UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	**)**	**Investigation Nos.:**
CHLORINATED ISOCYANURATES	**)**	**731-TA-1082 AND 1083**
FROM CHINA AND SPAIN	**)**	**(SECOND REVIEW)**

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INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF:	) Investigation Nos.:
CHLORINATED ISOCYANURATES FROM	) 731-TA-1082 AND 1083
CHINA AND SPAIN	) (SECOND REVIEW)

Main Hearing Room (Room 101)
U.S. International Trade Commission
500 E Street, SW
Washington, DC
Tuesday, September 13, 2016

The meeting commenced pursuant to notice at 9:30 a.m., before the Commissioners of the United States International Trade Commission, the Honorable Irving A. Williamson, Chairman, presiding.

APPEARANCES:

On behalf of the International Trade Commission:

Commissioners:

Chairman Irving A. Williamson (presiding)

Vice Chairman David S. Johanson

Commissioner Dean A. Pinkert

Commissioner Meredith M. Broadbent

Commissioner F. Scott Kieff

Commissioner Rhonda K. Schmidtlein

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Chris Robinson, International Trade Analyst

Tana Farrington, Economist

Charles Yost, Accountant/Auditor

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Elizabeth Haines, Supervisory Investigator

APPEARANCES:

Opening Remarks:

In Support of Continuation of Orders (James R. Cannon, Jr., Cassidy Levy Kent (USA) LLP)

In Support of the Continuation of Antidumping Duty Orders:

Cassidy Levy Kent (USA) LLP

Washington, DC

on behalf of

Bio-Lab, Inc

Clearon Corp.

Occidental Chemical Corporation

Jonathan Viner, President, Bio-Lab, Inc.

David Helmstetter, Vice President, Clearon Corp.

Michael I. Morgan, Business Manager ACL & Chlorite, Occidental Chemical Corporation

Deirdre Maloney, Senior Trade Advisor, Cassidy Levy Kent (USA) LLP

James R. Cannn, Jr. - Of Counsel

Closing Remarks:

In Support of Continuation of Orders (James R. Cannon, Jr., Cassidy Levy Kent (USA) LLP)

I N D E X

P R O C E E D I N G S

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

CHAIRMAN WILLIAMSON: Good morning. On behalf of the U.S. International Trade Commission, I welcome you to this hearing on Investigation Numbers 731-TA-1082 and 1083 second review involving Chlorinated Isocyanurates from China and Spain.

The purpose of these five-year review investigations is to determine whether revocation of the anti-dumping order on chlorinated isocyanurates from China and Spain will be likely to lead to the continuation or recurrent to material injury within a reasonable perceivable time.

Our schedule setting forth the presentation of this hearing, notices of investigation, and transcript order forms are available at the public distribution table. All expert testimony should be given to the Secretary. Please do not place testimony directly on the public distribution table.

All witnesses must be sworn in by the Secretary before presenting testimony, understanding that parties are aware of their time allocations. Any questions regarding the time allocation should be directed to the Secretary. Speakers are reminded not to refer in their remarks or answers to questions to business proprietary information.

Please speak clearly into the microphone and state your name for the record for the benefit of the court reporter. If you are submitting documents that contain information you wish classified as business confidential, your request should comply with Commission Rule 201.6.

Mr. Secretary, any preliminary matters?

MR. BISHOP: Mr. Chairman, I would note that all witnesses for today's hearing have been sworn in. There are no other preliminary matters.

CHAIRMAN WILLIAMSON: Thank you. Very well, let's proceed with opening statements.

MR. BISHOP: Opening remarks on behalf of those in support of continuation of the orders will be given by James R. Cannon, Jr., Cassidy, Levy, Kent.

MR. CANNON: Jim Cannon.

CHAIRMAN WILLIAMSON: Welcome, Mr. Cannon. You may begin when you're ready.

MR. CANNON: Good morning, Mr. Chairman and Commission. I think in the circumstances here my opening remarks are going to be good morning and I would waive the rest of my time and we can proceed directly to the testimony.

Thank you. So our first witness this morning will be David Helmstetter.

STATEMENT OF DAVID HELMSTETTER

MR. HELMSTETTER: Good morning. My name is David Helmstetter and I am the general manager of Clearon Corporation. I've had this position for six months and I've been with Clearon for 14 years. I started my career with Olin, where I managed four plants, including the plant in Charleston, West Virginia, now owned by Clearon. We employ 127 full-time employees and 60 to 150 seasonal workers.

I testified before the Commission in our countervailing duty case against China in 2014. I'm back because the anti-dumping duty orders on imports from Spain and China are every bit as important as the most recent countervailing duty order.

Since the Commission's 2014 investigation, our business has continued to struggle. We've had to institute cost-cutting measures and Clearon itself will not make any money this year. Our poor performance caused our parent company, ICL Industrial Products, to sell the business earlier this year. We were acquired on March 1, 2016. Our new parent company is a U.S. subsidiary of Dailian-Bio, a Chinese producer of bio sets. Our chlorine-based chemicals complement Dailan's bromine-based water treatment chemicals and ward preservative products.

For the immediate future, our goals are to stabilize the business, generate a positive cash flow, and try to get the business back to a profitable operation, without the anti-dumping duty orders on imports from Spain and China this will not be possible.

Overall, the U.S. market has not changed significantly since 2014. During the 2014 hearing, the Commission asked us about demand. Currently, the demand for trichlor is flat to even slowly declining. There has been some growth in demand for dichlor or a shock product. The other factor that has not changed is the importance of a low price. Competition is still driven by the lowest price. Price continues to be the most important factor in every sale.

Over my career, the intensity of competition throughout the market has increased. In the past, customers would not switch suppliers over the difference of a few pennies. For about the last decade, since the dumped imports captured a major share of the market, the loyalty that once existed in this business has disappeared. We cannot escape the everyday, low prices offered by Chinese and Spanish imports.

Because we require volume to fill our capacity and avoid extended shutdowns, we cannot resist the low price levels. To obtain a positive cash flow, we have attempted to increase sales and fill our capacity. With the anti-dumping duty orders in place, imports are still the price leaders in the market and we still have to have low prices in order to compete, but the anti-dumping orders seem to put a floor on the imports.

Before the dumping orders, there seemed to be no limit to how far the importers were willing to cut prices. With the orders in place price levels are still too low, but they have stabilized. So even though there's a significant price pressure, we have recaptured some business from the dumped imports and increased our net sales. We've cut labor costs and raw material costs have remained stable. As a result, we are operating at a net loss, but we have a positive cash flow.

In the past few years, imports from China have continued to be a major factor in the market, but we have also seen more imports from Spain. These imports are produced by Ereros and imported by Lonza, which is the parent company of my old employer, Arch Chemical. When I am trying to sell Lonza, I am competing with the imports from Spain at prices as low as 93 cents a pound in bulk.

Since 2014, Lonza has shifted from Chinese imports to imports from Spain. Lonza buys bulk trichlor from Ereros and uses Qualco, a toll contractor to press tablets. In the early years under the A&I dumping orders, Clearon sold in bulk quantities to distributors in tablet makers. Over the past several years Clearon changed this sales strategy to try to avoid competing with imports in bulk super sacks.

By focusing on tablets and on dichlor and retail packaging, we were eventually able to secure business selling direct to club stores, such as Sam's Club. Club stores are essentially to "two SKU" stores. They will only carry a large package of shock and a pail of trichlor tablets. We are required to remove the leftover inventory for the mass merchandisers at the end of the season. We buy it back at the price we sold it to them and bring it all back to one location in North Carolina. It'll be the first product we ship out the next year. Despite these requirements, the mass merchandisers purchase in large volume and we need volume sales to fill our plant.

As a result, Clearon shifted from production of granular bulk bags to dichlor granular and trichlor tablets in retail packaging so that we could supply the mass merchants directly. This strategy worked for a time to help us maintain margins, but in the past three years Lonza has been offering the imports from Spain at extremely low prices. These offers force us to cut prices to maintain sales volumes at mass merchandiser accounts.

I explained in the last investigation that I was previously employed by Arch Chemical, which is now Lonza. While an executive with Arch, I had purchasing responsibilities for Isos. When Arch first divested Clearon in 1995, we were under a five-year contract to purchase trichlor from Clearon at a fair price. At the expiration of that contract, I received many price quotes from Chinese producers. I would quote the Chinese prices to Clearon. Now the shoe's on the other foot. When I try to sell to my old company, I have to meet the Chinese price or the Spanish price to get the business.

Although the volume of imports has fallen due to the anti-dumping duties, we are still competing against very low prices from China. Furthermore, I believe that while imports to the United States have slowed down, I'm pretty positive that a lot of Chinese product is going through Mexico and other places. With tariffs on Chinese imports jumping to 60 percent or more this year, companies are looking to get imports from elsewhere, but if the order is revoked those customers will go back to their Chinese importers in order to obtain the lowest prices. Likewise, if the anti-dumping orders on imports from Spain is revoked, Spanish product at low prices will increase.

In short, Clearon and the U.S. industry need the anti-dumping duty orders. Without both orders, dumped imports will increase and prices will again begin to fall. Even with orders in place, Clearon is struggling to increase its sales and earn a positive cash flow. If either order is revoked, domestic price levels will again start to fall and our business will decline. Clearon will be right back in the situation that caused our owners to sell the business.

For these reasons, the Commission should make an affirmative determination in this case. Thank you very much.

MR. CANNON: Thank you, Dave. Next, we'll hear from Mike Morgan.

STATEMENT OF MICHAEL I. MORGAN

MR. MORGAN: Good morning. My name is Michael I. Morgan and I'm the business manager for chlorinated isocyanurates and sodium chlorinate for Occidental Chemical. I started with Oxy in August of 2013 as an account manager and subsequently was promoted to my current position. As the business manager for chlorinated isocyanurates, I have complete responsibility for the Isos business. My responsibilities include negotiating any and all sales contracts, both term agreements and spot sales covering price and volume, interfacing with customers to solve day-to-day issues, and subsequently, developing a production plan and inventory schedule as well as quarterly and annual financial outlooks.

Our manufacturing facilities in Luling, Louisiana and Sauget, Illinois employ approximately 167 American workers. My job responsibilities also include management of other products beyond the scope of this case;

namely, sodium chloride and resorcinol. Although we do sell a small volume of chlorinated Isos to the industrial market, pool chemicals make up the vast majority of our overall business.

Within the pool segment, 70 to 80 percent of our volume is sold under some type of supply agreement. These agreements may have a definitive term or an evergreen provision, which allows them to roll over from year-to-year. Our contracts may have a fixed price for an initial contract period and a quantity term that specifies the minimum and maximum allowable volume.

Typically, price and volume are only fixed for a year at a time. Thereafter, terms are renegotiated before the beginning of the following pool year or as contract permit. The pool year is defined as running from October 1 through September 30 of the following year. Contract negotiations generally start in mid- to late April and are usually concluded by August 1 for the subsequent pool year, although each of our supply agreements are different. Negotiations are conducted via email, phone, and in-person meetings.

Typically, I nominate an initial price and quantity to the customer via email. Negotiating the volume term is usually an easy process. Price, however, is the issue which, in some cases, could take several months to settle. Often, I will have to make two to three in-person visits to the customer throughout the negotiation process, depending on the customer and how far apart we are on our initial price nominations. Obtaining market intelligence on competing prices is an essential piece to this process.

As mentioned earlier, approximately 70 to 80 percent of our business is contracted, which means we have 20 to 30 percent of our volume available for spot sales. It is this participation in the spot market which allows us to ascertain what the competitive landscape looks like. We also rely on a few strong relationships with key distributors who sell our product to a number of small, regional pool chemical companies.

These distributors will come back to us with marketing intelligence and information concerning import prices at specific accounts. I then take this information and compare it to what I've found out myself by participating in the spot market to develop my sense of the overall competitive landscape. It is imperative that we price our product so our customers can compete with those who are importing material.

Typically, I will try to start our customer negotiations at a premium to the price offered by importers from China or Spain. At Occi, we believe we produce a superior product and we've had our customers tell us so.

Nevertheless, virtually all of our customer accounts are aware of import prices and they have to compete against those prices in the marketplace. As such, we are forced to reduce our prices to the level set by Chinese and Spanish imports.

At the end of the day, when the customer is taking care of his or her pool, the producing point of the chemicals being used is inconsequential. They just care about the price they pay. Based on my experience, there's usually not a wide disparity in import pricing. There is a standard or stock Chinese or Spanish number and they will use that number across the board no matter the volume. They don't seem to care. The price is the price no matter how much you are buying.

I am aware that the published import statistics show a decline in imports from China in 2015 and 2016. However, volume is only one piece of the pie. Earlier this year, the Chinese were aggressively pricing their imports at the Atlantic City Pool Show in January on the heels of the ninth anti-dumping ruling going final and the zero duty rates being upheld.

Heading into the 2016 pool season, the going rate for imported granular, bulk trichlor was 91 to 93 cents per pound. In January, at the Atlantic City Pool Show, the Chinese lowered their price nominations to 88 to 89 cents per pound. By April, the price was down to 87 cents per pound. Over the last two months, I've heard reports of bulk trichlor being offered below 86 cent a pound. We saw the same phenomenon with respect to imports from Spain. At the end of 2013, the Commerce Department found that Ereros was not dumping. This determination was too late, however, to have much impact on the 2014 pool year.

In 2015 and 2016, there were substantial imports of chlorinated Isos from Spain. These imports captured a significant amount of business at one of our customer accounts. To maintain sales with this account, we were forced to forego any price increase and we still lost sales volume. Nevertheless, the anti-dumping orders, or threat thereof, helped maintain market price levels and allow the American Isos producer to compete.

The orders prevent a flood of imports from China and Spain. The Chinese exports dominate the market in Canada and Mexico. Prices in those markets are significantly lower than those in the U.S. market. Without the anti-dumping orders, prices in this market will quickly fall to the same price levels. If the anti-dumping duty orders are revoked, all of our contract customers will come back to us and try to reopen their contracts.

In years past when we were competing with dumped imports from China or Spain, we would often be forced to make price adjustments even in the middle of a contract year. At the time, we had to make these adjustments to support our customers; otherwise, their business would've suffered at the end user and we would lose share to imported, dumped material.

Also, if we were unwilling to revisit pricing, even while under contract, the odds of us being able to secure an extension or a new contract with the customer in question would be greatly reduced. Without the anti-dumping duty orders, imports from China and Spain would flood the market and prices would collapse. We share a portion of our largest account with imports from Ereros in Spain. If the anti-dumping order was terminated, I feel certain that Ereros would immediately lower its prices in order to capture greater share of this account.

We've completed the requested ITC questionnaire and shared financial data with the Commission. As the data shows, we've experienced some improvement, particularly, since the Commission's affirmative injury determination in the 2014 countervailing duty case. At the same time, our profitability and sales prices remain depressed relative to cost of goods sold.

If imports from China or Spain increase as a result of a negative determination in this case, we will lose sales as soon as next year. Over the course of 2017, market prices will certainly drift lower. As a result, our profit margins will continue to dwindle, our capacity utilization will decline, and our business again will be operating in the red.

For these reasons, we ask the Commission to preserve fair trade in the U.S. market. Thank you.

MR. CANNON: Thank you, Mike. Next, we'll hear from John Viner.

STATEMENT OF JOHN VINER

MR. VINER: Good morning. My name is John Viner and I'm the President of Bio-Lab, Inc. I've been with Bio-Lab or its parent company since 2000 and I've been president since 2010. As president, I'm responsible for all the global sales and production activities. We have plants in Lake Charles, Louisiana, Conyers, Georgia, Ontario, California as well as our headquarters in Atlanta, Georgia. Altogether, we support approximately 700 U.S. jobs, including temporary labor.

Bio-Lab was not a petitioner in the original investigation. Over the past 10 years, however, the anti-dumping orders have created market conditions that permitted our company to expand domestic production and increase sales. Without unfairly traded imports from China and Spain, the U.S. market has provided a sufficient return on investment to support and expand our business. Our experience over this time period demonstrates the value in preserving the dumping orders and maintaining conditions of fair trade.

On December 31, 2013, the Bio-Lab business was acquired by KIK Custom Products, Inc. and certain of its subsidiaries. At that time Bio-Lab had two production facilities and KIK operated a tableting facility. The acquisition, coupled with the market conditions created by the anti-dumping orders, allowed us to increase capacity utilization at all of these facilities. In addition, with the anti-dumping orders in place, we've been able to charge prices that cover our cost of production. As a result, over the past few years, we have had positive operating results.

Turning to the overall market, demand for chlorinated Isos is largely driven by the after market. There is a large in-store base of residential swimming pools in the United States. The large majority of these pools use chlorinated. Although many pools use salt water chlorinators, over 80 percent of residential pools use chlorinated Isos. At the same time, the production of chlorinated Isos involves relatively high fixed costs.

To reduce our unit costs in prices, we need to run at high utilization rates. In a stagnate market, this means that we are under constant pressure to adjust our prices in order to secure sales volumes and fill our capacities.

At Bio-Lab, our sales strategy is to grow market share by participating in every segment of the market. We are an integrated manufacturer, a tabletor, and we sell direct to independent pool retailers and the major big-box retailers.

In terms of the mass-market retailers, we are the largest supplier. We sell our own or licensed branded products to all of the big-box stores. We offer a premium branded tablet and a full spectrum of pool chemicals. In addition, we've entered into a licensing agreement with Clorox under which we now make and sell Clorox Pool and Spa branded products. We sell the Pool Time brand, which is our brand, to Home Depot. Another Bio-Lab brand is Pool Essentials, which we sell to Wal-Mart.

We also supply independent retailers. In this channel we sell dealer direct and through private label distribution. We offer brand named products, such a BioGuard. In the distribution channel, we sell a distribution brand and a service brand. We also repackage and tablet for private-label customers. In this channel, we compete head-to-head with Clearon and Occi. However, because our strategy focus on the sale of finished products to distributors, our main competition is with the re-packers and the tabletors that are supplied by imports or by Occi or

Clearon.

Distributors sell to independent retailers and to the service segment of the market. Independent retailers will have a retail store. They may or will build pools and they will also service pools. In our case, Bio-Lab sells dealer direct. Our dealers will typically offer our premium brad BioGuard as well as our ProGuard brand. ProGuard is a no-frills brand that they can get from us and supply to the service segment.

Alternatively, independent retailers can purchase from Arch, Lonza, or other national or regional distributors. In all of the various market segments, we are competing directly and indirectly with imports of chlorinated Isos from China and Spain.

MR. VINER: The Chinese importers sell bulk product to re-packers and tabletors that compete with us for sales to big box retailers and distributors; however, the Chinese imports also include dichlor and trichlor in large-sized retail packages. For example, Press Tablets, trichlor tablets in 50-pound pails that are shipped in by the container load. These imports compete directly with our finished goods for sales in a specialty retailer and the service market segments.

Importers from China and Spain also attend all the major trade shows and offer Chlorinated Isos at these events. For example, at the International Pool And Spa Expo, the Chinese have booths were they offer finished goods, trying to go dealer direct and meet with distributors and re-packers. Representatives of Ereros will also attend these trade events. In fact, the entire industry is at these events and the Chinese and Ereros representatives will offer chlorinated Isos and do deals for the upcoming pool season. In fact, Ereros is a major supplier to our primary competitor at Wal-Mart and one of the biggest competitors in the mass market.

Turning to the global market, Bio-Lab Lab has operations in Australia, New Zealand, South Africa, and Europe. In Europe, our structure is very similar to the United States. We sell premium products to massive independent retail channels and we sell private-labeled products through retailers. We compete in essentially the same fashion in Europe as the United States. The main difference is there is only one large Isos manufacturer in Europe. That is Ereros.

We use third-party tellers to make tablets for us in Europe, using tablets and equipment owned by Vibe Lab and using chlorinated Isos from Ereros in Spain or from China. Because of the relatively low market prices in Europe, it's not cost-effective for us to bring product over from the United States. In fact, if the anti-dumping orders are revoked in the United States, Ereros and China would target the U.S. market because of the larger install base of swimming pools and because prices in this market are relatively higher than in other parts of the world.

Worldwide demand is flat. Markets are not growing in Europe or in the United States; yet, Ereros is expanding capacity, whom we're recently learned that another chemical company may be planning to start production in Spain. Because of the significant present of Chinese imports in the European market, revocation of the U.S. anti-dumping orders would cause producers in both countries to shift sales to the U.S. market.

If the anti-dumping orders are revoked, the U.S. market will be inundated by both Spanish and Chinese imports. Without anti-dumping duties, imports from China and Spain will cut prices in order to capture market share. In fact, even with the anti-dumping orders in place, imports from China and Spain are already sold at prices below our own prices. The United States is the world's largest consumer of chlorinated Isos and every manufacturer seeks a share of this market.

For these reasons, the Commission should make an affirmative determination. Without the anti-dumping duty orders our market share will shrink, prices will fall, and our Isos business will be in peril. Thank you.

MR. CANNON: Thank you, John.

Before we turn it over for questioning, I'd like to run through a few issues from our brief.

First, we've raised the issue of adverse facts available. I know that the Commission is reluctant to apply the adverse facts available statute and make adverse inferences. You have occasionally done it. I think this case is a case in which it is important to look hard at the statute. You have no foreign producers in a sunset where a key issue is what is their capacity, what market are they targeting, what's likely to happen if the anti-dumping duty orders go away.

These foreign producers who have failed to show up in this proceeding are all represented by counsel. The Chinese producers have been litigation at the Commerce Department for 11 years. We see them every year. We are in court in four appeals that they have taken at the Court of International Trade. So they full well understand the system and they're experienced trade lawyers.

The Spanish producer was represented in an administrative review, which concluded two years ago. They brought in four containers at a very high price so they could obtain a zero duty rate, so they understand how the system works. You can bring in product at a high price, get a zero duty, then they were not in the market for a couple years and now they've come back. So they also have counsel and they oBio-Labusly have advice as to how this system works and they are knowledgeable about what's happening and they still sat out the proceeding. I think on that basis the Commission should make an adverse inference.

And finally, I would observe that unlike some of your other cases where you have this issue, there are no sort of innocent bystanders here. It's not that some of the foreign producers participated and others did not and so you would be, in essence, prejudicing those who participated. None of the foreign producers participated here.

Next, I'd like to turn to the conditions of competition. You heard testimony that competition is based on price. The record shows that just like in the original investigation in the first review the product, the purchasers, the majority of them said the product is always or frequently interchangeable. So the competition is based on price. The product is fungible. Those conditions have not changed. What also hasn't changed is demand. Demand is stable. If you look at the top line on your Table I-2, if you look at your C Table, if you look at Exhibit 8 to our brief, if you look at the pink sheets I handed out and look at consumption. Consumption in this industry is not declining. It is relatively flat.

Next, the U.S. market is the largest market in the world and there is excess global capacity. So in that sheet, the pink sheets, the second page in is a table taken from our brief. These are the most recent data that are available, independently, regarding the world, a report complied by CEH, or Chemical Economics Handbook, also they are called SRI.

And you can see from this table, if you look at the bottom line, "Total World Capacity" and then look at production the global capacity in this industry is basically only being half utilized. There's a 50 percent capacity utilization. Now look at the markets. The U.S. is virtually half of all consumption in the world. We are the world's market for swimming pools and so the huge amount of capacity, particularly in China, wasn't built to serve swimming pools in China. It was built to export to this country.

Next, I'd like to turn to cumulation. The Commission looks at three factors in a sunset case. The first one being whether there is a discernible adverse impact. As we just discussed, and as you found in the first sunset review, the product is fungible, so the nature of the product supports a discernible impact -- adverse impact finding.

Next, you look at the behavior of the subject imports. Well, when duties are imposed, the subject imports have retreated. When the duties are lower, the subject imports have hurried back. So I think the behavior of the subject imports tells you what will happen if we sunset these orders.

Third, you've looked at whether imports continued despite the orders and in this case they have. Virtually, throughout the entire period every year the Chinese imports continued. In all but I think two years, the imports from Spain have continued.

Next, we turn to reasonable overlap of competition. Here you will find in the questionnaire -- in the questionnaire from the first review, in the staff report -- in the original investigation staff report the same conclusion. Imports are sold. Domestic products are sold on a national basis. So first, there is geographic overlap.

Second, channels of distribution, in the original investigation, in the first sunset, and in this case you find that imports from Spain and China are not only sold in the same channels, they are sold to the same customers. You just heard testimony a major customer was buying from China and then switched to Spain. They also purchase from the United States.

Next, where do they sell? Well, we just finished John's testimony and he's talking about competing with the Spanish imports at Wal-Mart, alright. So the

Chinese are competing for that business. The Spanish are competing for that business and the U.S. is competing for that business. And that is just one example.

Lastly, imports are simultaneously present in all of these segments. In fact, in the questionnaire response you can see that on an importer basis.

Next, volume in this market is likely to increase. As I pointed out on the sheet, there's global excess capacity. Moreover, Ereros, in Spain, is adding new capacity. They've already added and they have invested to increase their capacity this year. The details are in our exhibits. There is now a signal that another Spanish producer is entering the market. They obtained government funding to enter this market, a market in which there's global excess capacity. And the company that has obtained this funding is a chemical producer that already makes comparable products, sodium hypochlorite. They're sitting right next door to a producer of chlorine and caustic soda, so they have a ready supply of raw materials.

Lastly, the Chinese have excess capacity. The chart speaks for itself. The Chinese are not here. This is the evidence on the record and you've found this in every prior proceeding.

Next, I'd like to talk about price effects. Even with the orders in place, even with the dumping order, you see predominate underselling, both by Spain and by China. Our record is not very good in terms of completeness because the importers didn't answer questionnaires either. It wasn't just the foreign producers, but essentially, there are no importers who answered the questionnaire who are importing from China and none of the major ones in 2015, so there's zeroes because they didn't show up, but the evidence that you do have shows pervasive underselling by Spain and China.

Next, I included, essentially, here C Tables, except I added 2002, 2003, 2004, so you could see the overall trend without going into detail now. I thought it might be a good reference. What it really does show is that this industry is essentially been in this since 2002, 14 years. We are now because of the assistance of the Commission, in fact, in the countervailing case against China, there's somewhat of an upturn, but overall, if you look at our bottom line, we are essentially no healthier than we were at the original investigation over a three-year period and that says that this industry is still vulnerable.

If these orders are removed, the imports will come back and the industry will be materially injured and the most, to me, impressive evidence of this are the answer to the purchaser questionnaires and the importer questionnaires. In fact, I confess, I have rarely seen this. There were only two Respondents who disagreed, but if you look at the first page of the pink sheets look at what the purchasers said was going to happen in this market, right? They are talking about a flood of imports, prices will collapse, and one or maybe two U.S. producers will be driven out of business.

This is not in our questionnaire. These are importers and these are purchasers. And to me, that's all that needs to be said. So I'm happy to take questions. Thank you for your attention.

CHAIRMAN WILLIAMSON: Thank you. And I want to thank the witnesses for coming this morning and giving your testimony. And actually, this morning I will begin the questioning.

Based on your record in this review, do U.S. tabletors engage in sufficient production related to opportunities to be considered part of the domestic industry? This is an issue that was in the first original case.

MR. CANNON: Only one stand-alone tabletor responded and provided data. As you know, in the 2014 investigation it's sort of a pitch battle on this issue. I was unsuccessful at convincing you that tabletors should be part of the industry. We continue to believe that tabletors should not be part of the industry, but doing these cases requires a lot of resources and going to a full investigation, in particular. And so given that this one tabletor is so small and that doesn't affect the data, we didn't bother to address it.

If you want, I can address it in post-hearing on the confidential numbers. As we've said before, the value added by tableting is low. The wage rate that they pay is very low compared to manufacturing. The skill that it takes to tablet is nothing like -- not comparable at all to manufacturing and so I can amplify, but thanks for your question.

CHAIRMAN WILLIAMSON: Okay, but in terms of our decision do you think it matters really how we rule on this one.

MR. CANNON: No.

CHAIRMAN WILLIAMSON: Okay, thanks.

Most producers reported no supply restraints; however, four purchasers reported that they were refused or declined supply of chlorinated Isos by domestic firms. Can you help me understand these responses?

MR. CANNON: Yes. I think that we have to do that in the post-hearing confidentially because I don't think I was able to -- that's not public for me to discuss. I might say the names of the customers and they're competitors.

CHAIRMAN WILLIAMSON: Okay, no, post-hearing is fine.

Okay, one of the producers in Spain during the original investigation inquiry has reportedly ceased production. Do you know the date and reason it ceased production? How much of the capacity reduction in Spain did this result in?

MR. VINER: I don't know the exact details of when the facility was shut down, but with my knowledge of the European market, as I said in my testimony, the European market demand is flat. And when I look at our own companies' purchases, it's typically the Chinese or coming from Ereros is the main Isos supplier, so I don't have the exact details. We can find that out at the post-hearing with my European colleague.

CHAIRMAN WILLIAMSON: Okay, fine.

MR. VINER: We never purchased from them as an alternative supplier.

CHAIRMAN WILLIAMSON: Okay, good, post-hearing will be fine. Thanks.

On page 22 of your pre-hearing brief, you state that another company in Spain may begin production of chlorinated Isos and I think one of you mentioned it in your testimony. When do you expect this production to begin and what do you expect the production capacity to be?

MR. VINER: As we said, it's initial discussion, that there's no determination of volumes out in public that I'm aware of in the public domain at this point in time. Again, we can find that information, but as I'm working with my European it's an understanding that there is potentially a connection with an existing parent company who's in this industry at this moment in time. So it's early determination on those volumes that are required and whether the actual investment will take place. OBio-Labusly, with investment in chlorinated Isos it's a lot of planning and a lot of capital investment.

CHAIRMAN WILLIAMSON: Any idea what market they might be targeting?

MR. VINER: The market would be the chlorinated Isos in the swimming pool industry.

CHAIRMAN WILLIAMSON: Europe, U.S.?

MR. VINER: It would be Europe and the U.S. With Spanish anti-dumping at a zero rate, they would target the U.S. too.

CHAIRMAN WILLIAMSON: Okay, fine. Does anybody else have anything to add to that? No?

Okay, I just have one other question. You explained that for exports from China prices are higher in Europe than in the United States due to the EU anti-dumping order. Can you explain why we also see higher prices for exports from Spain to European countries?

MR. VINER: If I understand the question correctly, you're asking why is the Spanish prices coming into the U.S. are higher than what they sell into Europe?

CHAIRMAN WILLIAMSON: Right. No, why do you see higher prices for exports from Spain to Europe than you do to here?

MR. VINER: That the prices in Europe are consistent with the Chinese prices in Europe. The Spanish prices in Europe are consistent with the Chinese prices that are coming to Europe, so it's a similar situation to here where the lowest price is sort of set as a benchmark and they're selling at a lower price than the prices that come into the U.S. So we believe that if the anti-dumping orders were revoked and at zero, then the prices that are being sold in Europe would set the benchmark for the USA, which are a lot lower than they are now.

CHAIRMAN WILLIAMSON: So are you saying that if prices are higher in Europe are you saying that the EU orders are more effective than US orders?

MR. VINER: So the rates in the EU change and it's a smaller market, so the prices in the U.S. are higher than those in Europe right now, but it's a significantly smaller volume and you've also got the domestic supplier across, which is selling in that the price is significant.

I don't want to talk about the actual price of volumes in competition here.

CHAIRMAN WILLIAMSON: Understood. Okay, thank you.

MR. CANNON: So I would just also point out one thing. In the staff report, the export data are at the six-digit level, which is a pretty big basket category. In our Exhibit 2 to our post-hearing brief, we have the Spanish data at the eight-digit, but still it's a basket category. So unlike the Chinese data, which are trichlor and dichlor, the exact product, this is broader. And so looking at the actual average dollar per pound or dollars per kilogram, there could be some noise in the data because of product mix.

CHAIRMAN WILLIAMSON: Okay. Alright, thank you. Thank you for those answers. Mr. Johanson.

VICE CHAIRMAN JOHANSON: Thank you Chairman Williamson. I would also like to thank all of you for appearing here today.

One of the most memorable moments from the hearing in the China/Japan investigations in 2014, and this can all be found at page 160 of that transcript, was your description from some case, representative of chlorine out gassing by the Chinese product that caused damage to electronic components in its stores, including cash registers. Have there been any market developments over the past two years specifically with regard to imports from China that might dispel that image of poor quality?

MR. HELMSTETTER: This is Dave Helmstetter. I was here for that hearing and I remember that testimony and the problem I think they were referring to -- I'm not familiar with their stores, what they're like, but the only problem we ever really hear of gassing or dusting is at a tabletor location where they actually handle a granular product and that the gassing phenomena is usually handled -- the way we handle it is by desiccant. We put a desiccant in the drum and that takes care of the gassing problem.

All these products are similar in composition and they all gas to some degree at various degrees. We deal with it by desiccants, which are scavengers you put in the drum to take the chlorine out. I don't know if they do that or not. That's all I could say.

VICE CHAIRMAN JOHANSON: Are you all aware of any other quality issues concerning Chinese product?

MR. VINER: This is John Viner. I mean in our South African business we do import Chinese product into the South African tableting facility we have there. I have witnessed that product and the quality of the product that that comes in a pure bulk form has lots of foreign material in it, so my observations of seeing Chinese material coming into South Africa were we use it I see the quality of just the packaging of it is not up to the standard of what we expect in the U.S.

VICE CHAIRMAN JOHANSON: But I think the quality in the U.S. is better. We believe the US has higher standards perhaps.

MR. VINER: I think the quality in which it is packed and the chemical process is obviously managed. I have never used the changed material in the U.S. myself so it is hard for me to comment on that. I am just using the South African example of why we say -- and as to what David said, in the efficiencies of tableting, we don't necessarily see the efficiencies when we put it through our tablet presses in South Africa to the same level we do in the U.S.

VICE CHAIRMAN JOHANSON: Alright, Mr. Helmstetter?

MR. HELMSTETTER: The only other comment I have is we try to sell repacters today. We try to sell them supersect just to move our volume and they do talk about this issue with me and I try to use that to my benefit to say "yes, I've got a superior product" and they go "yes, but your price is too high. It's not that big of a difference, you know lower your price and meet this and we will buy from you, we'd like that." When I hear that, it's not a significant issue I guess but it all comes down to parts.

VICE CHAIRMAN JOHANSON: Alright, I appreciate your answers. And continuing along that theme, if representatives of Spanish Producers had appeared today I would have asked them to compare the off-gassing behavior of their product with that of Chinese Producers. Of the tables in section 2 in the Staff Report summarizing responses from purchasers regarding interchangeability and that's table 2.12, that table does seem to indicate some differences in purchaser perception of Chinese and Spanish products. We also have, on page 2.21 of the Staff Report, the impression of one purchaser that "Spanish material was better than Chinese product", and that's a quote.

In the absence of Spanish witnesses, would you care to comment on whether Chinese chlor-isos have out-gassing problems or other quality issues?

MR. VINER: I would have to say that the general comment would be when we purchase in Europe. Our primary supplier would be Ercros, because of its location and we supplement it with some Chinese material. The material is comparable through our production process though.

VICE CHAIRMAN JOHANSON: Thank you. Mr. Viner, I think you spoke a moment ago about salt system pools, is that correct?

MR. VINER: I mentioned it in my testimony, correct.

VICE CHAIRMAN JOHANSON: Okay, another topic in the 2014 hearing was the status of salt systems inn pools and there was some disagreement among witnesses regarding the trends for those systems and whether they represented serious competition in the market for chlor-isos. Could you expand a bit more on that because I remember this as being somewhat of an issue last time, two years ago.

MR. VINER: Yes, I referenced it in my testimony stating that it is an option in the marketplace but when you look at the imports from Spain and China, they definitely drive a greater impact on our sales of chlorine isos rather than the actual salt generators option itself. If you look at the whole market for residential pools, approximately 80 percent of the market is still on the tri-chlor and di-chlor sanitization methods and even within a salt pool there is limitations to what a salt chlorine can actually do. You will need to shock that pool using a di-chlor shock or another shock.

So when you look at it, there is a segment of the U.S. Domestic residential pool industry or residential pool base that is going to be on salt but there's both in-ground pools and there's above-ground pools so we estimate there's about 9 million pools in the U.S. of a residential nature.

You can estimate approximately 4 million of those are above-ground pools. So they're a lower-cost unit, so those pools aren't necessarily going to be going on to salt generators or salt water systems.

So, in essence, salt chlorinators are out there but it's only going to represent about 17 to 20 percent of the marketplace. The other 80 percent is going to be continuing on the chlorinated isos.

VICE CHAIRMAN JOHANSON: I'm sorry, Mr. Viner. Could you give the numbers again for above-ground pools as opposed to in-ground pools?

MR. VINER: So, my estimation is approximately 9 million pools, residential pools in the U.S. and I typically split it 5 million in-ground pools, 4 million above-ground pools.

VICE CHAIRMAN JOHANSON: Okay, I didn't realize there were so many above-ground pools and that's like a given market for chloride isos, is that correct?

MR. VINER: Yes, and when you think of above-ground pools, there are many different types of above-ground pools. You can have it on the back of a porch banked in or you can have sort of like a cheaper 500 to a 1000-dollar pool which may last a couple of years. So that 4 million pools covers a large spectrum of different pools, even the pump and the filter.

VICE CHAIRMAN JOHANSON: But in looking down the road, looking forward, what is the direction for salt-based pools? Is that growing? It seems to be new technology, I assume it would grow.

MR. VINER: It's technology that has been there for ten plus years. I think if you look at the history of the actual residential pool, there's always a technology that is an alternative to isos or traditional chlorine but the builders have, certain builders in certain regions have had some negative impaction that impact saltwater pools so I would say it sort of plateaued at this level.

VICE CHAIRMAN JOHANSON: Alright, but they were still using shock treatments, correct?

MR. VINER: Correct, the saltwater generator it does produce chlorine in the pool but you still need to balance the pool, you need to shock the pool, you need to perform an algaecide and at certain times of the year the saltwater generator will not even work. Therefore you would supplement it with the chlorine tablets in the skimmer.

VICE CHAIRMAN JOHANSON: I apologize if this is covered in the Staff Report but what is the breakdown of chlorine used in shock treatment as opposed to other typical pool uses. It is probably a small number, is that correct?

MR. VINER: A small--?

VICE CHAIRMAN JOHANSON: The percentage used for shock treatment.

MR. VINER: Oh, the di-chlor products are a very widely used shock treatment. It's a granular, di-chlor and tri-chlor are widely accepted as shock.

VICE CHAIRMAN JOHANSON: But how much is it used as compared to let's say, common pool treatment of --

MR. VINER: It's a weekly, you would weekly, you would shock your pool weekly. So if you have a 24,000 gallon pool, you'll be putting two pounds of shock in a week.

VICE CHAIRMAN JOHANSON: Okay, as opposed to how much being used for the typical pool treatment? Let's say non-shock treatment.

MR. VINER: Everyone should really shock their pool. So it is a maintenance product that you do on a weekly basis.

VICE CHAIRMAN JOHANSON: Okay but you're saying two pounds a week, that's di-chlor? Is that correct?

MR. VINER: It's a di-chlor or tri-chlor shock in addition to your tablets or your main sanitizer.

VICE CHAIRMAN JOHANSON: Do you know how much would be used for the -- you have the shock treatment and then you have let's say the other treatment of the pool. I don't much about pools and so I'm just wondering for your regular treatment what percentage?

MR. VINER: It's in the amount of dollars spent or the amount of --?

VICE CHAIRMAN JOHANSON: Yes. Any type of comparison.

MR. VINER: So you could be spending from 2 dollars for a pound to 6-7 dollars for a pound of shock.

VICE CHAIRMAN JOHANSON: Okay. Maybe I'm not being clear. What I'm trying to get back to this whole issue of pools above water have to use chlor-isos, correct?

MR. VINER: Correct.

VICE CHAIRMAN JOHANSON: People use, people with saltwater pools have to use di-chlor, right?

MR. VINER: For shock.

VICE CHAIRMAN JOHANSON: Mr. Cannon.

MR. CANNON: With reference to the time, table III-2 shows U.S. commercial shipments of granular, virtually all of the granular is going to be di-chlor or tri-chlor granular, right? And then Table II-3 shows U.S. shipments of tablets so that's not going to be shock, right. So, the ratio you're looking at is I don't know, 40/60? Is that fair?

MR. VINER: I --

MR. CANNON: I'm not asking, I'm saying is 40/60 like a good magnitude here? They can see the actual data.

VICE CHAIRMAN JOHANSON: Okay, that helps. I'm just kind of curious as to how many customers would be locked into using chlor-isos even if they have saltwater pools?

MR. VINER: Oh, a lot.

VICE CHAIRMAN JOHANSON: Okay, thank you for your responses.

CHAIRMAN WILLIAMSON: Thank you. Commissioner Pinkert.

COMMISSIONER PINKERT: Thank you and I thank the panel for being here today to help us to understand these issues. I want to begin with a question that relates to a question that Vice Chairman Johanson was asking. He was asking about differences in product quality and I'm wondering, looking at the underselling that has occurred, even during the time of the trade relief, the trade remedy, what's going on there? It doesn't seem to be driving market share toward the foreign producers, it just seems to be going on without much impact on anything. Is that a reflection of differences in product quality? Or it is something else?

MR. CANNON: So before the witnesses answer as to the quality, I would just like to point out that this is an area in which the record is incomplete, like dramatically incomplete. You don't have the importers, any of the major importers from China, they're not showing the volume. So when you're looking at your pricing tables, there's zeros all over the place. We were just here two years ago and all those tables were full, right. This time around the same companies, they didn't submit questionnaire responses so part of what you're seeing is simply the lack of coverage -- no -- anyway. I believe the other part of the question went to the quality is the reason why the imports are at a lower price point. Thank you.

MR. HELMSTETTER: This is Mr. Helmstetter. If you were to take everybody's tablets and line them up on your table, we couldn't tell who's tables were who's. They are all the same. They are all the same product. I think some of the confusion from the last two years ago testimony on quality is you were talking to a Florida re-packer selling wholesale who's in a very hot climate. This product does what they call decomposition, the higher the temperature it gets, the more gas comes off of it.

Most of my customers are in the Northeast. I don't have any problems in the Northeast because I'm not running at Florida temperatures. I might have last week in Washington but I don't normally and it's the same with salt. You're talking to a Southern Florida customer where salt is more popular. All my customers are in the Northeast. I don't sell to those areas so it all depends on what area you're in on what the quality is. Joe DiNicola who runs that plant down there, he's got a lot of odor and dust problems because he's got a lot of humidity and temperature.

I'm in West Virginia. I don't have a lot of high temperatures and high humidity. We don't have problems. So I think you're sort of getting apples and oranges here because it's all the same product.

MR. CANNON: So John, would you care to address this maybe on other parts of the U.S.?

MR. VINER: When you reference the quality, one of the things with being, we sell to retail. We are also a manufacturer. We produce isos in the U.S. We obviously have an R&D group that is located in our laboratories and our head office and plus in our manufacturing facilities so we do take quality very seriously. We want to make sure that we've got the right chlorine levels. I'm not a scientist but we have a supplementary team that we invest in to make sure that we have good quality as a Domestic Producer.

Having visited some of the other Foreign Producers' facilities, the level of support and R&D is not up to the level that I've witnessed in the U.S. So I think the internal processes that are established for the facilities of Bio-Lab are in very good position to ensure a better quality. To Mr. Helmstetter's point, it is difficult to distinguish when you look at a tablet to someone who can't take QA analysis and everything like that to really determine is there a quality difference but it is something we take very seriously and we're very proud of the quality of our tablets that come from iso's, from our Lake Charles facility.

So that's the only sort of reference that I can give on quality.

MR. MORGAN: I would also like to put out, now again, Occidental -- our channel to market is significantly different than my competition so the number of customers we serve is significantly lower than everyone else so the market feedback that we get is less. Eowever, in the last few years we have had one customer report of a gassing issue using Chinese product. That's one customer. Everyone else who I have spoken to who is using Chinese material is by and large indicating no problems using it.

There are potential issues on lead time and shipping but even those issues are few and far between but based on relationship selling, the promise of shorter lead times that's how we are able to extract a small premium but even then the premium that customers are willing to pay only goes so far. They will only pay so much for shorter lead time, they'll only pay so much based on the relationship. At the end of the day, they still need to compete and make a profit and take care of their employees.

So I think that, I hope that I answered your question as far as the small price disparity.

COMMISSIONER PINKERT: Thank you, that's helpful. Now, there was reference in the testimony this morning about renegotiation of price terms when contracts are used and I wasn't clear about whether the contracts permit renegotiation of price during the term of the contract or if you're only talking about upon the expiration of the contract, then you renegotiate the terms. So if you can explain that to me, I think that would be helpful.

MR. MORGAN: Sure, no problem. No. Typically, our contracts do not allow for renegotiation of price in the contract period. However, if market prices are rapidly changing throughout the contract year, I cannot expect my customer to still pay a higher price for me and sell into the marketplace against prices that are actively falling. As I mentioned in my testimony if we look at the 2016 pool year which goes from October 1, 2015 to September 30, 2016.

There were four separate occasions where I could point to the Chinese lowering their price and so a price that I established with the customer firm for a year for the 2016 pool season I established a firm price in the middle of the year starting 2015. I cannot expect my customer to go out and sell at the same higher price we established in 2015 against a competitor who has lowered their price four times in the following pool year.

So yes, I could keep the price at the same level but they wouldn't be able to move any pounds, they wouldn't be able to move any volume and reach contract minimums. Also, I would point out that our customers are looking for partners and relationships and people who they can trust to do business with. My customers need to feel that I will do everything I can to keep them competitive in the marketplace. So even if I did take the hard line and say you know what, as our contract states we are not going to renegotiate price. We are not going to make a concession even though the market is falling; when my contract term is up that customer is going to look at me and say "this isn't a partnership. This isn't a relationship that you value." I need someone who has a little skin in the game as well so that's why we're forced to make adjustments mid-contract even though the contract is not allowed negotiation.

COMMISIONER PINKERT: Anybody else on the Panel wish to comment on that.

MR. HELMSTETTER: This is Dave Helmstatter. We have only terms and conditions with our customers because of this problem and we can change prices in thirty days and that's what we've told customers when we go in and it's either way. If you know, if we win here, and we can stabilize the price then I'm going to go back to my customers and say "yes, I need a little more price" because I do. I need a little more price. But, yes we don't give year-long prices.

COMMISSIONER PINKERT: Thank you. My last question is for Mr. Cannon. You mentioned that the Commission has on occasion has applied Everest inferences. Has that occurred in the past decade and if not, why not?

MR. CANNON: Yes, it's few and far between. You're definitely right. We have a statute, it has language in it. it says "if companies fail to cooperate to the best of their ability" so I, along with other people I'm sure must be arguing this, the Commission is letting that be dead letter in the law. That is a tool that you have. If we are going to have to have a full investigation and not be expedited when respondents don't arrive, I think that is an ideal place to put down a marker so that people will fill out questionnaires and we can have a meaningful discussion. Because otherwise we have these tables full of zeros and the problem of the data collection.

I think that's what the statute was designed for. What you have done, and I acknowledge this, you've done it in, I think this happened recently for us, if you use facts available. So for example when I give you the capacity data for global basis. You said "well, that's the only evidence on record so that's available and we'll use that." But this is different. This is willingly sitting it out when you are a party, you're lawyered up and you're fighting us for eleven years and dragging this through the court of international trade and you don't want to show up at the International Trade Commission so I get, you know, I get frustrated.

COMMISSIONER PINKERT: Thank you.

CHAIRMAN WILLIAMSON: Thank you. Commissioner Broadbent.

COMMISSIONER BROADBENT: Thank you. So you would have preferred that they showed up?

MR. CANNON: Well, frankly I would've preferred if you expedited because I don't understand.

COMMISSIONER BROADBENT: I think you're a little uncomfortable with the hearing.

MR. CANNON: Well, it's an interesting position. I mean, we saw a record in which the purchasers and the importers essentially the same view of this we did. In a case in which you looked at our industry two years ago, made an affirmative determination on China, it's, we didn't know what the interest was in having a full investigation. Certainly it's your prerogative but this is a burden especially on small industries and original investigation requires an enormous amount of resources. People have to do questionnaires, they have to appear at hearings and write briefs and so it is somewhat to me frustrating to go through this if we're sort of sitting here imagining the arguments that might be made, especially when, I mean it's not like you guys are loafing. Things are pretty busy, so it's just frustrating to me in that respect.

I totally respect the process though. We are going to participate. We have to the best of our ability. We do find ourselves fighting some things though like you look at the pricing data for example. Commissioner Pinkert was talking about, we have a very small sample size. We have the prices from essentially one period -- only Spain. We have no Chinese prices. So we don't really see the dynamic in terms of total volume, whether they were stressed and so forth, whether we get a premium. It's difficult. Therefore it forces you to rely much more on testimony on what's printed in the questionnaire responses. So, I'll stop.

COMMISSIONER BROADBENT: Okay. So, I wanted just to understand the International Market for this product, kind of what trends you guys are seeing, consumption in developing countries, exports, what kind of correlates with growth in the market.

MR. VINER: Yes, this is John Viner answering this question. If you look at the international market and sort of gave some numbers about how many pools from data out there, residential pools in the U.S., the two major markets globally -- the U.S. and Europe. The other markets where there is a high allocation of residential pools if going to be Brazil, it's going to be South Africa and then it's going to be Australia and New Zealand. You can include Canada as well, Canada's pools and spas in North America.

Those are the key regions. If you look at sort of the developing countries, like China and India apart from hotel, leisure center pools residential pools are not a common, from my experience and doing the research it's not a common place so just going by the key markets are the U.S. almost twice the size as that of Europe.

MR. VINER: In my estimation.

COMMISSIONER BROADBENT: So what is the reason for that? I mean a lot of products -- the Apple phone, a lot of our up and coming consumer items do really well in China as the middle class grows there. Why aren't developing countries taking up swimming pools like we have in this country?

MR. VINER: That's a great question because I've gone out there personally to evaluate strategic opportunities to grow the business as it was being stagnant in our commerce in the U.S. and this is obviously my personal perception, it is somewhat due to culture. I think you are spot on in respects to the material possessions such as I-Phone, electronics, cars, clothes, fashion -- that suits them very well but to own an inground pool you've got to have land and a residential home to be able to do that. It's got to be seen as something you want to do.

I referred to Brazil as a place where there is a high number of pools. Again, the culture there is they want to be outside. They like to be -- they like to go to the beach but they also go out to the pool. The weather conditions are right and it suits them well so I think it's really a cultural and it may come in 20 or 30 years' time from now, I don't know but from my visit there, the desire for a residential pool in places like China and India. It's just not there right now.

COMMISSIONER BROADBENT: So you're not seeing huge growth internationally for your exports.

MR. VINER: Well, for myself -- for Bio-Lab we only export a little bit of product to our Australian business, that's the only exporting we do. Apart from Canada.

COMMISSIONER BROADBENT: Alright. Now why did, demand declined in 2014 and 2015, is that right, for this product?

MR. CANNON: Jim Cannon. The confidential data indicate that. They haven't seen that. I think that the testimony was that demand was flat and they don't see those numbers.

COMMISSIONER BROADBENT: Okay.

MR. CANNON: Part of that is when you build your data set, you have imports here particularly from China because they didn't show up, so you are using imports in a certain year but a lot of times the, in the pool business, imports will come in in the fourth quarter to be sold next year so what's happening now with the Chinese Imports is that the Commerce Department has just announced that the dumping margins are going to go to 60-68 percent. That's their preliminary decision. We fully expect it to go at the final. So the volume of imports may have backed off, right, making it appear that demand went down because there's less imports but the imports that came in the year before are being sold into the market because imports arrive in the fourth quarter.

So it's sort of a timing issue. I'm certainly going to have the witnesses though address "do you think demand was down this year versus last year? You know, was it the weather?" So if anyone wants to have at it, please.

MR. HELMSTETTER: I can tell you, this year the weather has been very good for us. Our volume is up. It's much better than '15, much better than '14 in terms of swimming days, in terms of the heat index but we have grown every year, it's all due to price. We've lowered our prices and grabbed volume. So we think the market is flat. We don't see new swimming pools being built or very few of them. That's why we changed our strategy. We changed and went to price saying we want to sell our plant out. We want to keep our 200 something people's families working. We've lowered our price. All we're trying to do is make cash and so our share is up.

COMMISSIONER BROADBENT: So your assessment of this market is we're not really going to be building a lot more swimming pools?

MR. HELMSTETTER: This market has not built hardly any swimming pools since 2007. If there's no houses being built. There's no swimming pools being built. I think we had some data the other day, what there's like 50,000 pools built last year and there's 9 million pools; 50,000 is a pretty small number.

COMMISSIONER BROADBENT: Yes, okay.

MR. MORGAN: I'd also like to make a point there that, I mean if you're just looking at total demand by taking our confidential sales data and adding in imports I think it's also important to note that over the last year or so we believe there is strong evidence of circumvention of anti-dumping and countervailing duties by potentially mislabeling product. We have had meetings with the Department of Homeland Security and U.S. Customs that we provided evidence to them in what we believe is intentional circumvention and so I think potentially the import statistics could be misleading.

COMMISSIONER BROADBENT: Okay. Can you talk to me a little bit about the raw material for this product? I guess it's urea and caustic soda. What affects those prices? Where does that input come from?

MR. MORGAN: Urea is a key raw material to make CYA or cyanuric acid so that's a key building block. The key driver for urea is all ag-related.

COMMISSIONER BROADBENT: Right, so agriculture.

MR. MORGAN: Also the price of urea is strictly tied to the price of Chinese exports so depending on production of urea in China and based on ag demand here that's really what drives the price for urea. When you get into caustic soda, I'll try to keep this brief but there are a number of things which affect caustic soda pricing. Caustic soda is a byproduct of chlorine so the available supply of caustic soda is directly tied to how much chlorine can be produced and consumed.

Major consuming end uses for chlorine, we're talking PVC pipe, TIO2 pigments, isocyanates which are MDI and TDI which is essentially flexible foam. Basically chlorine demand tracks with GDP so as GDP goes so goes chlorine which affects the supply of caustic. Caustic however tracks general manufacturing indices. So pulp and paper, aluminum and durable goods. These are things that consume caustic soda so because caustic soda is a byproduct of chlorine, there's really a you know a -- chlorophlite producer and I can speak as one because Occidental we do produce chlorine and caustic.

The gentleman who manages our caustic soda business has no control over how much caustic soda he will get in a given year. It's 100 percent tied to chlorine demand. So based o the demand for chlorine so goes the demand for caustic and that will either expand or restrict the supply of caustic soda.

COMMISSIONER BROADBENT: Great. I'm sorry. My time has expired but thank you very much.

CHAIRMAN WILLIAMSON: Commissioner Kieff?

COMMISSIONER KIEFF: I join my colleagues in thanking you for coming and presenting and I'll just briefly ask Mr. Cannon, in the post-hearing so that it's I hope easier if you could just lay out what you think are the key procedural moves that you're really asking us to make here. I mean, I get you're frustrated and also get that you're representing a client and they are frustrated but setting aside the live exchange that can be appropriately responsive to human emotion I'm just hoping in a boring document you could lay out just what exactly you're suggesting and why.

And then I invite you, there or elsewhere as you see fit, you come before us a lot so you have insight from a range of perspectives if you would want to share that insight to us and your brothers and sisters of the bar about how we could modify our procedures. I at least would really welcome that opportunity for dialog but I recognize that a particular case in which you are representing a particular client that might not be the easiest way for you to do it so I'm just inviting you if you want to lay that out in other settings; those opportunities are available as well.

MR. CANNON: Jim Cannon. So Commissioner if I could just clarify, does this key procedural issues with respect to the adverse effects of available issue or with respect to another issue in the case?

COMMISSIONER KIEFF: Well, so I think you've touched on a couple of things. So one question you've I think come pretty close to explicitly laying out is why we did a full investigation. We have been struggling with our budget as you point out, we're pretty busy and a full investigation ties up a ton of Commission resources and it puts a lot of pressure on our staff and there are really, really good reasons not to do them. There are really, really good reasons to so called "go full".

But if you think that there are some particular new insights we should keep in mind when we make those decisions it would be great to have them. If you think there is a dynamic effect that we should keep in mind, the way in which particular parties interact with the "going full" question might be only one part of the analysis. It might be a more complicated system. It might be how active are a set of parties before our body and other bodies like the CIT. Should we keep that in mind? Should we keep in mind who shows up at a particular hearing?

You know, how many of these factors should we consider and just it's a complicated system so I'm not expecting you to be prepared to answer these questions today. I don't mean to put you on the spot. I am aware that you're here on behalf of a particular party but you keep mentioning it so much so I just want you to know you've got my attention and I would love to explore those things in more depth in a way that is amenable to you and the other members of our bar.

MR. CANNON: So I thank you for the question and I welcome the opportunity to be boring and I'm sorry, by continually mentioning it I've brought more work on myself.

COMMISSIONER KIEFF: Hey, we like work. It's fine.

MR. CANNON: I think you have, I think actually we have another case that was uncontested, recently, and involving I want to say EMD and so what you found out from the purchaser questionnaires right away was that "gee, maybe the Australians just shot down their plan and don't exist". So you went full, now I think we didn't like the outcome but you know, I understand why we go full, absolutely. So I think there are contours of that and like I said I respect the process. I'm not.

COMMISSIONER KIEFF: There's nothing ill about opportunity to improve a process. This is a process, which it's our 100th anniversary. It's been a great 100 years. We would like it to be a better next 100 just because we have been doing something one way for a while doesn't mean we should keep doing it. So perfectly helpful. Let's follow up.

MR. CANNON: Okay, the only thing I would point out is don't get your hopes up too much. I'm not sure I'm that creative but I thank you for the question.

COMMISSIONER KIEFF: Thanks, no further questions.

CHAIRMAN WILLIAMSON: Commissioner Schmidtlein?

COMMISSIONER SCHMIDTLEIN: Alright, thank you. Well I voted to expedite so you probably already knew that. So I am sympathetic given how busy we are and I know how busy all of you are. So the one question I have since you are all here in you're experts in this is what happened to the pools in Rio? Why did they turn Gatorade green? Can somebody tell me? I mean I read the articles. There were a lot of different explanations coming out down there. Do you all know?

MR. VINER: We talked about this last night at dinner.

COMMISSIONER SCHMIDTLEIN: Alright.

MR. VINER: Is this going to be a public document? Because I don't want to --

COMMISSIONER SCHMIDTLEIN: Well, we don't want to name names but what exactly happened?

MR. VINER: Bottom line is lack of understanding, lack of understanding of how to treat the pool. I think they put the wrong chemicals in there.

COMMISSIONER SCHMIDTLEIN: Where they not using chlorinated isos? I mean are those --

MR. VINER: So I would say that Bio-Lab, if you look at the outdoor Olympic swimming pools Bio-Lab and our European company did the Barcelona Olympic Games -- in 1996 we looked at the Atlanta Games. Bio-Lab did not look after the Rio Games and -- so there is no correlation to that. (laughs).

COMMISSIONER SCHMIDTLEIN: Right, so obviously somebody didn't know what they were doing. So what were they using? Do you know what they were using.

MR. VINER: Apart from any of the press reports I don't have --

COMMISSIONER SCHMIDTLEIN: that's it?

MR. VINER: The specific details or access to any --

COMMISSIONER SCHMIDTLEIN: Or any speculation about exactly like --

MR. VINER: I don't want to speculate.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. CANNON: So Jim. You though know commercial pools and pools of that size wouldn't be chlorinated isos. Wouldn't it be some kind of system?

MR. VINER: There's multiple systems you can put in a pool and without seeing what was in that pool it is hard to comment but there was clearly an error that was made in the application of chemicals.

COMMISSIONER SCHMIDTLEIN: So there are other chemicals that you can use besides chlorinated isos for sanitizing pools?

MR. VINER: For some of the larger commercial pools, we've during our discussion today the chlorinated ISOs is traditionally used in the residential pools.

COMMISSIONER SCHMIDTLEIN: Residential. So what's used for larger commercial pools?

MR. VINER: You can have chlorine gas. You can have bleach. For the smaller ones you can have calcium hydrochloride. You can have multiple feeders of chlorinated isos as well but it's usually with those larger pools it's the cost effective method of chlorine gas.

COMMISSIONER SCHMIDTLEIN: Because of the way it's delivered into the pool.

MR. VINER: Yes.

COMMISSIONER SCHMIDTLEIN: Is that why?

MR. VINER: It's just that they need so much of it.

COMMISSIONER SCHMIDTLEIN: They need so much of it. so are most public swimming pools in the United States are not sanitized with chlorinated isos? It's something else?

MR. VINER: No, I mean your hotel/motel pools.

COMMISSIONER SCHMIDTLEIN: Yes.

MR. VINER: They can be. But your large, big Olympic-sized pools typically there's a number of different alternatives that can be used. Our organization is focused on the residential pool and that's the sweet spot for the chlorinated isos.

COMMISSIONER SCHMIDTLEIN: Okay so I thought I would circle back to this argument that you're making about the adverse facts, Mr. Cannon. Thank you for those answers by the way on the Rio. You know, it was shocking. I'm glad

I didn't have to swim in it, in that pool.

But back to the legal question here about whether or not we should apply adverse inferences and in your brief you make the point that foreign producers must believe that they will get a more favorable result and that's why they're not participating and so my question is do they really get a more favorable result when they don't participate? I mean, if you look at the cases in which we have very little or no participation especially in Sunset Reviews, I mean are they getting a favorable result out of these cases?

MR. CANNON: So the case that I just mentioned on EMD, the Australians didn't participate and you went negative and terminated the order.

COMMISSIONER SCHMIDTLEIN: But that's where they had dismantled the plant in Australia, right?

MR. CANNON: Correct. If I'm rolling the dice and my calculus is "gee, I'm the Chinese" --

COMMISSIONER SCHMIDTLEIN: But I mean, they did --

MR. CANNON: This is "gee, I just lost in 2014. My worst case scenario is I'm going to lose again so if I do nothing, cost me nothing, maybe I'll win.

COMMISSIONER SCHMIDTLEIN: But isn't it more a function of the cost, don't you think? I mean if I were them, just like you said I'd say well why should I spend the money. We just had this case. I mean are they really getting a more favorable result by not showing up? Aside from that case and I know that case because the staff did reach out to that company and we did get statements from them in terms of what their intentions were and all that stuff was in the record.

MR. CANNON: Correct. But actually there you got more --

COMMISSIONER SCHMIDTLEIN: Right so I don't think that's a good example of where they didn't participate and lo and behold surprise they won. No, I mean that's not really what happened. So for appeal --

MR. CANNON: So I think procedurally, it's like burden of proof issue. When you think of this, who has the data you want? The Foreign Producer on this issue. So if you don't put the burden on them to produce it, they won't supply it so now the burden shifts to us if the record is void and we have to supply something. So I prefer sort of procedurally a system which assigns the burdens in a rational way to the companies with the data.

There's actually some Federal Circuit precedent in the Commerce area from years ago where basically the Federal Circuit said you know, if they thought they could get a better result they would have come in and submitted data and they didn't. So therefore you can confer that must be the worst case. In that kind of same vein of logic, I prefer a system in which the burdens are assigned to the people with the data.

You want to hear from us? We submit all the data, we answered all the questionnaires. We went through the full process. The Spanish, for example, did not or didn't come in. We have some articles saying they have increased their capacity. They are investing. They are going to increase more. That's the record. But we don't see, are their prices lower in Europe than in the U.S.? How much volume are they shipping where? We're trying to tease this out indirectly through admittedly imperfect statistics and then I am in the position, we are in a position of your normal record is much more robust. You're asking us all the questions that are appropriate and we don't have the tools to answer them so my view is they had the burden. They don't need it.

COMMISSIONER SCHMIDTLEIN: But what do we do in the case where there is a little bit of participation then. I mean I know here you say there is no bystander effect because no one participated.

MR. CANNON: No Foreign Producers, right.

COMMISSIONER SCHMIDTLEIN: Right. So what if we have the small Foreign Producer that did participate?

MR. CANNON: So my view of that is that it would be scalable, you know how much of the industry showed up. The large producers who didn't come, have they not been in the U.S. Market for years so it's understandable and there's only a few interested and they wanted to participate. In fairness, I understand that some people view it, particularly foreign companies who only see this maybe every five years, they view it that "well, we'll just let all these deadlines go by". And then if they go full we might come in.

I know that there have been cases in which we went to full, some other companies decided "oh, we'll come in now." You've had witnesses who showed up in this case, the last Sunset, the 2nd Sunset. I think it was the witness for Arch who actually showed up at the hearing. They didn't do anything prior to that. No notice "we're going to participate", no anything, but they provided a witness so there's someone on the other side of the room you could hear from them.

So in that kind of circumstance is that full-on adverse facts available? That's weighing. Here, where it's silence, I think that tips the scales. At least I submit that as a way to look at it and not have this be dead letter and I think if you start to do that it will send a different signal. If I'm a lawyer and I'm asked by my foreign clients "should I participate in the Sunset?" I have to answer as you will appreciate, if you show up it looks like you're interested in the market. That might hurt you because now they might not Sunset.

If you don't show up, maybe you'll win and so we have this. That's the reality, right. it's not I have to advise clients if I'm representing an importer for example, what do you do there? That's a reality. So I'm not saying one size fits all. What I am saying is that if you use the tool, it could help us establish that there is a burden, we want you to meet it and if you come forward you get a better record. Maybe then I'll have opposition and I'll be saying oh I wish I had -- but from a systemic standpoint, that's what I'm talking about.

COMMISSIONER SCHMIDTLEIN: Alright. Thank you. My time is up.

CHAIRMAN WILLIAMSON: Commissioner Johanson?

VICE CHAIRMAN JOHANSON: Thank you, Chairman Williamson. Without getting into specifics I would characterize the financial performance of the Domestic Industry over this period of review as improved. The Commission did not make a vulnerability finding in the last expedited review in 2010. Why should the Commission now find the Domestic Industry vulnerable despite the notable improvements we've seen over the past three years? Mr. Cannon, I realized from your opening comments that you disagree with this characterization but I think, I'm just looking at this, you might view it differently.

MR. CANNON: On the confidential record, there are indicia which the industry over the three year period has improved. I think my point was a different one. It was that if you look sort of overall at all three years in the overall levels, yes, we've improved but I believe at least bottom line operating profit, net income. Those numbers are not good numbers. Did we improve? Did we increase sales? Yes, we did. In part the CVD case helped, right? I mean if you think of the timing, we got the order in 2014 so you see a shift. We are selling more volume. You heard the testimony. They changed their strategy a little bit but I think the speed with which things can change shows you that we continue to be vulnerable to the imports. We were losing money as recently as the 2014 case, I think the first year in this period so two years later we have modest operating profits. Dave testified now he has a positive cash-flow although not profitable but so we've improved.

But it's happened in a pretty small span of time and we could just as easily go the other direction we think rapidly and therefore we are still vulnerable. You guys want to comment specifically on your --

MR. VINER: Yes, this is John Viner. If you look over that three year period, I would suspect that at Bio-Lab you would note a significant improvement I n financial operating results. So I think it's fair for me to comment on that given your question. As in reference to my testimony on December 31, 2013, acquired Bio-Lab. Bio-Lab was part of a large chemical corporation struggling. We experienced the impact of Foreign Exports into the U.S. and with the acquisition at the end of 2013 that allowed us to put forward a strategy to win the marketplace in respect to the customers we sell to, but it also allowed us to utilize our operations a lot more effectively.

I mentioned in my testimony that Bio-Lab had two facilities, Kick had one post the acquisition over the last two years we've been able to utilize those facilities a lot more effectively and therefore those were some of the driving factors to improve our profitability.

MR. HELMSTETTER: This is Dave Helmstetter. I'm general manager for six months. That's because all those other guys are gone now. They've all been cut. ACL had joint management. We didn't replace any of those guys when the new owners came in place. I called all of these lieutenants into my office, said "I have the utmost confidence in you. You'll do a great job. You're now a director, you're a director and it's all the same pay."

So everybody's doing double duty. We're cutting costs everywhere we can. It's not just the tariff. We recognize that tariffs won't -- we have to do something, too. So we're cutting costs and have been doing it for two years, and we'll continue. And we're still unsatisfactory results. Our new owners say these are not satisfactory results. So if we don't improve, we'll be sold again or shut down. And that's just the facts. And we all recognize that.

MR. MORGAN: I'd also like to point out, at least specific to Occidental, we chose to pursue a different marketing strategy after 2013, which may have changed or which did change our financial performance. I would also note that in at least the last three years, and this kind of gets back to Commissioner Broadbent's question earlier in regards, specific to raw materials, namely chlorine and caustic soda.

If you take a look at the price, at least the going market price for chlorine and caustic soda over the last three years, it has been steadily declining. At least that's according to the IHS Global Chlor-Alkali Report, which is really the leading independent publication specific to chlor-alkali.

However, you will note that, and especially if you look at 2016, caustic soda and chlorine prices have been increasing, and there are a number of reasons which we won't get into for the sake of time. But our prices have been increasing. If we are now faced with a revocation of duties, we have already testified that import numbers will continue to drift lower, and the ability for us to recover our increased costs will be next to none.

You know, the Chinese give no credence to what happens to chlorine and caustic. That's an industry that is subsidized in China. So I think raw materials also played a factor.

MR. CANNON: And lastly, I just -- real quickly, that first page of the pink sheets with all those quotes, I don't think you have any evidence like this in the record in the first review. These are purchasers talking about the fact that this is eminent and this is a real serious possibility. Thanks.

VICE CHAIRMAN JOHANSON: All right. Thank you for filling me in on that area. And this is a question regarding Spain, which you all probably don't know much about, but -- they're not here. So I'm going to ask somebody. You know, out of curiosity, I looked up where Ercros is located on the Google maps.

I was rather surprised to find this facility is in a city called Sabinanigo, which is at the base of the Pyrenees, and I looked at it and I saw a few pictures, looked like a very cute little town, but there's not much there. And it looked like a place I'd like to visit, but probably not put up a plant. Do you all have any idea as to why the plant is based there?

I think, Mr. Viner, you might have mentioned that there, or one of the witnesses might have mentioned that there's production of the input chemicals there in that area?

MR. VINER: Yeah. I have not been to the facility. I will be in New York next week and I suspect that some European colleagues may have visited the facility, so I could get some further details for any post brief hearings if you want.

It's my understanding that there isn't isocyanurate facility production in Spain. Its exact location I'm unaware of, but we can get some post brief hearings and some information and provide them to you after my visit to New York next week.

VICE CHAIRMAN JOHANSON: Okay. Yeah, that would be interesting. I might add, as well, my staff, Michael Robin sitting behind me. He did the exact same thing independently. He looked up the town, so I guess we might think alike. We like geography in Google maps.

MR. VINER: Just to add one point. Spain is a big residential pool country. I know I referenced Europe before, but Spain's definitely the top ten of the number of highest number of residential swimming pools.

VICE CHAIRMAN JOHANSON: Okay. And speaking of Spain, to the extent you know about what is happening there, do domestic industry parties argue that the project of the potential producer, Electroquimica de Hernani, described in Exhibit 5 meets the statutory definition of within a reasonable prior of time -- with, I'm sorry -- within a reasonably foreseeable time? It appears that this spreadsheet is from 2014, so it'd be interesting to learn what has happened since then.

MR. CANNON: So as you can guess, once we discovered this information, we should choose to learn as much as we could. The company has been funded to look into this and if we find out more for the post hearing brief, we'll give it to you. That is as much as we know.

VICE CHAIRMAN JOHANSON: I understand. And I'm going to keep asking a bit about Spain. I have time for one more question I think. Looking at Spain's exports in Table 4-6 of the staff report, it appears that most of Spain's top export markets are within the European Union. That's seven out of nine in countries. Or its main export markets which are located in the EU. Should that be consideration when looking at the degree of export-orientation of Spain?

MR. CANNON: So, first of all, they're exporting into Europe and I take it that your question is, should we think of Europe as one country and therefore, think of these not as exports, but as --

VICE CHAIRMAN JOHANSON: No, no. The question is, is this main focus upon Europe?

MR. CANNON: So these data are at the six-digit level. This isn't chlorinated isos. This is many other chemicals, and the volumes are not representative in Table 4.6 of necessarily total Spanish exports of chlorinated isos. So it's a little bit hard to say from that.

On the eight-digit level though, which we attached in our brief, you do see the same trend. In other words, they export a large volume in Europe, but as John testified, the Chinese are a huge presence in Europe and they can get higher prices if they ship to the U.S.

So we believe that, as the Commission found in the original investigation and in the first review, they are still export-oriented and they will ship here, because prices are higher here, and they have an open channel. They've used many U.S. importers actually.

VICE CHAIRMAN JOHANSON: All right. We got time, Mr. Viner?

MR. VINER: Obviously we purchase -- our European division purchases from Ercros. They, as I said in my testimony, they are the -- currently the only iso producer, manufacturer of isos in Spain right now. So they do -- they are the primary supplied to the European market. But as Mr. Cannon said, the pricing in Europe is significantly lower than that of the U.S. And with extra volume that would be -- one would assume that they would, with that current trending would bring their product into the U.S. domestic market. That's a pattern that would continue and increase.

VICE CHAIRMAN JOHANSON: All right. Thank you for your comments.

CHAIRMAN WILLIAMSON: Okay. Commissioner Broadbent?

COMMISSIONER BROADBENT: Just one question just to put a finer point on what you guys were saying on that -- I've guess you've pretty much answered it. I mean you don't have any question that those Spanish imports are going to come to the U.S.? Even though they've got a new dumping duty in Europe that will give them higher prices right there and there's not a huge amount of production in Spain or a lot of trade?

MR. VINER: The dumping duties in Europe vary from Chinese producers, so some are at a very single-digits, some are double-digits and then some are very high. But as I said previously, the actual demand in Europe is not increasing.

We talked about that some of the Chinese imports

-- the Chinese product coming to the U.S. has sort of declined, although it may be on the increase with the change in duties. So the Spanish are going to have pressure in their own European territory from the Chinese, so the U.S., I believe that the U.S. is a domestic -- that the U.S. domestic market is another outlet for them, where they can get the -- they've obviously demonstrated a pattern.

They've established networks and with the additional volume, they'll continue to send volume over here. Because there's no -- from all the data that I'm aware of -- there's no increased demand in Europe right now. And the existing supplier into that market aren't really changing. So it's either going to be put in there and drive more competition there with the Chinese, they're saying will increase the Chinese volume into the U.S.

So no matter what happens, product is going to come into the U.S. Unless there's appropriate orders put in place.

MR. CANNON: And so another point that I made was that back in May 2012, or April, right before the time for an administrator review at Commerce, the Spanish sent four container-loads, a relatively minor amount of money. They then hired attorneys and went through an administrative review so they could get themselves a zero rate, right?

They sent four container-loads at a very high price to -- it's a setup, right? So they can get a zero rate. If you don't dump, you get zero rate. That's the U.S. system, I may or may not like it, but it's the law. They got themselves a zero. Having gone to that effort, then couple years later, they're back.

So that shows an intention that, if they can get that rate down, they'll come right back. And that's sort of your counterfactual inquiry, right? If the duty order is eliminated, what's going to happen? And I think helps answer the question.

COMMISSIONER BROADBENT: Okay. Mr. Chairman, I have no more questions. I want to thank you all for making the effort to show up. It's very helpful to us. And I appreciate all the testimony. Thank you.

CHAIRMAN WILLIAMSON: Commissioner Schmidtlein?

COMMISSIONER SCHMIDTLEIN: Yes, I actually had one more question, which relates to direct imports. Wonder if you could talk a little bit about your experience with the phenomenon of the big-box retailers directly importing a product, rather than going through importers? And whether you see that as having increased over the last few years, or how you see it going forward?

MR. VINER: I'll answer that question given that we do supply to all the major big-box retailers. When you look at swimming pool chemicals, I think that this hearing is all focused on the isocyanurates product which represents a significant part of the portfolio products they sell in the big-box retailers.

But there are additional chemicals that come with it as well. And each big-box retailer is different, but you can go from store-door direct delivery, so you could be delivering the orders or the requirements of that big-box retailer up to 60 SKUs, um to a store door on a weekly and sometimes twice-a-week basis. It puts a lot of barriers to entry from a direct import coming from China.

There are others that may do RDC programs, but again you still talking about sixty SKUs and there's a lot of marketing and merchandising support as well. So I would say that a direct import program to a big-box retailer is challenging because of everything that's offered. However, there are some warehouse and club stores, as Mr. Holmes had mentioned, that have one or two SKUs, and these are primarily isocyanurates.

And this would be a potential area where a direct import program could be evaluated and put our business at significant risk. We have seen in some of the accessories that go along with pool chemicals, ourselves, we did offer accessories, which is pool nets. We went through distributors, we went direct to China. Now this is almost a direct program.

So that is something where we have seen it go to a direct import program. So each of the mass retailers is slightly different. But on the smaller condensed club warehouses, where there's a minimal one to five SKUs, that would see more of an opportunity where that could be evaluated and that's a significant risk that could see where potential low price product could come in.

COMMISSIONER SCHMIDTLEIN: So are companies like Wal-Mart and Home Depot, they're not directly importing their -- their chlorinated isos are subject product here?

MR. VINER: No. Uh, Bio-Lab market -- we produce the chlorinated isos or purchase them from a domestic source. We package them, we brand them, we blend them, we sell Wal-Mart, Home Depot, Lowe's and some of our competitors do as well. So it's, our competitors, one of our major competitors has imported product from China previously and then repackaged it and one of our competitors is purchasing from -- we believe is purchasing from Spain as well, currently, right now. So we're affect --

COMMISSIONER SCHMIDTLEIN: But they're not directly purchasing? They're going through somebody here in the U.S.?

MR. VINER: They're going through someone else, an equivalent to the Bio-Lab.

COMMISSIONER SCHMIDTLEIN: Okay. And is that your view as well, Mr. Morgan?

MR. MORGAN: Well, I was just going to say, in my testimony, I mentioned that one of my accounts, I do share business or -- excuse me -- compete with the Spanish and I know that their main target are big-box stores. And so as I lose share at this customer to Spanish imports, and I know that my end-use customer's primary target market is big-box stores, so we know that imported material is going into the box stores.

COMMISSIONER SCHMIDTLEIN: Right. I'm just asking how it's getting there. So we have --

MR. MORGAN: It's coming through an intermediary, not through direct purchasers.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. HELMSTETTER: But my only comment's on -- yeah, we do Sam's and it's a club store.

COMMISSIONER SCHMIDTLEIN: Yeah.

MR. HELMSTETTER: They're replenished weekly so they want to have somebody in the U.S. that's going to replenish them weekly instead of bringing in from overseas. But every, probably every year, every other year now, we're getting met with -- there's a local U.S. person representing the importer that they will store the product in the United States.

They'll replenish it at an extremely low price and we either -- you know, sometimes we get away with getting half the price, sometimes we have to meet the whole price. But it happens almost every other year now.

MR. CANNON: So I will just say that, as you know, I love the collect pricing on direct imports. However, this market is functioning in a more traditional fashion and there are importers. And one reason for that is that, as counsel, when you're advising companies that are living under a dumping order, how to operate, what you tell them is, don't be the importer. Make someone else be the importer, because the duty can change.

If you look at your tables in here showing the duties, they're go high, they go to zero, they go back up. You don't want that liability, so a large company like a Wal-Mart and so forth in a Sunset that's distinct from a review, is more likely going to say, oh I don't want to deal with this. Let the importers deal with it.

On top of that legal issue, which I would advise them, you heard John and I don't know that you spelled this out completely, but these wouldn't be full container loads, like, you couldn't ship a whole container of tablets from China directly to a store. A store would want maybe less than a truckload.

So you need someone -- you need that traditional importer that -- you know in a lot of other cases, we don't see that anymore, but in this case you do need that because the quantities are small.

COMMISSIONER SCHMIDTLEIN: That's sort of an interesting phenomenon though. Your first point, I hadn't thought of that, so in other cases the order itself will have an effect on how those -- yeah, those big-box retailers operate.

MR. CANNON: Absolutely.

COMMISSIONER SCHMIDTLEIN: Yeah.

MR. CANNON: Not in an original investigation --

COMMISSIONER SCHMIDTLEIN: Right.

MR. CANNON: But definitely in a Sunset.

COMMISSIONER SCHMIDTLEIN: Right. Okay, well, I don't have any further questions, so I appreciate you all making the effort to be here today and, and it's been very informative. Thank you.

CHAIRMAN WILLIAMSON: Commissioner Johanson?

VICE CHAIRMAN JOHANSON: Thank you, Chairman Williamson. Okay, this is something you all have touched on indirectly. I'd like to bring it up directly. Does the existence of the European Union's anti-dumping order against China, which went into effect shortly after the U.S. anti-dumping orders were imposed, represent a change in the conditions of competition within the European Union? Does this create a protected market for Spanish companies exporting to other countries in the European Union?

MR. VINER: Can you simplify the question for me? It was a very long question.

VICE CHAIRMAN JOHANSON: Yeah. Basically what is it, there's a dumping order on Chinese chloro isos coming into the European Union. Doesn't that provide a naturally larger market for Spanish producers if the Chinese product is facing dumping duties in Europe?

MR. VINER: Yeah, I think what I mentioned earlier on is that -- and I don't have the rates to mind right now, but I know that the rates for certain Chinese companies vary from pretty low to very high, so I would say some of the Chinese iso producers are deterred, because of the high rates.

The others that have significant volume have very low rates and the pricing is very comparable to the Spanish, so that it is a competitive marketplace in Europe, with enough volume to serve the demand. So I would say the prices are somewhat similar for a costing perspective between the Chinese and the Spanish and therefore it protects the Spanish from certain Chinese importers, but it's bad playing ground for everyone else. And therefore, to answer your question, I don't think the Spanish have full opportunity to sell all of the European domestic market.

VICE CHAIRMAN JOHANSON: All right, thank you.

And as Mr. Cannon mentioned, as of 2013, the Spanish producer Ercros has been assigned a deposit rate of zero by the Department of Commerce. At the same time, imports from Spain have gained some market share in the U.S. Are these two trans-linked?

MR. HELMSTETTER: I think they're definitely linked. We thought the Spanish -- I thought the Spanish were gone, that the -- you know, they used to be a very large importer. We brought the duties against them and then they said, do you want to review it and I don't know what year it was -- it was a couple years ago, we said "They're gone. They're not coming back. The prices are too low to come back."

And then once it went to zero, oh, lo and behold, they're back all of a sudden, with a fury. And I think they're going to go, if they get a zero duty, they'll go all the way back to where they were or more. Because it's the best market in the U.S. and the way they operate, they can sell it at a lower price than we can. It's all price.

VICE CHAIRMAN JOHANSON: But was it a fairly priced at that point?

MR. CANNON: So the way that U.S. retrospective system works, that zero duty is premised on looking backward. So that duty which was published in 2014 is a result of a review of imports that arrived in the United States in 2011 and 2012, so those prior four containers' worth were at zero duty rate. Going forward, that becomes now a deposit rate

So for example, imports coming in right now, we, in the next opportunity might ask for an administrative review to find out, are they being fairly traded or are they being dumped? For your purpose, for purposes of Sunset, you're given by the Commerce Department, the dumping margin that you can use in trying to predict.

If we take the dumping away, will they be dumping, and what Commerce has said, is that it will dumping by, I think, 24.89% is what Commerce has said. So for your purpose in Sunset, I think you have to -- you traditionally have taken Commerce at its word. You've accepted their determination and made the conclusion, therefore that if we take away the order, the Chinese imports will be dumped at 25%.

But that zero percent, understanding the retrospective system by the administrative reviews, that was premised on four containers that were fairly traded. It doesn't mean that the ninety-two cents a pound is fairly traded. It means that those containers which were, I don't know, $2.60 or something a pound, were fairly traded.

VICE CHAIRMAN JOHANSON: All right, thank you, Mr. Cannon. And then I have just one more question. And this is something you all mentioned at Page 5 of your brief, and also Mr. Morgan brought it up. And that's the issue of circumvention. You mentioned at Page 5 of the brief that circumvention of the anti-dumping order in China remains a serious problem. Can you all discuss that a bit further? I know that circumvention does not directly fall under our purview, but I'm just curious as to what is happening there?

MR. MORGAN: Sure. And again, this was evidence that we presented to the Department of Homeland Security and Customs just two weeks ago. The primary example, at least the biggest example that we see, is there are imports of not only chlorinated isocyanurates, but also CYA or cyanuric acid. Again, cyanuric acid is a key raw material to make chlorinated isos. Usually in the marketplace, CYA is priced about half of what trichlor is, typically.

On the PIERS data that we receive, there were also customs values associated with the imports of CYA. And as we started to pay a little bit closer attention to that, there was some CYA that was coming in at what we perceived to be the going market price. And there was also some CYA that was coming in that was, oddly enough, priced identical to the price of corresponding trichlor imports.

So obviously the Chinese -- I'm not sure why an importer would value a product at twice its going market price. And so you have product that's coming in and that's being called CYA, but's being priced as trichlor. And if you look at what CYA imports have done over the last few years, they really have exploded. Now there's some reason for that. Other domestic producers are using more Chinese-based CYA to produce their chlorinated isos, but I would submit that there's clearly evidence of circumvention.

There's also an instance where an importer is bringing in chlorinated isos and they show the country of origin is Thailand. We know there's no production in Thailand, and so clearly product is being shipped from China into Thailand and then into the U.S. And so this is just high-level, some evidence that we did present to customs and evidence we believe of circumvention.

MR. CANNON: This is Jim Cannon. It's Taiwan.

MR. MORGAN: Excuse me.

MR. CANNON: And you've seen this before in the 2014 investigation, we had an issue with an importer, in that case, it was Vietnam. They were moving the product through Vietnam, and they were caught. And now product is moving through Taiwan, and it's the same issue.

And then there are other issues. There's an importer, who every January when the new rates come out, establishes a brand-new LLC out in California, a new importer company. And so now, a new company pays the duty.

And you can trace it, and it's one year after the next. All right, so Customs was very interested in this.

There's a new in-force act, and so we are curious to see, you know, will there be some more enforcement of this. But in many industries before you, the customers self-police, because they want like a certificate of analysis for quality. So if it's steel, they want to know what mill made it, they want a mill cert, and they want to know quality.

In this business, if you're the pool boy and you show up in a white pickup truck to go around back to your pool and fix it, you don't care what's in that pail. And the customer, they don't see a brand name. They don't care either. They hired you to be the pool boy. So there's a certain level of sales in this market that the progeny of the product is not that important, right?

Other big customers are going to care, but there's going to be mischief. And we see this in the copper tube case for the same reason, because that's sold in air conditioners. And so it's a service business.

When you have these service businesses all over the south where you have lots of pools or you have a certain segment of the market where it's very difficult to enforce dumping orders and in fact, in your past case, you ran into that with one of the importers, I think didn't want to respond because of legal problems. So it's real.

VICE CHAIRMAN JOHANSON: All right. Thanks for informing us further on that. This is something we hear about in many investigations, so I just wanted to hear a bit more with regard to circumvention involving chlor isos. Thank you for appearing here today. I understand that this is a lot of effort on your part, but we certainly appreciate you giving us a fuller view of what is happening in the market. Thank you.

CHAIRMAN WILLIAMSON: Thank you. Does any Commissioner have any further questions? If not, does staff have any questions for this panel?

MS. HAINES: Elizabeth Haines. Staff has no questions.

CHAIRMAN WILLIAMSON: And there's no respondents to ask, so it's time for closing statements. And you have five minutes for that. You don't have to use it all.

MR. CANNON: My opening statement was good morning. My closing statement is thank you for your questions and attention and I will attempt to answer what we need to answer in the post hearing brief. And we request the Commission to make an affirmative determination to maintain the dumping orders on chlorinated isos from both Spain and from China for all the reasons that we presented. Thank you.

CHAIRMAN WILLIAMSON: Thank you. And time for closing statement. Post hearing briefs, statements, response to questions at the request of the Commission and corrections to the transcript must be filed by September 22nd, 2016. Closing of the record and final release of data to parties is October 17th, 2016. Final comments are due October 19th, 2016. And with that, this hearing is closed.

Thank you.

(Whereupon at 11:41 a.m., the hearing was adjourned.)

CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Chlorinated Isocyanurates from China and Spain

INVESTIGATION NOS.: 731-TA-1082 and 1083

HEARING DATE: 9-13-16

LOCATION: Washington, D.C.

NATURE OF HEARING: Second Review

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: 9-13-16

SIGNED: Mark A. Jagan

Signature of the Contractor or the Authorized Contractor's Representative

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceedings of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker identification and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceedings.

SIGNED: Gregory Johnson
Signature of Proofreader

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

SIGNED: Larry Flowers
Signature of Court Reporter