not relevant ever in any case?

9 MR. CUNNINGHAM: They're of very little relevance
10 to your analysis. There may be some trend use can do for
11 them. There may be some trend use, particularly in cases
12 where you have extremely little hard data, but in terms of
13 overselling/underselling, in terms of individual product
14 analysis they don't get you there.

15 COMMISSIONER SCHMIDTLEIN: Did you want to
16 comment, Mr. Kaufman?

17 MR. KAUFMAN: Yes. Commissioner Schmidtlein, if
18 I could just add something, and it's really what Dick was
19 saying. You're comparing two different levels of trade.
20 You're comparing prices as it's -- and it's not even a
21 price. It's a value as it's coming in. They're prices
22 reported by the importers with respect to their sales to
23 their customers. So, to compare those two and then draw a
24 conclusion from that that because one is higher than the
25 other necessarily means that whatever wasn't reported is

1 lower it just doesn't get you there. I mean that logic
2 isn't going to get you there.

3 And I agree with Dick. I mean you can look at
4 the AUVs on a year-to-year basis to see if there's a trend
5 line or something. It's a limited utility, particularly
6 where you have good coverage on your pricing data, but to
7 compare the to and then draw a conclusion from that is
8 really where they went off in terms of what that means.

9 MR. CUNNINGHAM: And as we've said, and I think
10 one of Commissioner said, in comparison with lots of cases
11 that you have you have pretty good coverage in terms of
12 percentage of sales in the U.S. of the imported product.
13 They don't use it to dispute the coverage. They use it to
14 suggest that there's some important element that's just
15 missing that would totally change things, and it's a big
16 leap to say that.

17 COMMISSIONER SCHMIDTLEIN: I'm almost out of time
18 anyway, but I have no further questions. Thank you very
19 much.

20 CHAIRMAN BROADBENT: I'm going to yield to Vice
21 Chairman Pinkert.

22 VICE CHAIRMAN PINKERT: I have a comment rather
23 than a question, but you might want to comment on my
24 comment. You were talking with Commissioner Schmidtlein
25 about causation. And I want to complicate your thinking

1 about that question a little bit.

2 MR. CUNNINGHAM: Well, that's my job, sir,
3 please.

4 VICE CHAIRMAN PINKERT: I know that you're not an
5 old country lawyer, as we used to say in the early '70s, and
6 that you can handle the complexity of this question. So,
7 it's true that we're not called upon by the statute to
8 identify all the various causes and figure out everything
9 that's going on that may have an impact on the industry.
10 But if we're faced with a situation where pricing is not
11 declining by a lot, it's not increasing by a lot, and the
12 question is whether prices are being held in check in some
13 way by the subject imports. Don't we have to consider the
14 alternative explanations for what's going on in the
15 marketplace?

16 MR. CUNNINGHAM: I think you should consider
17 alternative explanations that posed to you. I will pose one
18 to you. I mean, you have a number of cases that I've been
19 in that you've had before you recently where it's been
20 argued that the cost of -- the declining cost of raw
21 materials or the rising cost of raw materials will affect
22 prices. That may be an aspect here. I don't know. This is
23 a product where I submit to you the mix of causal factors is
24 a bit opaque.

25 Now, I will give the best thought to it and try

1 and give you some thoughts on it. But, you know, we've had
2 a slow recovery in the U.S. economy, the consumer price
3 index has been extremely low, or extremely slow to rise.
4 That may be the case here for more macro factors. I don't
5 know, I'm not enough of an economist. Bruce will probably
6 give you a better answer than that, although I suspect it
7 might not be my answer in this case. But, still, there are
8 lots of things that might be the case, as long as you are
9 clear that imports are not the cause, I think it's a matter
10 of secondary importance for you to figure out what is the
11 cause.

12 We'll try to help you as best we can.

13 VICE CHAIRMAN PINKERT: I get your answer to that
14 and I would just reiterate that sometimes you have to back
15 your way toward the statutory conclusion rather than get at
16 it directly. And so that's what I'm trying to --

17 MR. CUNNINGHAM: Yeah, I just don't think you
18 have to back your way toward it in this case because it's a
19 statutory conclusion. Clear, but we'll try (a) to make it
20 so clear that you don't feel you have to back toward it; and
21 (b) we'll give you a backward path for you anyway.

22 VICE CHAIRMAN PINKERT: Thank you. Thank you,
23 Madam Chairman.

24 CHAIRMAN BROADBENT: Commissioner Williamson.

25 No, no more questions. Do you Commissioners have

1 any other questions?

2 (No response.)

3 CHAIRMAN BROADBENT: Okay. Good.

4 Does the staff have any more questions?

5 MS. HAINES: Elizabeth Haines, staff has no
6 questions.

7 CHAIRMAN BROADBENT: Thank you. In that case I
8 want to thank this panel for their -- no, they used up their
9 time, I'm told.

10 In that case I want to thank the panel for their
11 testimony. I really appreciated your participation today.

12 And with that we'll come to closing statements.
13 And those in support of the Petition have zero minutes left
14 from direct and five for closing for a total of five
15 minutes.

16 And those in opposition to the petition have ten
17 minutes left from direct and five for closing for a total of
18 15 minutes.

19 As is our custom, we will combine those. You
20 don't have to take all of your time.

21 MR. CUNNINGHAM: I have never had ten minutes
22 left before.

23 (Laughter.)

24 CHAIRMAN BROADBENT: We will start with those in
25 support of the petition.

1 You may begin when you're ready.

2 CLOSING REMARKS

3 MR. MCPHIE: Thank you, Madam Chairman.

4 On behalf of AJINA and our entire panel, I would
5 again like to thank the Commission and the staff for your
6 attention during this hearing and for all your hard work
7 during this investigation.

8 You've heard a series of, shall we say, creative
9 arguments today from CJ. Please keep in mind the failings
10 that I identified in my comments this morning, particularly
11 their focus on CJ's numbers alone and their willful
12 ignorance of the Chinese imports with which they are
13 properly accumulated for your analysis.

14 There's no doubt that AJINA, the sole domestic
15 producer of MSG, has suffered material injury by reason of
16 the subject imports. Given the clear factual record on
17 injury CJ is forced to argue first that AJINA's clear and
18 pronounced injury was caused by everything and anything but
19 the enormous volumes of low-priced subject imports that just
20 happen to be in the market at the same time.

21 And second that CJ alone presents no threat of
22 further injury, assuming, of course, you ignore all the
23 other Indonesia and Chinese producers capable of supplying
24 the U.S. market many times over.

25 But a close examination of CJ's key arguments

1 shows that the evidence showing material injury by reason of
2 the subject imports really is just as clear as it appears to
3 be.

4 CJ's primary argument against material injury is
5 AJINA's financial recovery during the first half of 2014.
6 This recovery came during a time when subject imports were
7 substantially reduced in response to these proceedings. The
8 statute recognizes that a domestic industry's recovery in
9 such circumstances should be given a reduced rate.

10 Regarding timing, CJ keep pointing to the May
11 dates of the antidumping preliminary determinations by the
12 Commerce Department. But CJ stopped shipping MSG 90 days
13 before the Commerce CVD preliminary determinations which was
14 in early March. And exactly as you would expect them to do
15 to avoid possible critical circumstances measures.

16 You've also heard from them that AJINA lost no
17 sales to subject imports because AJINA operated supposedly
18 at full production capacity and imported some volumes from
19 its affiliate in Brazil. But a review of AJINA's inventory
20 build up and lost sales reports largely confirmed disproves
21 this claim.

22 On threat as I discussed earlier, CJ identifies
23 no valid basis not to assess Indonesia and China on a
24 cumulated basis. CJ does not even attempt to argue that
25 those industries taken together present no threat. In fact

1 the Indonesia industry alone also presents a very real
2 threat when properly viewed in its entirety as underscored
3 by the European Commission's recent action,

4 CJ has argued it is really only a small player,
5 it only supplies MSG as a quote, "ancillary product along
6 with its nucleotide product." AJINA in fact has seen
7 similarly unfair pricing in CJ's nucleotides and when CJ
8 sells these products together as a package, both with unfair
9 pricing, this really is just another method of underselling
10 the MSG that AJINA sells.

11 CJ also has claimed that its sales in the U.S.
12 market have stabilized at their 2013 levels because they've
13 satisfied the, quote, "ancillary demand of these nucleotide
14 customers." But when CJ produced MSG in Korea some years
15 ago, it's U.S. imports were more than twice their 2013
16 level; 23 million pounds in 2004, 20 million pounds in 2005,
17 and 22 million pounds in 2006 compared to only ten million
18 pounds in 2013.

19 You've also heard today that CJ now has
20 essentially the same plant in Indonesia as it did at that
21 time in Korea, and they have the same sales network here in
22 the United States in relationships with all the same
23 customers. In other words, everything they need to reach
24 those same levels again.

25 For all these reasons and others we will address

1 in our post-hearing brief we respectfully ask the Commission
2 to reach an affirmative determination.

3 Thank you, again.

4 CLOSING REMARKS

5 MR. CUNNINGHAM: Thank you. It's been an
6 interesting day. I have only a couple of points to make.

7 I first want to take my colleague who just spoke
8 to task for kind of making things up on a couple of points.
9 The idea that AJINA -- that CJ stopped importing in March
10 because that was where critical circumstances might have
11 kicked in ignores the fact that there has never been a
12 critical circumstances allegation against CJ.

13 The idea that we have the same plant in Indonesia
14 that we had in Korea is an interesting concept except I
15 haven't heard anybody say that here, and I don't believe it
16 to be the case.

17 But put those things aside. I want to focus on
18 one thing that I think got a little lost in the discussions
19 that we had, particularly that you and I had, Commissioner
20 Pinkert. Now, what you are doing is looking -- and you and
21 I Commissioners Schmidtlein, too -- comparing 2012 with
22 2013. Excuse me, 2011 with 2012.

23 Remember what the argument is here. The argument
24 here is that there is no present injury here because in 2014
25 and 2013, there's no material injury to the U.S. industry

1 and certainly not caused by imports. What's relevant to
2 that argument, I suggest to you is comparison between -- not
3 between 2011 and 2012, which would go the question whether
4 there was some injury in the past, not present injury, but
5 injury in the past, to the U.S. industry caused by imports.

6 What's more relevant is comparison between 2012
7 and 2013. And do the same numbers you were just doing in
8 comparison of 2011, 2012, you found some gap between the
9 total in the two years of U.S.-made shipments by plus
10 imports from the foreign affiliates in 2012 plus that same
11 set, U.S. produced shipments and imports from foreign
12 affiliates in 2013. If you do that comparison, I submit,
13 you will find exactly what I told you, which is you do find
14 that the difference between the two years when you do that
15 is miniscule, insignificant. And what that leaves you with
16 is analysis of the type that we wanted to point you toward
17 which is what was going on in 2013 in AJINA? What produced
18 its -- what were its results relevant to this case? That
19 is, results in areas that imports might have had an effect
20 on in 2013. And the answer you will find is that they were
21 doing just fine. And that the problems that they had in
22 2013 are entirely attributable to cost-side factors.

23 And that means that in 2013, they were doing fine
24 from a standpoint relevant to this case and in 2014 they
25 were doing spectacularly well and that's the basis on which

1 you should find no present injury. And at that point we can
2 then start talking about whether you cumulate, whether you
3 don't cumulate, and whether if you don't cumulate there's
4 any case to be made as to Indonesia.

5 And let me finally come back to that as my
6 closing point. If anything should be apparent to you from
7 looking at the data, if anything should be apparent to you
8 from listening not only to our case, but to the petitioner's
9 case, it is that the Indonesia imports really are not the
10 focus of the U.S. industry's problem. If there is a
11 problem, the U.S. industry has had and may have in the
12 future, it's China. It's not Indonesia. Indonesia is the
13 tail wagging the dog and it's not economically rational, nor
14 is it required by statute for you to reach an affirmative
15 determination as to Indonesia. We urge you not to do so.

16 CHAIRMAN BROADBENT: Thank you. And, again, I
17 want to express our appreciation to everyone who
18 participated in today's hearing. Your closing statements,
19 post-hearing briefs, statements responsive to questions and
20 requests of the Commission and corrections to the transcript
21 must be filed by September 30th, 2014. Closing of the
22 record and final release of data to the parties will be on
23 October 16th, 2014.

24 Final comments are due on October 20th, 2014.
25 And with that, this hearing is adjourned. Thank you.

1 (Whereupon, at 3:40 p.m. the hearing was
2 adjourned.)

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CERTIFICATION OF REPORTER

TITLE: In The Matter Of: Monosodium Glutamate from China and Indonesia

INVESTIGATION NO.: 731-TA-1229 and 1230

HEARING DATE: 9-23-2014

LOCATION: Washington, D.C.

NATURE OF HEARING: Final

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: 09-23-2014

SIGNED: Mark A. Jagan

Signature of the Contractor or the
Authorized Contractor's Representative

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aforementioned Court Reporter's notes and recordings,
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