UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	**)**	**Investigation No.:**
HYDROFLUOROCARBON BLENDS AND	**)**	**731-TA-1279**
COMPONENTS FROM CHINA	**)**	**(Final)**

REVISED AND CORRECTED

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COMPONENTS FROM CHINA	) (FINAL)

Main Hearing Room (Room 101)
U.S. International Trade
Commission
500 E Street, SW
Washington, DC
Tuesday, June 21, 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

Commissioner Dean A. Pinkert

Commissioner David S. Johanson

Commissioner Meredith M. Broadbent

Commissioner F. Scott Kieff

Commissioner Rhonda K. Schmidtlein

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Patrick Gallagher, Attorney/Advisor

Elizabeth Haines, Supervisory Investigator

Opening Remarks:
Petitioners (James R. Cannon, Jr., Cassidy Levy Kent (USA) LLP)
Respondents (Ned H. Marshak, Grunfeld Desiderio Lebowitz Silverman & Klestadt LLP and Jarrod M. Goldfeder, Trade Pacific PLLC)

In Support of the Imposition of Antidumping Duty Order:
Cassidy Levy Kent (USA) LLP
Washington, DC
on behalf of
American HFC Coalition

Richard Rowe, Chief Executive Officer, Arkema, Inc.

Glenn Haun, Director of Sales, Arkema Inc.

Allison Clark, General Manager Functional Additives, Arkema Inc.

Dean McCoy, Logistics Department Loader, Arkema and Financial Secretary for Local 1969, International Association of Machinists and Aerospace Workers

Elizabeth Mary Sassano, Global Business and Market Manager, Refrigerants, The Chemours Company, LLC

James Bachman, North American Business Manager, The Chemours Company, LLC

APPEARANCES (Continued):

Magen L. Buterbaugh, Global Business Manager, Fluorochemicals, The Chemours Company, LLC

Omar Irani, Director, Global Products Management, Fluorine Products, Honeywell International Inc.

Richard Winick, Business Director, Automotive Products, Honeywell International Inc.

David Cooper, Business Director, Stationary Refrigerants, Honeywell International Inc.

Thomas W. Morris, Director of Business Development, Fluorine Products, Honeywell International Inc.

Barbara Minor, Chemours Fellow, The Chemours Company, LLC

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

James R. Cannon, Jr., Jack Levy and Nazak Nikakhtar - Of Counsel

In Opposition to the Imposition of Antidumping Duty Order:
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Washington, DC
on behalf of
Chinese Respondents
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Jennifer Lutz, Senior Economist, Economic Consulting Services LLC
Max F. Schutzman, Ned H. Marshak and Kavita Mohan - Of Counsel

Trade Pacific PLLC
Washington, DC
on behalf
National Refrigerants, Inc.
Maureen Beatty, Executive Vice President, National Refrigerants, Inc.
Rob Yost, Technical Director, National Refrigerants, Inc.
Jarrod M. Goldfeder and Jonathan M. Freed - Of Counsel

Trade Law Defense PLLC
Alexandria, VA
on behalf of
ICOR International Inc.
James Tieken, Owner and Founder, ICOR International Inc.
Frank Morgan - Of Counsel

Interested Party:
New Era Group
Atlanta, GA
Peter Williams, President, New Era Group

Rebuttal/Closing Remarks:
Petitioners (James R. Cannon, Jr., Cassidy Levy Kent (USA) LLP)
Respondents (Ned H. Marshak, Grunfeld Desiderio Lebowitz Silverman & Klestadt LLP and Jarrod M. Goldfeder, Trade Pacific PLLC)

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P R O C E E D I N G S

(9:32 a.m.)

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 No. 731-TA-1279 Final involving hydrofluorocarbon blends and components from China.

However, before I proceed, I think before we can begin today's hearing a note of appreciation is in order. Last Thursday was Commissioner Broadbent's last day as the Chairman of the ITC for the term June 17, 2014 to June 16, 2016. During that period, she chaired 43 days of hearings and 67 votes. Meredith, on behalf of the Commission and staff, I want to commend you on the excellent way that you have led us over the last two years. Your dedication, hard work, caring spirit, willingness to collaborate and ability to soldier on have been truly impressive and have enabled us to accomplish a great deal over the last two years.

Last Thursday was also Commissioner Pinkert's last day as Vice Chairman. I wanted to commend him for the excellent work he did has Vice Chair. I particularly want to commend him for the always constructive and supportive role he played as vice Chair. To both Commissioners Broadbent and Pinkert and to their teams I want to thank you

for a job well done.

(Applause)

COMMISSIONER PINKERT: Mr. Chairman, as if to honor Meredith Broadbent's leadership of the Commission, Lebron James brought a championship back to Cleveland--

(Laughter)

For the first time in 52 years. How fitting. Meredith in particular, Neill, Alex, Julianna, Dillon, Robbins, Bret, and Anetha. I think that Meredith would say she couldn't have done it without them and I know that they have added greatly to the effectiveness of her Chairmanship so I want to thank them and thank you Meredith.

CHAIRMAN WILLIAMSON: A second round of applause is appropriate.

(Applause)

COMMISSIONER BROADBENT: Thank you very much.

COMMISSIONER JOHANSON: I'd like to jump in too Irving if that's okay. I'm down here.

CHAIRMAN WILLIAMSON: Sure.

(Laughter)

COMMISSIONER JOHANSON: I would like to join my colleagues also in commending Commissioner Broadbent for her time as Chairman of the Commission. I have known Meredith for a number of years and I knew she would do a good job as Chairman and sure enough she did. And likewise Vice

Chairman Pinkert whom I have also known for a very long time. He is a fellow alum, alum, graduate of the University of Texas School of Law and I would like to thank him for his service as Vice Chairman, thank you.

CHAIRMAN WILLIAMSON: Thank you.

(Applause)

COMMISSIONER SCHMIDTLEIN: I'd just like to also join with everyone in thanking you both. Meredith and I spent a lot of time over the last two years on the lease, so I'm sure you're not disappointed to see that come off your plate. I guess it hasn't come off my plate though but maybe Irv you can take that. Anyway, but thank you. I really appreciate both of your service and your hard work over the past two years.

COMMISSIONER KIEFF: Thank you, Meredith and dean for long days and nights collaborating. What a pleasure to work with you both in that role and looking forward to ongoing work with you both in this role. Thank you.

COMMISSIONER BROADBENT: I just want to say thank you. This has been such a huge honor to have this responsibility for two years and I am so proud of this institution. We can, as you can tell, we get along well and we collaborate and we're bipartisan in how we manage the Agency. It's been a tremendous experience and I thank you for the opportunity.

CHAIRMAN WILLIAMSON: Thank you. Okay, good. Let's turn to today's hearing. The purpose of this investigation should determine whether an industry in the United States has been materially injured or threatened with material injury, or if the establishment of an industry in the U.S. is materially retarded by reason of less than fair value imports from China. Those are imports of hydrofluorocarbon blends and components.

Schedules setting forth the presentation of this hearing, Notices of Investigation and Transcript order forms are available at the Public Distribution table. All prepared testimony should be given to the Secretary. Please do not place testimony directly on the Public Distribution table. All witnesses must be sworn in by the Secretary before presenting testimony.

I understand that the parties are aware of the time allocations. Any questions regarding the time allocations should be directed to the secretary. Speakers are reminded not to refer in their remarks or answers to questions to business proprietary information. Please speak clearly into the microphone and state your name for the record and for the benefit of the court reporter. If you will be submitting documents that contain information you wish to classify as business confidential, your request should comply with Commission Rule 201.6. Mr. Secretary,

are there 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: Very well. Let us begin with opening remarks.

MR. BISHOP: Opening remarks on behalf of Petitioners will be given by James R. Cannon, Jr. of Cassidy Levy Kent.

CHAIRMAN WILLIAMSON: Welcome Mr. Cannon, you may begin when you are ready.

OPENING REMARKS OF JAMES R. CANNON, JR.

MR. CANNON: Thank you. It's customary for lawyers to say "this is a simple case."

(Laughter)

We have ozone depletion, we have global warming, we have patents, we have government regulation, we have like product. Should there be two, should there be a bigger one, a smaller one? We have manufacturers, we have blenders, we have critical circumstances, we have a pregnant lawyer.

(Laughter)

And in the midst of all this, I have a mea culpa in the opening line of one of my testimonies. I have a witness saying "Good morning Chairman Broadbent."

(Laughter)

My fault. When we sort it all out, what you think the record shows is that imports increased. They increased significantly, they increased absolutely. They increased when apparent consumption was increasing. How did they do it? They did it by leveraging low prices. The imports were the lowest priced product in the market, in a market which price really matters. These imports were widely advertised, every week, every month throughout the market. Their prices pushed all market prices down, even though apparent consumption was rising, prices declined.

The Domestic Industry was unable to raise prices until July 2015, after we filed the Petition. As a result, domestic output declined, production declined, capacity was cut. Capacity utilization is low, we're talking 60 percent. Employment declined. Every factor in the statute declined. Despite efforts to cut costs by the Domestic Industry, to reduce the workforce, to reduce their capacity, to reduce their SG&A cost they were still unable to operate at a level of profit that is adequate, despite post-petition price increases, revenues did not increase sufficiently.

What you see from all of the facts in the record is the cause and effect relationship between increasing low-priced imports and the impact on the Domestic Industry. For those reasons we think you should make an affirmative determination. Thank you.

MR. BISHOP: Opening remarks in behalf of Respondents will be given by Ned H. Marshak, Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt and Jarrod M. Goldfeder, Trade Pacific.

OPENING REMARKS OF NED H. MARSHAK

MR. MARSHAK: Good morning. I am Ned Marshak of Grunfeld, Desiderio who together with Max Schutzman, Kavita Mohan of our firm represent Chinese Respondents in the conditions investigation as to whether Domestic Industry is materially injured or threatened with material injury by reason of hydrofluorocarbon blends and components from China.

As counsel to Chinese respondents in this and many other Commission proceedings, we of course believe that the facts and circumstances in this case compel a negative determination. What sets this case apart from others that we have represented in Chinese Exporters in the past is the fact that here, for the first time that I can remember, we are joined by two members of the Domestic Industry -- National Refrigerants, Inc. and ICOR International Inc to urge the Commission to find that relief is not warranted.

Why have National and ICOR decided to join us? Because this case is not as easy to decide as Petitioners would have you believe. Evidence of underselling and increasing market share for Subject Imports do not translate

into an affirmative determination since Domestic Producers of subject components are unwilling or unable to sell components which are needed to produce subject blends to other members of the Domestic Industry.

Since there is an inverse correlation between an increase in Subject Imports and the financial performance of the Domestic Industry since, as you will hear this afternoon from our economist Jim Dugan, conditions of competition reveal that Subject Imports did not cause adverse volume effects for Domestic Producers, did not depress or suppress domestic prices and did not have an adverse impact on companies producing HFCs in the United States.

Finally, since as representatives of National and ICOR will discuss in much greater detail and with much greater clarity than I can, there in fact are two distinct Domestic Industries and like products for the Commission to analyze, one composed of companies producing subject components in the United States and the second composed of subjects producing subject blends. Thank you.

OPENING REMARKS OF JARROD M. GOLDFEDER

MR. GOLDFEDER: Good morning Chairman Williamson, Commissioners and Staff. Good morning, Mr. Cannon and team. I am Jarrod Goldfeder of Trade Pacific appearing before you today on behalf of National Refrigerants. This may sound strange at first but National opposes the imposition of

antidumping duties because an affirmative determination will jeopardize U.S. manufacturing jobs for the domestic-like product, or rather I should say a domestic-like product because there are two here; HFC components and HFC blends.

National is a significant producer of HFC blends and its plant in New Jersey currently employs more than 100 production-related workers. The opposition also includes ICOR whose plant in Indianapolis employs 20 workers. National and ICOR, along with Arkema, Honeywell and Chemours are the principle Domestic Producers of In scope HFC blends that consume the In scope HFC components. If there is anyone else, they are commercially inconsequential.

What you'll hear from National and ICOR today is that while they are members of the Domestic HFCs Industry, they by necessity depend on imports of HFC components to keep their U.S. factories running. The reason is that these three U.S. Producers alleging injury hold a tight leash on their domestic supply of HFC components, especially our 125 which is crucial to all 5 In scope agency blends. Arkema, Honeywell and Chemours while supposedly fierce competitors, actively coordinate with each other by first satisfying each others' blending requirements.

The Staff Report put it best when it noted "pursuant to swap transactions in which HFC components in-scope and out of scope are exchanged, U.S. Producers are

also integrated in a matter of speaking with respect to each others' operations". But National and ICOR are not part of this exclusive club because they do not have U.S. component production. As the Petitioner conceded during the preliminary conference there is not a merchant market for these components.

National and ICOR cannot contact a distributor or trading company and buy U.S. origin HFC components. If these three cannot or will not make U.S. components available in the volumes that National and ICOR require as has been the case, imports are the only option to keep their U.S. Blend operations running. This case can best be characterized as a classic David versus Goliath situation. The David in this case is two independent family-owned companies who focus almost exclusively on refrigerant and whose survival depends on access to HFC components. The Goliath is a group of three publically traded, multinational conglomerates with diversified product lines, global facilities and revenues ranging from 6 to 39 billion dollars.

This American HFC coalition is not just seeking to exclude National and ICOR from the Domestic Industry for purposes of a legal analysis. If successful, their efforts will push National and ICOR out of the Domestic Industry altogether and prevent new firms from investing in U.S.

blending operations. The trade remedies laws are not intended to benefit one group of Domestic Producers at the expense of other Domestic Producers or to stiffly investments in U.S. Manufacturing capacity and jobs.

As we will explain through our testimony whether the Commission considers HFC components as a separate like product or as part of the same like-product as HFC blends, the record here supports a negative determination. Thank you.

CHAIRMAN WILLIAMSON: Thank you.

MR. BISHOP: Would the Panel in support of the imposition of Antidumping Duty Order please come forward and be seated?

CHAIRMAN WILLIAMSON: Mr. Cannon, you can begin when you're ready.

MR. CANNON: Thank you, Mr. Chairman. We will begin with the testimony of Richard Rowe.

STATEMENT OF RICHARD ROWE

MR. ROWE: Chairman Williamson, Members of the Commission, good morning. My name is Rich Rowe. I am the President and CEO of Arkema, Inc. I've been with Arkema for 27 years and in that period of time I've had responsibility for several of our business units as well as our supply chain operations.

From July of 2011 until June of 2015 I was

responsible for our fluorochemicals activity on a global basis. This includes all of our hydrofluorocarbon or HFC activities. Arkema is one of three U.S. Manufacturers of HFC components and a member of the American HFC Coalition. Arkema joined with Chemours, Honeywell and other members of the coalition to combat the unfairly-traded imports that are destroying our industry. The Commerce Department has determined that imports of HFC blends from China are being dumped in the United States at margins in excess of 200 percent. As a result, Arkema has suffered declining sales, falling production, unused capacity and substantial financial losses. Without relief from Chinese dumping prices will continue to fall, our market share will decline further and U.S. jobs and investment will be lost.

As Arkema Inc. CEO I oversee our North American Operations and business activities. The blends and components business has been under severe pressure for the past three years as China has continued to add excess capacity and to buy market share in all export markets. If you compare it relative to the rest of the business portfolio that I oversee either within fluorochemicals or more broadly, the blends and components business is seriously underperforming and is now at an unsustainable level.

The biggest drivers in the underperformance of

the blends and components business are the severe declines in selling prices coupled with the increased volumes of HFCs coming from China. The cost structure for this business is something we control and actually Arkema does a fairly good job, an effective job controlling our costs. Over the past years we've taken steps to optimize our performance, reduce cost and increase our productivity.

However, production of HFC components is a capital investment intensive and relatively high fixed cost activity. We've invested over 200 million dollars in the production of HFC components and HFC blends. Looking at the types of production processes we run for HFCs, our optimal operating strategy is to bring the units up to a robust production rate and to keep them there.

As our utilization drops, we run into different types of challenges. How do you control inventory? How do you meet the demand in a business that has a significant seasonal component and as importantly, how do you ensure that we are not mismanaging the production asset itself and putting the production units into a more stressful context which in fact can impact our costs. In the current market with Chinese Imports capturing more than a third of the U.S. Market consumption, Arkema is struggling to operate above 60 percent of capacity. While 60 percent utilization is certainly better than 50, it remains far from being fully

utilized. In fact, we are often forced to operate at or near our turndown rate. The turndown rate is the lowest rate that the plant can be operated at and still make on-spec quality product. As you can imagine, at this rate it's also quite inefficient to operate from an energy, raw material utilization and labor standpoint. At the same time, it's neither practical nor economical to campaign-operate the plant.

If we run the plant at full capacity for a period and then shut down, we face different challenges. The unit cannot be down during the winter months without risk of damage from freezing. Also, our highly-trained workforce doesn't lend itself to a rapid furlough and callback process and thus we face severely underutilized resources which negatively impact our cost.

An additional implication of that strategy is you have to buy raw materials at a certain point in time and that exposes us to fluctuations in raw material prices. Obviously. Holding inventory consumes cash and overall weakens your competitive position. It also exposes you to greater risk because you're holding inventories of some dangerous raw materials. So instead, we seek to run the plant at the highest possible utilization rate.

Filling our capacity and operating at efficient rates has been a severe problem for this business for the

past few years. The loss of sales to low-priced imports from China has prevented Arkema from increasing our sales and production. As importantly, dumped imports have depressed market prices and driven down our revenues. When I started with the HFC blends and components business in 2011, the EPA had recently banned the production of new air conditioning equipment designed to use HCFCs.

At the time, we forecasted double-digit growth in the U.S. in terms of demand for HFC blends. Since 2011, demand has indeed grown at a strong pace, however China has built enormous capacity to produce HFC blends and components. There's been a proliferation of investment in China without any regard of strategic sense for global market demand, which has resulted in China having significant excess capacity with a far oversupplied global HFC market.

Chinese Producers are motivated to stay in business by selling products at virtually any price into any market that will take it. Low-priced Chinese Imports have surged into the U.S. and have captured a larger and larger share of demand. Arkema and other U.S. Producers have been unable to share in the market growth. Price levels have steadily fallen. Loss of sales volume and low prices have driven down revenues and profitability and although we continuously manage our costs, the bottom line is that our

return on investment in this business does not meet the expectations of our shareholders nor the benchmark set by other businesses within Arkema.

For these reasons Arkema and the American HFC Coalition ask the Commission to make an affirmative determination. Our industry has been materially injured by dumped imports from China. We need your help to maintain and innovative, highly competitive industry and to maintain jobs and production here in the United States. Thank you for your attention.

MR. CANNON: Thank you, Rich. Next with we will hear from Beth Sassano.

OPENING REMARKS OF ELIZABETH MARY SASSANO

MS. SASSANO: Good morning. I am Beth Sassano. I am the Refrigerants Global Business and Market Manager with The Chemours Company. I have been in the fluoroproducts industry for over ten years and would like to talk a little bit about the products in our industry.

First, let me start with a quick history of refrigerants as it relates to this case. Hydrofluorocarbon, HFC blends are a family of products that were developed in response to the phase-out of ozone depleting CFCs and HCFCs. CFCs, chlorofluorocarbons were phased out in the 1990's and HCFCs, hydrochlorofluorocarbons are nearing the end of their phase-out. CFCs and HCFCs contain chlorine that depletes

the ozone layer. Whereas HFCs, hydrofluorocarbons do not contain chlorine and therefore have no ozone depleting potential.

Most widely used HCFC was R22. As R22 began to be phased out, there was no single HFC that had thermodynamic properties to span all of the applications like R22. The industry worked on a variety of solutions and ultimately converged HFC blends as the answer. Because no single blend could be used in the varying applications in which R22 was used, the industry developed several HFC blends.

U.S. Producers in turn began to build HFC component facilities to supply the necessary building block components for these blends.

MS. SASSANO: There is essentially no direct market for the HFC components. They were created and they exist today for the HFC blends market.

Now, let's discuss the product characteristics of the HFC blends starting with their physical characteristics. All of these HFC blends are non-ozone depleting and were developed to be low toxicity, non-flammable replacements for R22. Although there are several blends, the ones within the scope of our petition overlap with each other. They are used in a wide range of low or medium temperature applications like commercial refrigeration and residential

air conditioning. And each of these blends use at least two of the same four-building block components. Two of these blends R410A and R404A account for 80 percent of the U.S. blends market.

The three HFC components covered by the scope of this case R32, R143A and R125 are dedicated to the production of the HFC blends. Chemours does sell a very small volume of R125 for use in fire suppression, but that market is trivial. We estimate that less than 1 percent of the sales of any of the components is used for something other than the production of blends.

Let's more on now to the manufacturing process. We consider HFC components and the blends to be one single industry producing a range of overlapping similar products. However, there is a big distinction between the way HFC components and the HFC blends are produced.

Let's start with the components. Each component requires a dedicated production facility, an investment of hundreds of millions of dollars in equipment needed to handle these high-hazard reaction and purification processes. These plants run at very high temperature and high pressures. The raw materials and the byproducts created are hazardous and beyond the initial investment to build the facilities there is also continued significant investment and expertise required to maintain and run them

efficiently and safely over time. Due to these significant investments the U.S. producers are continually faced with make versus buy decisions.

For example, you've heard and read about, I'm sure, swaps. What that means is you might have one company, company A that makes HFC component R32 and another company, company B that makes HFC component R125, and companies A and B swap the R32 for the R125. In addition the U.S. producers also purchase components to meet their blends' needs. These approaches help U.S. producers to achieve economies of scale and provide cost effective products to the marketplace.

Turning to the HFC blending, this operation is fundamentally different from the manufacturing of pure HFC components. Compared to the HFC components which require significant capital investment the investment to set up a blending operation is very small. Also, unlike component manufacturing plants which must be operated 24 hours a day, seven days a week, blending facilities do not require continuous production nor have high fixed costs. HFC blends can all be made using the same blending equipment with low investment. It's a very simple mixing operation. It is not run at high temperature or high pressure and there are no hazardous byproducts.

So where are we today? After all the innovation of HFC blends and the significant investments to produce HFC

components, it is devastating that Chemours could not make a positive profit in a growing market. The low-priced Chinese imports have had a substantial negative impact on our bottom line. These low-priced Chinese imports drove the low profitability of the HFC blends in the U.S. industry resulting in the shutdown of component facilities and the loss of U.S. jobs.

Without duties to level the field these negative effects will continue and China has significantly overbuilt capacity. Its capacity is at least three times its local demand and is sufficient to supply virtually the entire global demand for these products. Clearly they are producing for export.

Among the largest markets for HFC blends have been Europe, Japan, and of course, the United States. Europe implemented a fluoro gas regulation effective January 1st of 2015 which requires quota to import HFCs into the European Union. As access to this market continues to contract, the practical result is that the market share that was once available for China in Europe will need to be diverted. And the largest market available for the Chinese producers to offload that diverted share is and will continue to be the United States. This is why we are here.

The industry has suffered for many years from dumped imports from China produced by an overbuilt industry

with excessive capacity which is in the process of being shut out of major world markets. Without your help, the domestic industry will continue to experience negative financial performance and additional U.S. job losses.

Thank you for your time and attention.

MR. CANNON: Thank you, Beth. Next we'll hear from Omar Irani.

STATEMENT OF OMAR IRANI

MR. IRANI: Thank you, Jim.

Good morning. I am Omar Irani, I'm the global director of product management for Honeywell International, Incorporated working in the Fluorine Products Division. I've worked primarily in the Fluorine Products Division since 2006. I currently have management responsibility for all the hydro fluorocarbon components and blends that are covered by this antidumping investigation.

Honeywell supports the antidumping duty petition filed in this case and requests that you make an affirmative determination. We cannot continue to maintain our U.S. operations in the face of continued dumping by imports from China and continuing lost sales.

Let me give a little bit of background concerning Honeywell's HFC components and blends. We sell our products under the Genetron brand name. Honeywell manufactures HFC125 and HFC143A components in Geismar and Baton Rouge,

Louisiana, respectively. These are two of the four components that are required to make HFC blends.

Currently we are the only manufacturer of these components in the United States. Both HFC125 and HFC143A components are used to make HFC blends. There is no market for 143A except for the production of HFC blends. The only other market for 125 is fire suppression which is trivial. The only significant market for 125 is the blends market.

The investment in the plant and equipment to produce these HFC components exceed a quarter of a billion dollars. We certainly could not justify that investment only to serve the market for 125 for fire suppression.

Because of the substantial investment in our plants and because we must run the plant continuously in order to produce efficiently, it is critical for us to maintain high levels of capacity utilization. We have high fixed costs and cannot afford to operate at low levels of capacity utilization. As you have hear from Arkema there is a point at which you cannot effectively operate without sufficient volume running through the plant.

In 2013 and 2014, we tried to match the Chinese prices in order to maintain our production and sales volumes, thereby maintaining adequate capacity utilization in our plants. But the result was a steep drop in our prices and our sales revenues. Our operating margins and

net income literally disappeared. The prices set by imports, particularly by trading companies that advertise low prices throughout the U.S. market seem to have no lower limit. We simply could not generate an adequate return on our investments.

Going to 2015 we changed our strategy. In response to cut-rate pricing from Chinese imports, we tried to maintain prices at economically feasible levels rather than chasing the Chinese prices to the bottom. But the strategy also failed to generate positive returns. As a result, we made the difficult decision to reduce our 125 capacity as a cost containment measure.

Now, I've read National's brief where they seem to be asserting that our remaining 125 production is not adequate to supply the U.S. market for HFC blends. I want to respond directly to that claim. We have never refused to sell National or ICOR or any other U.S. customer at a fair market price. In fact, we have a long relationship selling HFC components and blends to National and others and we want to maintain those relationships. I want to reiterate this point. We have not turned away buyers for lack of product or capacity during the entire period of investigation and at least several years prior to that.

In fact, as soon as antidumping duties were imposed we committed to increase the volume of product

supplied to National and we agreed to supply product at very fair prices. And as demand increases in the coming years, we will be able to increase our output by debottlenecking the plant and expanding operations.

Ultimately, for Honeywell to justify the capital expenditures to maintain our current business, our sales must generate an adequate return on investment. Honeywell will not invest our shareholders' money in businesses that fail to generate adequate returns. If market prices for HFC blends do not recover from price levels established by dumped Chinese imports, there is no business case to support continued investment.

As I said, our first strategy was to meet Chinese prices in order to maintain our capacity utilization and optimize our fixed unit costs. When that did not work, we tried to restore prices to economically feasible levels with the result being lost sales volumes. That strategy did not work either and we had no choice but to reduce our production capacity as a cost containment measure.

Throughout the period of investigation, Chinese imports continued to flood the market at prices below our cost of production. To return to health we require relief from dumped imports.

I understand that our opponents have argued that the current market conditions are somehow normal. In

particular the Chinese importers and producers claim that current price levels are the result of expiring patents. That is not the case. The patent on HFC410A, our most important HFC blend, expired more than a year before the period of investigation. And in 2010 the EPA banned the production of new HVAC equipment designed to operate using R22 which is an ozone depleting substance. As a result, the market for HFC410A as a replacement for R22 began to expand at around the same time that the product went off patent. All else being equal, pricing for a product may decrease when it comes off patent. But in this particular case, market demand for 410A was also increasing at roughly the same time. Under these circumstances it would not be reasonable to expect that price levels would fall so drastically, much less below the full cost of production. Below-cost prices are not normal, nor could anyone predict that the Chinese industry would build new HFC capacity enough to supply essentially the entire world market.

Our business plan did not predict that the Chinese producers would buy market share at the below-cost prices and destroy the value of our investment even as the market for 410A blend began to grow more rapidly.

Because of the rise in volume of dumped Chinese imports we lost significant sales in market share. We reduced capacity, reduced our workforce and suffered

declining sales revenues even though consumption in the U.S. market is growing. Our operating margins are no longer adequate to justify continued investment.

In other words we need your vote to remedy the impact of unfair trade in this market.

Thank you very much for your attention.

MR. CANNON: Thank you, Omar.

Next we'll hear from Glenn Haun.

STATEMENT OF GLENN HAUN

MR. HAUN: Thank you. Good morning.

I am Glenn Haun, Director of Fluoro chemical sales for Arkema, Incorporated.

I'm the senior manager of Arkema's sales force in North and South America and I started in the HVAC in the fluoro chemicals business in 1984.

I want to add briefly to the testimony you heard from Rich Rowe. First, I will address the conditions of competition in the U.S. market. Most importantly, HFC blends from all producers and countries are interchangeable. These refrigerants are chemical commodities. We ship bulk components -- HFC components and blends in ISO's tanker trucks or by rail. The bulk containers do not distinguish Arkema's products from our competitors. When the product is packaged in disposable cylinders such as you see on the table, the refrigerants are identified by the color of the

cylinder. Note the pink color there for R410A, R404 is signified by the orange color and the other three blends are also different colors.

Every refrigerant blend meets AHRI700 specifications which is on the printed label on each cylinder. That is the industry standard. Our Chinese competitors ship in the same pink or orange cylinders with the same AHRI700 certification. And you can even buy Chinese HFC blends on Amazon. In my experience customers are typically looking for a pink cylinder of R410A not a brand name.

Next, the largest volume of our sales reaches the market through large distributors such as Johnstone Supply, Watsco, National Refrigerants, Airgas, Coolgas, along with many others.

Several of these distributors used to buy in bulk tank trucks and repackage or blend and repackage into the disposable cylinders. This allows the distributors to adjust to demand for particular blends without holding a huge inventory. However, today very few of the distributors continue to blend or even buy in bulk and repackage into disposable cylinders.

Blending itself is a simple operation. I have been at the tank yard at Coolgas when they unloaded one ISO of R32 and one ISO of R125 into a larger holding tank. All

they needed to do was attach some valves and pipes to each of the ISO tanks and then pump the components into a common tank. The result was a 50/50 blend of R32 and R125 which is the R410A blend you see on the table.

Even though blending is a low-cost operation, Chinese imports of blends that already arrive packaged in disposable cylinders are eliminating this level of trade. Except for National, most of the distributors no longer blend components or fill disposable cylinders. Their equipment to fill cylinders is idle because it's cheaper to buy Chinese blends than to buy components and fill the cylinders themselves.

The exhibits to my testimony include price sheets that are circulated in the market by importers such as Jack McAdams, BMP International, Southcorp Sales.

MR. CANNON: I was just going to interrupt you. Glenn, this is Jim Cannon. He's referring to the exhibits that were handed out and he's referring to the first one, two, three, four pages. These are examples of the price sheets that circulate.

Sorry, Glenn.

MR. HAUN: So I'll reread that. So the exhibits to my testimony include price sheets that are circulated in the markets by importers such as Jack McAdams, BMP International, and Southcorp Sales which sell the blends

imported by LM Supply. These importers distribute HFC blends exported from China by T.T. International and other Chinese companies. These price lists are published every week or every month and they circulate quickly through the market. The importers offer HFC blends in 24- or 25-pound disposable cylinders that are below our prices for components in bulk tanks.

For example, the Icool brand imported by Sinochem Ningbo is offered to HVA distributors throughout the United States at the identical low price. Icool offers R410A, R404A, R407A and other HFC blends on the same price list. Similar price lists are circulated by many brokers including South Corp. and BNP International. Because these low prices are circulated throughout the market, the Chinese prices set the market. It is difficult to find any customers that are not aware of these Chinese prices.

Our customers force us to meet the Chinese prices or lose business. As a result, we have been forced to cut prices repeatedly. Rich will explain that we cannot reduce our production below the “turn-down” rate. So to fill our capacity and operate our plant, we are forced to find customers and meet the Chinese prices.

Not until we filed the antidumping case have we seen any increases in market prices. In fact, we have even lost sales at our OEM accounts. We have suffered lost sales

to a major air conditioning manufacturer identified in our questionnaire response.

In addition, one of our largest customers for HFC components, one of the companies testifying here today, exercised a meet or release clause in our supply contract. When they told us the price at which they could purchase Chinese HFC components, we could not meet that price and released them from the contract to buy the imports. In these circumstances our industry has been materially injured by Chinese imports.

Thank you.

MR. CANNON: Thank you, Glen.

Next we'll hear from Rich Winick.

STATEMENT OF RICHARD WINICK

MR. WINICK: Good morning. I am Richard Winick and I work for the Fluorine Products Business at Honeywell International. I recently became the business director for our automotive products business which includes refrigerants such as 134A, but for the entire period of the investigation covered by this case, I was the sales director for the fluorine products business making me responsible for our sales for all refrigerants including HFC blends and components.

I personally call on all of the major HVAC accounts including the people who make air conditioners like

Carrier, Goodman and Trane, people we call OEMs, and also aftermarket customers including blenders, repackagers, and distributors.

Let me start by talking about the aftermarket which is segment of the business where we have witnessed fierce head-to-head competition from Chinese imports in recent years. The HVAC aftermarket is made up of four types of businesses, all working to get HFC blends and service parts into the hands of contractors quickly and efficiently for the repair of HVAC systems. There are blenders, there are repackers, there are air conditioner OEM distributors, companies like Carrier, Trane, and Goodman who operate stores that resell packaged HFC blends to contractors. And finally, there are independent distributors who operate stores that resell packaged HFC blends to contractors as well.

Several important independent distributors are United Refrigeration who also owns National Refrigerants, Watsco, Johnstone Supply and Granger. You may have heard of one of these companies. A contractor who comes to your home to service your AC unit typically walks into a distributor's store and walks out with a small, easy-to-handle, 30-pound tank of refrigerant like you see on the table in front of you. The tank is stored in the back of the back of the service tech's truck until he needs to grab it to charge up

a system. These technicians repair not only residential air conditioning systems, but also large grocery store freezer and refrigerator cases, convenience store coolers, larger building AC or chiller systems as well as other stationary commercial HVAC and refrigeration systems. There are thousands of distributor retail locations spread out across the U.S. all competing for this contractor business.

I've explained the categories of businesses serving the aftermarket and how HFC blends get into the hands of contractors.

Now, I'd like to talk to you about the OEM customers. The people who make air conditioners, the people we call OEMs, who I mentioned earlier, like Carrier, Goodman and Trane, also operate chains of aftermarket distributor stores and compete with the independent distributors for the same sales. These OEM distribution stores provide HFC refrigerants and a diverse assortment of HVAC parts and accessories used by contractors to service HVAC systems.

I've given you some examples of OEMs who operate an HVAC distribution store's business. Now I would like to highlight a few of the larger independent distributors.

United Refrigeration is one of the largest coast to coast distributors to the HVAC aftermarket in the U.S. They have almost 500 stores. Other large distributors are Johnstone Supply and Granger. United Refrigeration also

owns National Refrigerants, which is the blending and repacking arm of their business. Unlike most other repackers in the market today, National purchases HFC components and blends those components into HFC blends, finally putting the products into disposable times for cylinders.

To compete with the low prices offered by Chinese importers, National has invested in its own fleet of ISO tanks, so they can import both components directly from China using its own equipment, but then blends and repackages these imported HFC refrigerants in its own facilities. I should also mention that National Refrigerants is an important customer of Honeywell. We have supplied them and are currently supplying them with significant quantities of bulk HFC components and HFC blends.

The last point I'd like to make is how the influx of dumped Chinese HFC components and blends influences the prices that we can charge for our OEM factory fill business. As I mentioned before, the purchasers in this market are the manufacturers of HVAC equipment, like Carrier, Goodman and Trane. These customers usually operate two businesses: an aftermarket stores business, as I've described earlier, and an OEM new equipment sales business.

We've experienced head to head competition with

Chinese HFC blends in this OEM segment. Moreover, when we negotiate prices, these OEMs are well aware of pricing in the aftermarket segment, and they expected us to match competitive pricing from China if we want to keep our sales volume on the factory fill side of the business.

In the end, if our per pound price for bulk HFC refrigerants sold for use in the OEM's factory is higher than the per pound market price that that same OEM can pay for package HFC refrigerants, we'll be uncompetitive in the OEM factory fill segment and we will lose business. I would be happy to answer any questions you have about the structure of the market. Thank you for your attention.

MR. CANNON: Thank you, Rick. Next we'll hear from Jim Bachman.

STATEMENT OF JAMES BACHMAN

MR. BACHMAN: Good morning. I'm Jim Bachman, North American Business Manager for The Chemours Company. In my 20 plus years in the industry, I have never seen prices as low as the prices offered by the Chinese manufacturers. If you turn to the public exhibits again, we have prepared a chart showing the decline in market prices for 410A since 2013. You will recall that EPA regulations banned the use of R-22 in new HVAC equipment made in the United States in 2010.

By 2013, demand for our 410A and other HFC

blends had grown more than ten percent. But we were already seeing increased imports from China in the U.S. market. Given rising costs, we hope that the market would accept a modest price increase. Instead, prices fell by nearly 30 cents per pound over the next six months.

Again, the second quarter of 2014, we announced a price increase of 25 cents per pound. By this point, our business was losing money and substantial cost-cutting measures were underway. In fact, when we announced this increase, we were already taking steps to shut down our 125 plant, reduce our workforce and cut expenses. As you can see from the exhibit, the majority of our customers refused to pay the higher prices.

We did not have any success in raising prices until the anti-dumping petition was filed. At first, in June 2015 we tried to increase prices 50 cents per pound. A month later, we sought a 25 cent per pound increase. By the end of 2015, we did succeed in raising prices by about 40 cents per pound. After the Commerce Department found dumping margins of 90 to 200 percent, prices again rose in the first quarter of 2016.

In other words, by the time that preliminary duties were imposed, we had finally improved our price levels and revenues. The reaction of the market is telling. When dumping is not addressed, we cannot increase prices due

to the competition with dumped imports. But as soon as import prices rise, domestic producers can increase their prices.

Since the duties were imposed in January of 2016, we have continued to increase our prices and we have also regained some market share. If the dumped imports are removed from the market, we can increase sales revenue and generate reasonable returns. In my view, the evidence is unmistakable. We have lost business, closed capacity, reduced our workforce and sold HFC blends below the cost of production because we cannot escape the price levels established in the market by dumped imports.

The fact that we were able to increase prices only after we filed the anti-dumping case demonstrates the link between our prices and the prices set by the Chinese HFC imports. For our business to recover and even to survive, we need continued relief from the effects of unfair trade. Thank you very much for your time and attention.

MR. CANNON: Thank you, Jim. Next we'll hear from Dean McCoy.

STATEMENT OF DEAN McCOY

MR. McCOY: My name is Dean McCoy. I'm a member of the International Association of Machinists and Aerospace Workers, Local Lodge 1969. The IAM represents the workers at Arkema production plant in Calvert City, Kentucky, which

produces among other things R-32 and HFC blends. I have served as a chief steward, maintenance steward and am currently the financial secretary for the Local Lodge 1969, and I've worked at Arkema for 25 years.

I also in the past have led the Calvert City United Fund drive within the plant. My various positions with the union, hands-on work in the plant and in the industry and commitment to the community, I know what is at stake in this investigation. Jobs, our community, the health of our national economy.

I am proud that the Local Lodge 1969 and our international union are tireless fighters on behalf of U.S. workers, especially when it comes to the issues of illegal dumping by China, that puts our members out of work. I am pleased to appear before you today.

I see the harm that is being caused by illegal dumping every day. For the past nine years, I worked in the tank car loaders group. This group also -- this group loads all refrigerants, byproducts that leave the plant in rails and trailers. We take care of all the storage of the refrigerant in the plant and monitor all the tanks and refrigerants that are stored prior to loading. We also perform the blending operations. We're given a chart of required components, put them in a tank through a flow meter, circulate them and send them to the finished blend

and the packaging facility or load them straight into rail cars or trailers.

Before I worked in the tank car loaders group, I worked in two of the refrigerant operation plants. I worked for about four years in the plant that makes R-141 and R-142, and I worked for seven years in the plant that makes R-134A. The training for this highly skilled work is extensive and takes 120 days. There's a written test, and every three years you're recertified with a hands-on test.

We have a good collective bargaining agreement with Arkema, where solid wages and benefits that the IAM have negotiated have been good for our workers at Arkema, Calvert City and the surrounding area. These wages and benefits are critical for the health of our local economy, where few big employers remain.

We're a very rural area, about 25 miles from Paducah, and have employees who commute 50 to 60 miles every day to work. Recently, both a tire plant and a compressor plant shut down and moved, losing any jobs in the area would be devastating to the employees and their families. There are simply too few jobs in the area, let alone ones that pay the decent wages and benefits that have been negotiated in our collective bargaining agreement.

The illegal dumping by China, the activity by China hurts workers at Arkema. The impact of this illegal

activity goes way beyond Arkema, however. Its impact has a multiplier effect on vendors, suppliers and small businesses in the area. It also has an impact on our national economy as cargo services, namely the trucking and rail industry, lose business because of the unfair competition.

I've had the opportunity to raise two girls and send both of them to college because of my job at Arkema, and I'm not alone. Many, many of my fellow workers who are also mothers and fathers have been able to afford a decent standard of living, raise a family and send their kids to college because of the important work they do here. It's important that the future generations also have the opportunity to do what we have done for our families.

We're asking you to take all actions to prevent unfair competition from China, which threatens our jobs, communities and the national economy. Thank you for your time, and I'd be happy to answer any questions.

MR. CANNON: Thank you, Dean. I wonder if I could get a time check.

MR. BISHOP: You have 19 minutes remaining.

MR. CANNON: Thank you. So before we turn over the floor for questions, I'd just like to go through the pink sheets quickly. Page one, we show you the imports from China on the first row during the Period of Investigation. You can see the industry estimate, that imports doubled, is

not far from the data your staff collected.

You see under that shipments of those imports and U.S. producer shipments and apparent consumption. Again, industry's testimony is that apparent consumption is increasing. This is a market in which demand is increasing, and yet imports, as you see from the market share figure there at the bottom of the page, are capturing a larger and larger amount of that increase.

If we turn the page, we see on the bottom half the underselling data. Underselling in this case, as we showed at the preliminary stage, exists when you take the list price off those price lists. The list price, when compared to the domestic producers' price, the Chinese are below us. So these results that you see from your staff's collecting the prices are not surprising. There is a substantial amount of underselling.

And in particular, I call attention to Products 5 and 6. These are the bulk components that come in and the U.S. industry sells them in tank trucks, over the road tank trucks. The importers bring them in in ISO tanks. I think it's Slide 6. Slide 6 shows photos of ISO tanks. These are large chemical tanks. They are surrounded by a metal framework which makes them essentially the size of a standard container so they can load them on a container ship.

National has a fleet of these tanks. This is a page from their website, because they collected a fleet. But these products are directly imported by importers such as National, and that's Product 5 and 6. So for Product 5 and 6 in particular, we ask you to look at the direct import data, the import purchase price data that your staff has collected.

Because here, the head to head competition really takes place, the large volume competition really takes place in these ISO tank imports. You can see on this table, on the pink sheet in the bottom, if you look at Product 5 and 6, look at the volume of those two products. These are the direct imports coming in in the ISO tanks.

Okay. The next page, page three, shows that the domestic industry suffered declining out, declining production, declining capacity and employment, and all the figures are the trends are downward. The figures are substantial. I would point in particular to the bottom line, employment.

Look in in-scope components. Components remain in the factory. This is a chemical factory. These are factory jobs. Look at the decline. Blends are made by lower skilled, lower wage workers. The decline there is not as substantial, but again there is a decline.

The following page shows the impact on the

industry. As you heard testimony, the industry has cut cost substantially. They've also filed a dumping case. So they got prices to come up a bit. But when you look at their bottom line, when you look at the ratio, the bottom of the table, the last line, net income as a percent of sales or operating profit as a percent of sales, you're talking about an industry that is not earning adequate profits. We are breakeven or below.

Now turning the page, I'd like to address more specifically National Refrigerants. The same analysis applies to ICOR. We are asking the Commission to exclude these companies from the U.S. industry. The legal basis is the related party provision. It is not, we are not arguing that blending is not manufacturing or it's not part of the U.S. industry.

We are arguing that these importers rely on imports. That is the basis of their business. You saw the photo. They have built a fleet of ISO tanks to bring in Chinese product. So if we look at their data, the first table at the top of the page, it shows the volume that National purchased from the U.S. industry, the volume of components, and it shows the volume that they purchased from Chinese imports and the trend in that volume and the ratio.

That really is all you need to know about National. They are primarily an importer. Therefore, they

should be excluded. Now not all Commissioners, but many look at whether there's a distortion created in the profit and loss data as a result. So if you turn the page, you'll see the industry profitability and the results.

Look at the last line, operating profit. The three integrated producers sitting here who petitioned for relief are losing money every year, in substantial amounts. The trend that I showed you before for the whole industry that you have in your C-1 table only exists because of National. Look at their trend.

Opposite to the rest of the industry, their position is getting better, because they rely on Chinese imports. That's why there's a distortion in the data if you include National in the industry.

We also have, if you turn the page, information regarding critical circumstances. The Commission has looked at this in many cases. It's not often that the Commission's found critical circumstances. There is a very interesting issue in this case though.

If you look at the table and you look at the first row, we see the ending inventory of HFC components and the trend in that inventory. The row right below that is the ending inventory of HFC blends. Then we see the subtotal and the trend and the just enormous increase in blends.

Below that, we then see blends that were remaining in inventory that were blended from imports. So these are blends which came into the United States as components, and after they got here they imported them and they were still in inventory at the end of 2015. If you add those quantities together, to look at how much inventory of Chinese-made product is in the U.S. market in December, you see that in 2015 there is virtually enough inventory from China to ship every ton that they shipped last year.

So they have built a huge inventory. The dumping inventory is not going to stop the Chinese market share in 2016, because the product is already here, and this doesn't count January. The dumping duties didn't go on until January, and the imports continued. That's a reason that in this case, imports are likely to undermine seriously the remedial effect of the law. The law will not have the remedial effect on a volume of imports in 2016.

The last table talks about the threat factors. As you heard and by our analysis, there's substantial excess capacity in China. These are the data in the questionnaire that you've collected. We believe that these data understate substantially the capacity in China. You do not have questionnaire responses from all the Chinese producers, and there is substantially more capacity than what you're seeing.

Nevertheless, when you look at the overhang of available capacity, there is a remarkable amount of volume still in China that could be pushed into this market. So without relief, if we're not injured, we're certainly threatened with injury and with that, I will turn it over to the Commission. Thank you for your attention.

CHAIRMAN WILLIAMSON: Thank you, Mr. Cannon. I want to express the Commission's appreciation to all the witnesses for coming today and taking time from your businesses to be here. Your presence is very important. This morning, we'll begin the questioning with Commissioner Broadbent.

COMMISSIONER BROADBENT: Thank you, Chairman Williamson. Let's see. My first question is probably to Mr. Irani or Ms. Sassano. Could you both tell me why you decided to file this case, why you chose the specific components and blends listed in the petition? I'm just curious as to why, you know, you chose some products and not others.

MS. SASSANO: Yes, hi. This is Beth Sassano from Chemours. So why we decided to file this case is that we believe our industry is injured. You can see that from our prices have fallen a little on cost to manufacture. Why we picked the products that are in the case? Our data and what we know about is that the U.S. -- the components, the

125, the 32, the 143, are used almost exclusively in HFC blends.

96 percent of that volume in the U.S. market is for these five in-scope blends, which is why we chose to keep them in the case. There are other -- I think you'll hear from the opposition that there's 40 other blends and why weren't they in the scope of this case. But there's some clear dividing lines about why we excluded them.

If you look at HFOs, you can take that as your first case, the HFOs. They are non-global warming potential products, versus the in-scope blends are. So that was one product characteristic that separated them out. Next, you can look at the HCFC and CFC-containing blends, and we excluded them because they're getting phased down.

You've heard some people testify about R-22 being phased out in the market. So those blends are going away, and CFC-containing blends were phased out in the 1990s. So they may be listed on that list, but they're not being commercially sold.

The next area of blends that we excluded, didn't they were appropriate to the end was hydrocarbon blends, and those blends go into retrofitted R-22 equipment. They're not compatible with 410A. They use oils that aren't compatible with the blends that are in scope. So they were excluded as well.

And then lastly, you'll see other blends that they would argue could have been included and when R-22 was being phased out, I think I mentioned that there was a lot of different HFC blends that were being formulated and abated, and the industry naturally converges to a subset of those.

So you'll even see one on the list, 410B. That was one of the ones in the running. It didn't get chosen by manufacturers to use and it's not a commercially sold product. So in summary, the five blends are the main ones in the market and that's why we chose them, and they're interchangeable in some applications.

COMMISSIONER BROADBENT: Okay, Mr. Irani, did you want to answer that?

MR. IRANI: I can--this is Omar Irani with Honeywell. I concur with Ms. Sassano's comments.

COMMISSIONER BROADBENT: Okay. And, Mr. Rowe, you are in sync with those comments. Anything to add?

MR. ROWE: Rich Rowe with Arkema. I do, Commissioner.

COMMISSIONER BROADBENT: So you all agreed exactly on the products that should be included, or the criteria for including products?

MR. ROWE: Yes.

COMMISSIONER BROADBENT: Okay.

MR. CANNON: If I could make a little comment here. So the witnesses are sort of all geared up to all these legal issues I orient them to. When they came to us and wanted to bring a case, the actual perspective is that there are no imports except the HFC blends. There are no imports of any of these other products. Principally the other products are covered by patents, or there's a long list of 40, I don't know, how many are not even made. The vast majority are not produced. There's a long list, but there's no production.

So those products were a tiny little bit of production, and not imported at all. And then we discovered the pricing of those products is really high. Maybe you should address this.

MS. SASSANO: Okay, I can comment. Thank you. This is Beth Sassano from Chemours. So as I mentioned, the in-scope blends are taking account for 96 percent of the components that are in the case.

The blends that are out-of-scope is literally 3 percent. And you've heard some people talk about the fire suppression market, and that's actually 1 percent of the use of those components. So that is another reason why we looked at, you know, the five that we did.

And as Jim mentioned, those are the ones that the imports were flooding in from China, both the components and

the blends themselves, where the others are not. They're manufactured in the United States.

MS. NIKAKHTAR: Commissioner Broadbent, this is Nazak Nikakhtar from Cassidy Levy Kent--I'm back here. I just wanted to add a couple of quick points.

The domestic HFC blends that are in the scope of the investigation, they're identical to the subject imports. So our position is that there is no real need to expand the domestic like-product to include out-of-scope products.

To this end, we noted in our prehearing report that the Senate Report of 1979 cautions that the definition of the like-product shouldn't be interpreted in such a manner as to prevent consideration of the domestic industry that's being adversely affected by subject imports.

So our position is that Commerce's scope is a starting point of a like-product analysis. And as you heard, there are clear dividing lines between in-scope products and out-of-scope products.

In our prehearing report, we talked about channels of distribution, relative differences in physical characteristics, which we're happy to elaborate on in a post-hearing brief. There's data, ample data in Figure 1-4 of the prehearing report that shows the differences in prices.

And just to sort of underscore at a higher level,

you've got differences in physical characteristics that contribute to their vapor pressure, boiling points of in-scope and out-of-scope blends. Their material compatibility, out-of-scope blends, many of them aren't interchangeable with the in-scope blends because of their physical characteristics because many of the out-of-scope blends are being phased out because of their ozone depletion qualities and their global warming potential.

So these are the clear dividing lines, and this is why we segregated the in-scope parts--the in-scope products and the out-of-scope products. But mainly, as Mr. Cannon said, there's no import competition. And for that reason, we are asking the Commission to not expand the domestic like-product definition beyond what the import competition is.

COMMISSIONER BROADBENT: Okay, thank you.

So who's having the baby?

(Laugher.)

COMMISSIONER BROADBENT: Congratulations. Do we need to have transportation available?

MS. NIKAKHTAR: You may need to help roll me out of here.

(Laughter.)

COMMISSIONER BROADBENT: That's really exciting. We're glad to have you here, and thank you for making it. I

know what it takes.

Mr. Rowe, I think I'll ask you this one. What caused the industry to allocate its investments into specific HFC components rather than to attempt to make all the different components?

MR. ROWE: Rich Rowe. Commissioner, I think the logic behind that is that these are extremely capital intensive processes to invest in and operate. The nature of the industry we were serving is an industry that was moving from a HCFC to HFC blends. So the respective companies' leverage technology that they possessed, at least in Arkema's case, that was the logic.

We possessed 30 to the production technology for R-32 in other parts of the world, and we were unable to convert a production unit in Calvert City that was producing HCFCs to the production of R-32.

COMMISSIONER BROADBENT: Okay, do you want to answer that for Honeywell? I could say the question again, if that would help.

MR. IRANI: Sure. Omar Irani from Honeywell. That is exactly the case, where we had the technology to build the 125 plant and technology to manufacture 143A, and so therefore those were the investments we chose to make.

COMMISSIONER BROADBENT: Okay. And then, Ms. Sassano?

MS. SASSANO: Yes, Beth Sassano from Chemours. So in Chemours case, we had a 125 facility which, I don't know if I can talk about now, but we ended up shutting that down in the middle of 2014. But our technology was around 125 and we chose to put that facility in the ground versus others.

COMMISSIONER BROADBENT: Okay, thank you.

This would be for Mr. Cannon. If the HFC components are sold commercially to independent blenders, wouldn't the market for HFC components be at the point of sale of those components, rather than the market of the ultimate end-use product? Is it realistic to refer to the market for HFC blends as the actual market for HFC components? Are you conflating the terms "market" and "end use"?

MR. CANNON: No. There's no real merchant market for components. The volume of component actual sales outside of the end use blending is insignificant. And understood, the like product includes, in your legal analysis, includes in your up-stream or down-stream product analysis, the like-product here is consumed to make the blends, which are also part of the like-product. In other words, what we see is a product where the components have no other end use except to be used as blends.

And so it is two distinct issues. Is there a

merchant market? In fact, there is one for components. It's R-125 sold to fire suppression. And it's a tiny little market. But in terms of the end-use, the vast majority, virtually all, end up being used in blends.

Now the structure of how those components get to the blends, there are ways they could be internally consumed. They could blend themselves. They could swap. They could sell to each other, which they did. They employ all those means of exchanging components, sales among each other and other blenders, swaps, and internal consumption.

But the product that emerges, the end use, it's still a blend. It's not a non-scope product.

COMMISSIONER BROADBENT: Thank you very much.

CHAIRMAN WILLIAMSON: Thank you. Commissioner Pinkert?

COMMISSIONER PINKERT: Thank you. And I join my colleagues in thanking all of you for being here today to help us to understand these issues.

Now, Mr. Cannon, you know that National argues at page 14 of its brief that there is not a U.S. merchant market for components. And you have just said the opposite.

So how can we resolve that conflict in testimony?

MR. CANNON: I'm sorry, then I misstated. There effectively is no merchant market. I mean, it's tiny. The merchant market for components is less than one percent of

the market. So I agree with National. Indeed, that's exactly--that's the reason why this is one like-product, because there is no other. It's kind of like, so in solar panels--or, rather, in photovoltaic cells. The scope of the Order, the like-product covers the cells and the modules because there's nothing else you're going to do with a cell except to make a module.

Likewise, here the only thing you're going to do with these components, the vast majority, 90-plus percent, is make blends, there's no--the merchant market is.

COMMISSIONER PINKERT: Thank you.

Now National also argues that it has limited ability to purchase domestically produced components. I heard what Mr. Winick said in his testimony, but I'm wondering if somebody can testify about whether National has approached you to purchase components and been turned down?

MR. HAUN: This is Glenn Haun with Arkema. We've had a long-term relationship with National Refrigerants. In fact, the relationship goes back decades, well before, you know, I'm in this position.

National has been one of our largest customers for many years. We have sold them significantly more blends prior to the Period of Investigation, and any decrease in volume was a result of their decision, not ours. Volumes dropped, as the prices for blends decreased. During the

Period of Investigation, they regularly turned down volume we offered them, or they just never purchased the volume despite agreeing to a forecast, and this was all due to price.

The Chinese prices were always the driving factor behind their decision in buying any product from us, whether it was blends or components. And during the Period of Investigation and before and after, we have sold them both blends and components.

And in 2015, the last year under the Period of Investigation, we actually sold them significantly more volume than they originally forecasted. And this all came after the AD filing was done.

MR. IRANI: This is Omar Irani with Honeywell. We too have sold substantial quantity of HFC blends and components to National. And, frankly, the door is open, and has always been open to sell to them and other customers at fair market prices should they choose to buy them.

So going back through the Period of Investigation, we have had that relationship. We continue to have that relationship. And we too have been selling more product to them recently, and we will continue to make product available to them at fair market prices.

MR. BACHMAN: If I could add--this is Jim Bachman with Chemours. We have not traditionally done business with

National as a customer, but at no time during the POI or before did they come to us requesting quotation for blend components.

COMMISSIONER PINKERT: Just so I understand what everybody is saying, I understand that pricing could be an issue for National, but nobody on this panel has had the experience of saying we cannot supply that quantity to you, National? Is that correct?

MR. IRANI: Omar--Glenn?

MR. HAUN: Well speaking for Arkema, it's Glenn Haun, that's correct. And I was honestly surprised to see it in their filing.

MR. IRANI: Omar Irani with Honeywell. We also have not refused to supply.

MR. BACHMAN: Jim Bachman with Chemours. We never got a request to supply.

COMMISSIONER PINKERT: Any other comments on that issue on the panel?

MR. CANNON: I think, I mean it's our intention, you know, absolutely we dispute this. It is wrong as a matter of fact. It is our intention in our post-hearing brief to offer you confidential information to show contracts, the size of sales, and so forth. And, to show that once the duties went on, where did National go? Well, they came back to us, and suddenly now that prices are

higher, and to show you we're willing to supply.

And, you know, they are competitors, and--

COMMISSIONER PINKERT: Let the record reflect that he is pointing to folks on his own panel as he says that.

(Laughter.)

MR. CANNON: They are going to tell you, or in front of their competitors, their relationships with National, right? So they may appear, because they're concerned that, Jim, we can't talk about this. We have to wait for the post-hearing brief. So we will deliver.

COMMISSIONER PINKERT: Thank you.

Now this panel spoke a little bit about the impact on the industry of the expiration of intellectual property protection, but I'm wondering whether you have actually sat down and tried to quantify the impact or the effect on the performance of the domestic industry of that expiration?

MS. SASSANO: Hi. This is Beth Sassano of Chemours. I can honestly say I don't think we sat down and quantified it. I could say that, you know, it would be our expectation when a product comes off patent that the price should fall, because more competitors naturally can enter the market when a product goes off patent.

But what we have seen transpire, which we have analyzed, is that the low-priced imports from China have

pushed the market down to price levels that are below our cost of manufacture. And that is not reasonable.

So, you know, and the price coming off patent maybe should have come down a little bit. The other thing was, the market was growing during this time. The 410A which we talk a lot about was the replacement product in the OEM equipment for R-22, and it will be in-service, and serviced in these equipment that get installed. And in a growing market, you wouldn't expect prices to be plummeting like this.

MR. BACHMAN: Jim Bachman. If I could add, from Chemours. I think one of the claims in the pre-hearing brief from the opposition was that we had made a couple of decades of profits on these patented products, when in fact 410A in particular didn't get used in a big way until starting about 2009-2010 when the EPA regulations required that R-22 no longer be used in new equipment.

And that was at about the same time as the patents for 410A were expiring. So there weren't a couple of decades where we made a lot of money selling 410A in advance of the patent expiration. So it is a misnomer.

The time of growth in 410A has been since the patents have expired due to the regulations.

MR. IRANI: Omar Irani with Honeywell. I had referenced that I started with the group in 2006 for

products. I left the group in 2010 to go work in another part of Honeywell and came back in 2014.

Suffice to say that I was shocked when I saw the state of our HFC P&L when I came back to the business, because it was like I kind of took a holiday and came back four years later and what I saw was just, it was not pleasant.

And I was part of the driver to try to change that strategy, as I reference in 2015, to say, look, this is not working. We have to try something different. And unfortunately that failed, as well. So I apologize for not answering your question directly as far as quantifying, but I saw it in the P&L. And as previously noted, we did not add capacity during the time frame, right? So this was one of these things where you would think that because demand was going up that there would be better opportunities for us. It was exactly the opposite.

MS. CLARK: This is Allison Clark, speaking on behalf of Arkema. We built our 32 plant in 2007, knowing that the patent would come off in 2010 for the 410A product. We have never achieved the investment economics that we believed we would achieve for that product.

So I can tell you with all certainty, we did not expect prices to come down the way that they have over the past few years.

COMMISSIONER PINKERT: Do you have 2007 contemporaneous projections along the lines that you just suggested?

MS. CLARK: I wasn't working for the business back in 2007, but we always have a business case that we put together to build a plant. So I'm sure that it does exist.

COMMISSIONER PINKERT: If you could supply that in the post-hearing, I think that would be helpful.

MS. CLARK: Sure.

COMMISSIONER PINKERT: Thank you.

CHAIRMAN WILLIAMSON: Okay, thank you. I don't want to spend much time on this, but all these different numbers, could somebody simply explain, is there a rhyme or reason for why you have the numbers that you do? Like I said, not in a lot of detail, but anything that could be helpful.

MS. SASSANO: Yes, thank you. This is Beth Sassano from Chemours. I think we should turn this over to Barbara Minor. She is our--we call her our technical fellow. It's the highest technical rank you can have in Chemours. I think she could answer your question.

MS. MINOR: I'm back here.

CHAIRMAN WILLIAMSON: Okay, thank you.

MS. MINOR: Hi, Barbara Minor with Chemours.

A refrigerant naming is actually done by an

organization called The American Society of Heating, Refrigeration, and Air Conditioning Engineers, called ASHRAE, and they have a safety and classification process. And when someone develops a new refrigerant, they propose it to ASHRAE and they have a numbering process that they use.

And it really is sequential. And if someone proposes a blend of let's say 32, 125, 134A, it will be assigned an R number such as 407. The first time someone proposes a blend, they're given 407A. If someone proposes a blend at the exact same components and they adjust the composition slightly, they'll get the number 407B. And each new refrigerant that comes in that has a brand-new composition will get the next number in the list.

So it's not very intuitive, but it's an organized process managed by this group.

CHAIRMAN WILLIAMSON; Thank you. Thank you for that very clear explanation. Good.

Following on Commissioner Broadbent's questions, Mr. Cannon, just to clarify, are there imports of the out-of-scope HFC blends?

MR. CANNON: No. I don't think your staff report shows any imports of out-of-scope blends. And our analysis, I mean we brought the case to cover the product which was being imported.

CHAIRMAN WILLIAMSON: Okay, that's fine.

Also, again just looking at the HFC blends, are there differences in physical characteristics and uses between the in-scope and out-of-scope HFC blends? Unless someone wants to answer that?

MS. SASSANO: This is Beth Sassano of Chemours. I'll start, but then I'd ask Barbara to chime in here. So the five in-scope blends, you have--I'm going to give you some more numbers, but they are 401A and 407C that are primarily used as an air conditioning refrigerant. So they are used in that application. And 404A and 407A are mainly used in refrigeration.

There's another one that's in-scope which is 507 that can span a multitude of applications, specifically in industrial processing. When it comes to physical characteristics, though, I would actually turn that over to Barbara.

MS. MINOR: So this is Barbara Minor again. So the refrigerant blends, as we mentioned, they're mixtures. So any time you mix a blend they have certain specific properties. They do vary in boiling point. They do vary in vapor pressure characteristics.

But the intention in the blend development was to try and match the performance of the existing refrigerants so that there could be an easy transition to the HFC non-ozone depleting products. But each refrigerant used in

different applications will need--have different requirements.

For example, R-22 used in air conditioning has very different performance than R-22 used in a supermarket. So that's why each of the blends was specifically designed for a specific application and a specific pressure temperature requirement.

CHAIRMAN WILLIAMSON: Good. Thank you.

Mr. Irani, you stated that you could increase capacity at your plant. What sorts of additional capacity do you think could be added this way? And do any of the other producers have anything to say on this? And if you want to do it post-hearing, that's okay.

MR. IRANI: Omar Irani with Honeywell. There are multiple routes to increase capacity. There are what are called debottlenecking projects where you can take a part of a unit, which is essentially a limiting factor, and increase its size, let's say, hence the "debottlenecking." There's also the ability to bolt on additional reactors, additional equipment to essentially expand capacity as needed.

CHAIRMAN WILLIAMSON: Okay.

MS. CLARK: Allison Clark for Arkema. We also have the ability to expand our capacity in Calvert City. However, today the reinvestment economics just aren't there. If there was a case to be made, we would be able to expand

capacity.

MS. SASSANO: Hi, this is Beth Sassano from Chemours. As I mentioned earlier, we ended up shutting down our 125 facility in the middle of 2014 and we had to make this choice -- we were having such negative profits in this industry on these HFC blends, that facility depending on what happens in the outcome of the AD case and if we see prices come to a fair market situation, that decision could be re-evaluated to restart -- we would take a look at that.

CHAIRMAN WILLIAMSON: Does that take very long to do?

MS. SASSANO: To restart the facility?

CHAIRMAN WILLIAMSON: Yeah.

MS. SASSNO: I mean, we'd have to evaluate, but all the equipment is sitting there, so it's not, like -- it would just have to be geared up to start.

CHAIRMAN WILLIAMSON: OK. Thank you. Mr. McCoy, did the workers at the Arkema plant shift among the various blends produced there? In other words, do you work -- might you work on one blend one day and another one a different day?

MR. McCOY: Yes, sir.

CHAIRMAN WILLIAMSON: OK. What about -- do people sometimes work on components and then work on blends or vice versa?

MR. McCOY: No. Actually, the people that work on components only work on the components. They're trained for that job and then the blend operators are trained for specifically the blend operation.

CHAIRMAN WILLIAMSON: OK. So everybody's different?

MR. McCOY: Yeah, it's two different groups.

CHAIRMAN WILLIAMSON: Have you heard anything about maybe what workers in general -- are they employed differently? I imagine wages are lower, but any other distinctions that you may have heard about?

MR. McCOY: No, not that I --

CHAIRMAN WILLIAMSON: OK.

MR. McCOY: -- I mean, over the history I mean, normally Chinese workers are paid a whole lot less and have a whole lot less benefits than we do.

CHAIRMAN WILLIAMSON: Mm-hmm, yeah, OK. I was just curious. Sometimes -- see what role that may play in this case.

MR. ROWE: Chairman Williamson?

CHAIRMAN WILLIAMSON: Yeah.

MR. ROWE: Rich Rowe with Arkema. Arkema has operations in China and I can tell you that the expectations of a global operator in China, in terms of environmental performance, in terms of safety performance, are either set

at a higher standard because of the company itself, in this case, Arkema. Or because you're a multinational operating in China.

The standards relative to other Chinese companies, other Chinese operators, are not always the same, and to your question about training and the utilization of operators across the site, I feel very safe in saying that the caliber and expectations are not at a comparable level to production in the United States.

CHAIRMAN WILLIAMSON: Yeah? OK, thank you. My understanding is that the in-scope blends were developed to replace R22. Are there other blends, not in the scope, that were also developed to replace R22?

MS. MINOR: This is Barbara again.

CHAIRMAN WILLIAMSON: Sure.

MS. MINOR: Yes, they were, but typically what happens in this industry is you have points of divergence and then convergence, so when the transitions started to HFCs, they basically needed to come up with these brand-new formulations and try and match the performance and different companies would take different approaches and propose different blends, and that's why there are so many of those ASHRAE 400 numbers.

But typically what happens over time is, the industry desires convergence, because if you think about the

practicality of a maintenance technician coming out to fix your air conditioner, he can only put so many cylinders up on that table on his truck, and if he has to have forty different refrigerants on his truck, it's very impractical, so they drive the companies to say, let's get down to one product that will meet all the needs and basically covers as many applications as possible.

And that's why in the end, you find that there's very few refrigerants that the industry ends up focusing on and uses widely in as many applications as they can, and other refrigerants are really just set aside and in the end, not used.

CHAIRMAN WILLIAMSON: OK. Thank you.

MR. CANNON: I can't resist. Because when you're the lawyer, you love to get into all the engineering and stuff. So there are blends which use HCFCs or HCs, so they're out of scope and they have different elements and it's really -- so the HCFCs, it's a really small, shrinking and dying market, because it's being regulated away.

But those actually work in the equipment that used to run R22, like using the same oil. They'll fix me on this, but mineral oil. And so that equipment won't run the new -- the blends in this case. So there are out of scope blends in this small segment, which actually will run in the old equipment and replace R22, but that's out of scope,

because it has a different physical characteristic. It runs in the old equipment.

CHAIRMAN WILLIAMSON: OK. Thank you. You may have partially addressed this. How many of the out-of-scope blends are there that use some of the in-scope components? And what share of the U.S. market do these out-of-scope blends account for?

MR. CANNON: You have a list in the staff report. It's at the very end of Roman Numeral Section I, Table I-30 or something. It's two pages long. I bet there are over forty different products listed there. But as Barbara testified, many of those, nobody makes. There is a 410A here on the table -- there was also a 410B. 410B lost. Right? Nobody put it on their truck. The industry went to 410A, so there was a really long list of products. It's a different issue, does anyone make them.

CHAIRMAN WILLIAMSON: OK, thank you. Thank you for those answers. Commissioner Johanson.

COMMISSIONER JOHANSON: Thank you, Chairman Williamson. I'd also like to thank all the witnesses for appearing here today on this product that we all take very much for granted. I once read an article about the growth of the City of Houston, and apparently growth didn't take off until after refrigerants came into existence or were perfected.

And I once visited up in northwest D.C. -- northeast D.C., President Lincoln's summer cottage and actually, there's a cottage up there because it's a mile or two away from the White House, but it's up on a hill, so it had a better breeze, so I appreciate your industry very much. It makes life much more pleasant. And it probably extends our lifespans as well. I assume it does. Because in some parts of the country, it's way too hot.

Anyway, my apologies for going on like that, but that part of Washington, D.C., which is probably just as bad much of the time.

You all argue in your prehearing brief on Pages 23 to 27 that blenders should rely on imports of HFC components to make downstream blends should be excluded from the domestic industry. How should the Commission view the imports of HFC components by the three HFC component producers? How should the Commission treat U.S. producers who do not make in-scope components? And that is not counting swaps?

MR. CANNON: The related party provision and the part of it that deals with imports, your precedent focus is on the extent to which you are relying on imports or relying on domestic production. And if you look at the, let's say the Table III-9D in the staff report, which in the questionnaire, which is the P&L, so in the staff report, it

would be in Section 6, the blends P&L. You see there for the U.S. producers, how much of their cost is represented by their imports and it is small, very small. And then look at National, how much of their cost is represented by imports. The vast majority.

So they are in opposite positions, so yes. The U.S. producers do some importing. After all, they're having to compete in this market. They're having to confront competition from Chinese blends and so at some point the pressure is great for them and so they do a little importing, but when you look at those two factors, there is such a sharp difference and distinct difference in interest that you can see that companies like National fall far on the side of being interested in importing. These companies do not.

And also I'd point out that everyone here manufactures blending components, so during the period Chemours manufactured 125 for two of the years, but continuously they manufacture 134A, and 134A is found in several of the blends. It's complex because there's a separate dumping case on R134A, which Mexico followed several years ago. We've now -- the coalition has refiled.

So there's this sort of complicated legal like product issue, kind of like ITC Law School exam, but Chemours absolutely is a manufacturer of blending component

134A.

COMMISSIONER JOHANSON: Thanks, Mr. Cannon. And you brought up the R134 case. I know we can't get into that in any length. But I'd like to talk a bit about OEMs and the replacement market. That's something Mr. Winick -- I believe you touched upon a while ago -- and bringing this up, because I recall in the R134 case, the distinction between OEMs and replacement market, that distinction was very important, I do not perceive the same level attention to OEM replacement market distinction here.

I do vividly recall hearing about how the auto manufacturers were concerned that the delivery of their $40,000 cars could not be delayed by even a moment shortage of R134. Are the OEMs in this industry equally as concerned about availability? And is it safe to say that OEMs typically buy in bulk, but those in the replacement market tend to purchase in small canisters?

MR. WINICK: Yes, I would -- Richard Winick with Honeywell -- I would say that your final comment is true. That the OEMs generally buy in bulk for the factory production of air conditioning equipment, and then for the aftermarket store chains, they buy the small cylinders like you see in front.

It's an interesting distinction here because they do buy both products, and so --

COMMISSIONER JOHANSON: I'm sorry, it may be in the OEM?

MR. WINICK: The OEMs do buy -- they buy the product -- I should say maybe in both delivery forms. They buy the product in bulk form. They buy the product in the small cylinders. And so when these OEMs get price offers from the Chinese producers, in cylinders that are very low-priced, that sort of concept of the value of the product in a cylinder leaks over onto the factory fill side of the business, and so when I go sit with the factory fill people, you know, they expect a similar price profile for bulk product that their colleagues get for the package product.

So we're impacted -- at the OEM, we're impacted by the very low Chinese dumped pricing on the small cylinders, and that the guy who buys the bulk product, he's exposed to that same price. He expects a similar price for his bulk material.

COMMISSIONER JOHANSON: Why would an OEM purchase the small cylinders?

MR. WINICK: Most of the big OEMs in the U.S., they own and operate their own stores. So they have sort of retail distribution stores, where contractors can go in and pick up an air conditioner and have them put it on the back of your pickup truck and take it to your house and drop it

by the side of your house and install it.

So if you have a Carrier unit or a Trane unit or a Goodman unit, most times the technician will go to a distributor location, pick up the unit, and maybe pick up a cylinder, a 410A while he's there, come to your house and install that unit in your house, after he's been to the distributor store.

COMMISSIONER JOHANSON: All right. Thanks for your response, Mr. Winick.

MR. CANNON: I'd like to just put a little comment on that.

COMMISSIONER JOHANSON: Yes.

MR. CANNON: Rick testified about United, so that's National's stores, so National competes with these OEM stores, such as the Carrier stores. That company's Watsco, but there are, I don't know, 500 of these stores for Carrier air conditioners, where they would go and buy the cylinders, and they're an OEM, Carrier. But National, that's what they're doing, too. They're an independent, and they have 500 stores, and that's really their business. Not manufacturing.

COMMISSIONER JOHANSON: So National has, like, 500 stores? OK. I can talk to National later about that, I guess. I just -- I'm not very familiar with the industry.

MR. HAUN: Glenn Haun. Can I answer that please?

Glenn Haun with Arkema.

COMMISSIONER JOHANSON: Yes.

MR. HAUN: So yes, there are thousands of wholesale locations based around the United States where contractors go in and buy these products. National is a privately held company that has one of the largest bases of wholesale locations available in the United States and they actively compete against the Trane locations that Rick was talking about, against the Goodman locations, against the Johnstone Supplies, so National/United Refrigeration is one integrated company is probably the largest outlet for selling these products in the U.S.

COMMISSIONER JOHANSON: OK. Thanks for your response, Mr. Haun. We have observed commodity prices, such as for oil and steel products, decline in the past several years. Have these trends affected the raw material costs of HFC production?

MR. CANNON: Post hearing brief.

COMMISSIONER JOHANSON: OK. I understand.

MR. CANNON: Yeah. It's confidential.

COMMISSIONER JOHANSON: Thank you. To what extent is intra-industry competition among the domestic producers causing adverse price effects? This is a pretty unique situation.

MR. CANNON: In every case, there is adverse

price effects, if you want to call it that from intra-industry competition. When the steel producers all appear in front of you and there are even more rows of folks, they all compete with each other. And they all drive prices down and they all -- you can see on the record here that some of these producers have taken business from the other ones, so they compete.

But the price levels at which they are competing have been pulled down by these far lower prices offered by Chinese producers. So we are not asking for freedom from competition. We are asking for relief from dumped imports they're selling at two hundred percent dumping margins.

MS. CLARK: This is Allison Clark from Arkema. I'd just like to add that all of the components' producers have the same burden of achieving reinvestment economics. And that's very different to a blender or someone that's just importing finished goods.

COMMISSIONER JOHANSON: But looking into the intra-industry competition, there is the use of swaps here is not commonly found in many industries, correct?

MR. ROWE: Yeah. In fact, Commissioner, I would say that swaps are a not-uncommon practice within the chemical industry, particularly when you're dealing with commodity chemicals. They can be driven on the basis of location where you'll have producers producing a chemical, a

commodity, in either two different parts of the country, the northwest and the southeast, for example, and the benefit of a swap, which is volume-oriented only, is that you save on transportation or logistics costs.

In the case of HFC components, it's based on that same fundamental of getting economies of scale, operating efficiencies and let's say, better investment economics. So the benefits are the same. In terms of the swaps on HFC components, they're essentially done on the basis of a quantity ratio.

There's no sharing of cost data between producers, none at all. It's on the basis of a quantity swap. And again, it's meant to create efficiencies and improved costs that fundamentally pass through to the industry and the ultimate consumer. But it's not an uncommon practice.

COMMISSIONER JOHANSON: All right, thanks you for your responses. My time has expired.

CHAIRMAN WILLIAMSON: Thank you. Commissioner Kieff.

COMMISSIONER KIEFF: Thank you very much. I join my colleagues in welcoming the panel and if I could just briefly dive right in and follow up on the swaps question. Is the tax treatment of the swap the same as the tax treatment of the cash purchase and sale transaction?

MR. CANNON: I think we'll have to ask an accountant for the post hearing brief.

COMMISSIONER KIEFF: Does tax treatment feature in the decision to engage in a swap?

MR. ROWE: Rich with Arkema. Commissioner, I think it's best if we answer that in a post hearing brief, but my experience would tell me that it is not -- well, it may be a factor, it's not necessarily the driving force.

COMMISSIONER KIEFF: OK. And I appreciate all the reasons why that probably has to be handled in the post hearing, but when you provide that information, it might be useful to let us know -- just be sure to explicitly inform us of how you handle the tax treatment of the basis in the items being swapped, how you calculate profit or loss, if any, and in particular, how you assess current market value because that presumably will inform both your basis calculation and your profit or your loss calculation and then, also let us know if there are any particular IRS regs or rulings on the books that help us understand better about whether swaps have what's colloquially known as favorable tax treatment.

Basically, in effect, I'm asking why have a barter economy instead of a cash economy. I get that you don't have to ship the stuff, but there oftentimes when there's a barter economy, a lot of other factors other than

just shipping costs.

MR. CANNON: So apart from the tax issue for which we don't know the answer -- we'll ask an expert -- just the impact on our costs -- your staff accountant worked really hard on this and I think has a great understanding of this and way of talking about it -- and you can talk and get insight from him, but he worked really hard in the questionnaire to sort this out, and in sort of a very simplistic way, if you think about this, one manufacturer of 125, another manufacturer of 32, they trade.

They keep -- they assign to the quantity that they got, their own cost for what they traded and the other company does the same thing, so in the market, they all keep their own cost. So whosever more efficient has, you might say, a competitive advantage that does not change. Right? They all keep their own costs. And that affects the P&L, so the profits you're seeing, that's the basis for that.

And also you should note that -- let's not get too out-of-perspective the volumes and the significance of the swaps. There's also internal consumption and purchases, as well as swaps.

COMMISSIONER KIEFF: And then just lastly, if you could also discuss the ways in which swaps are used as hedging devices and futures and options devices, so for example, I certainly well remember the days in which -- I

think it was Southwest Airlines happened to make an immense amount of money simply by holding a lot of fuel futures when fuel prices changed, not by actually flying airplanes, but by loaning fuel. So we all know that -- anyway, you get the gist. So that's just helpful.

Let me also ask, and this may be a lawyer question, but I'm trying to really figure out where you and your opponents disagree. And what the nature of the disagreement is. Is this a factual disagreement or a legal disagreement? So let me start with a very narrow question. In your discussion with Commissioner Pinkert, he had asked each of you, 'Have you been asked by a blender to sell component?' You all said, in effect, 'Gosh, no.' And what I'm trying to --

MR. ROWE: Actually no, one company said no. Two said absolutely yes, and we deal with them all the time.

COMMISSIONER KIEFF: I see. I guess what I'm trying to figure out is, do you think, whatever your answers were, do you think the afternoon panel is going to take your seats and swear the opposite? Or are they going to say, 'Absolutely, we totally agree,' and therefore, x, y or z?

Do they disagree with you on the facts or on the significance of the facts?

MR. CANNON: So I got the plans in the air. Maybe I should let the witnesses be the lawyer. Yeah,

they're -- I think they're going to sit here and I think they are going to tell you a lie. They are going to say we would not supply them, and it is not true. And it's a factual issue, and it's a credibility issue. And we will show you how much we've been supplying them and you'll be able to see who's telling the truth.

COMMISSIONER KIEFF: OK. So then, you know, a question for both panels is to provide evidence outside of this proceeding, evidence outside of assurances by live human beings who likely are doing their best job to tell us what they truly think.

So if you will, business records, sometimes those business records include call logs. Sometimes they include e-mail traffic, you know, any kind of ordinary business records that either side has to confirm what a trial lawyer would think of as the core factual disagreement, that certainly will be helpful. And we would look for that in the post hearing and it will be what it will be.

Let me then ask a follow up question. Do -- and again, this is a very legal question. What do you see as the key obstacle to a Commission opinion that were written that said, in effect, 'affirmative with respect to the blend, but not with respect to the component'?

MR. CANNON: So the first, and it's not even

legal, the first key obstacle to that is if we get that, we might as well not have a dumping order.

There is no case if it's only on blends and not components, because not just National, there are EPA-certified 50 plus companies out there that can blend, and the can do what Glenn said. They can pull an ISO container on a flatbed truck to their parking lot, hook two hoses or pipes to it and some valves, dump it in a tank and that's a blend.

That's why the Commerce Department has taken such pains to make clear in the scope that a 50-50 blend is included. A semi-finished blend is included.

COMMISSIONER KIEFF: Let me just make sure I'm understanding the nature of your --

MR. CANNON: We have no utility of an order if you do that.

COMMISSIONER KIEFF: Okay. But that's not exactly the question I asked. I'm sympathetic to your answer. Your answer is that that hurts you. Nobody's interested in hurting anybody, but I'm asking the legal obstacle to that.

MR. CANNON: So I'll let Nazak address the legal obstacle.

MS. NIKAKHTAR: So I just want to make sure that I clearly understand the question, so I can drive at the

right answer. What is the legal obstacle if the Commission finds affirmative injury on the blends, and no injury on the components?

COMMISSIONER KIEFF: In effect, in a summary. We only have a short amount of time. I'm not trying to say that's where we're going. I'm just trying to really understand the nature of the disagreement. I take it that the afternoon panel, they might in fact split internally on that. Some of them would jump for joy and some of them would be equally as disappointed as you are. But I'm just asking is there a legal infirmity to that outcome?

MS. NIKAKHTAR: Well, I think one is that the domestic industry is being injured by imports of both, and so that's first and foremost the main concern. Then I also think that, you know, it's important to consider the fact that the components are an essential part of making the blends, and so they really just go hand in hand.

So in the Commission's analysis, we're asking to treat them as a single like product because the blends are an integral -- I mean the components, I'm sorry, are an integral part of making blends. But really, I mean, what we're here and what we're asking you to do is look at the injury, and when you do look at the injury landscape, you will see that you do see that there is injury from imports of both.

And in our prehearing report, we showed that there's significant quantities of imports of subject components from China, and then they're being imported at less than fair value, that the U.S. industry has ample capacity to produce the components. But the imports are coming in and there's price competition, and in fact they are injuring the U.S. industry.

COMMISSIONER KIEFF: Thanks. I see that I'm out of time. I just invite in the post-hearing anybody on either side who would like to explain that a little more. It would be helpful. Thank you.

CHAIRMAN WILLIAMSON: Thank you. Commissioner Schmidtlein.

COMMISSIONER SCHMIDTLEIN: All right. Good morning, thank you. I'd like to welcome all the witnesses. Thank you for being here today. So I'd like to continue on this line of questioning with regard to the components and blends and so forth, and try to understand a little more what differentiators 134A from the other components.

You know, I've been looking at the chart that you referred to, Mr. Cannon, which is on Roman numeral I-55 of the staff report, which shows the five in-scope blends, the eight out of scope blends that contain exclusively the in-scope components and 134A. So when you look at all of those percentages, you know you see -- well, you know, a

number of things from this in terms of the differences between out of scope blends and in-scope blends, but also the components.

So can someone tell me a little bit more about the distinction between 134A and the other components, and then how does that compare when you're looking at the differences between the in-scope components? So let's start with 134A.

MS. SASSANO: This is Beth Sassano from Chemours. I think I can address that for you. So 134A is different from the other three components that are in the case because it is primarily sold as a meat refrigerant, mainly for the automotive industry if you recall that case. A small part of it is using blends, but its focus is as a meat refrigerant --

COMMISSIONER SCHMIDTLEIN: It has a stand-alone market?

MS. SASSANO: Stand-alone market, a very, very big. It's predominantly a stand-alone market, unlike the other HFC components whose primary purpose is to go into blends, and those blends in 134A cannot be used in the same type of application. So 134A is in an automobile. 410A would never be put in an automobile. They're just not designed for it.

COMMISSIONER SCHMIDTLEIN: So 134A doesn't

compete with the out of scope or in-scope blends?

MS. SASSANO: No.

COMMISSIONER SCHMIDTLEIN: At all?

MS. SASSANO: Not in any material way, no.

COMMISSIONER SCHMIDTLEIN: In a material way. Are there some applications you can use 134A in that you can also use one of those 13 blends?

MS. SASSANO: Maybe I'll turn that over to Barbara.

MS. MINOR: Sure, this is Barbara again. Barbara Minor, if I might answer. 134A is a much lower pressure refrigerant than the in-scope blends in there, for it has much lower cooling capacity. It does not provide as much cooling as R-22 or as the 407 blends, and even 410A is even a higher pressure blend than those.

So 134A is used in a completely different way in a different market space, and if you tried to put 134A into your R-22 air conditioner for example, the clearing capacity would drop by at least 25 or to maybe 40 percent. So it just provides completely different cooling characteristics because of its higher boiling point and lower pressure.

COMMISSIONER SCHMIDTLEIN: Okay, all right. So apart from the stand-alone market, which I understand has its own use, automotive use, that the other -- that these blends don't have, can you talk to me a little bit thought

about, you know, it has -- and I understand it must have different physical characteristics, and then the other components that are going into these blends.

But do the components -- these other three components also have different physical characteristics from each other, right? So each of these four components are all manufactured on different equipment from each other, right? So the point I'm trying to get at, is the distinction here really just exclusively based on the fact that there's a stand-alone market? That's the basis -- that is really the basis for your argument that this should be excluded?

MR. CANNON: Yes.

COMMISSIONER SCHMIDTLEIN: And what I'm trying to understand is but when I look at it as a component, not as -- not in terms of whether it's competing with the blends -- I understand it's not competing with the blends.

But when you look at this chart, you can see the 134A is a component of one, two, three, four, five, six, seven, eight, nine, ten of the 13 blends that we're talking about, that use the other three components that are in scope, right?

MR. CANNON: That's correct.

COMMISSIONER SCHMIDTLEIN: So is it -- it's just that there is this stand-alone use? Like that is the only basis really for arguing that this should be excluded?

MR. CANNON: So legally, there's a distinction between in your practice between a traditional analysis of like product, your traditional factors, and your upstream/downstream analysis. So when we're talking about the components, 32, 125, 134A as it's used in a blend, 143A. Under your upstream/downstream like product analysis, those components, the three, putting aside 134A, are used to make blends.

That is their principle and only or nearly only use is to make blends. R-134A is unlike those components, because it is not principally used to make blends. It is principally used in air conditioning, foam, propellants, aerosol and maybe some as a polymer. It's used in chemical manufacturing. It is used therefore on its own, stand-alone, differently than these other three.

COMMISSIONER SCHMIDTLEIN: I know, but doesn't it make a difference --

MR. CANNON: But they are used to make blends. So it's your ^^^^

COMMISSIONER SCHMIDTLEIN: Yeah. No, I understand that. But you've included components in the scope and that's part of the argument, and I understand there's a semi-finished product analysis, that those don't have an independent use, and when you look at that, they would be probably included in a single like product.

MR. CANNON: Correct, correct.

COMMISSIONER SCHMIDTLEIN: But my question is more looking at this 134A, since you're also -- there are imports of 134A?

MR. CANNON: Yes, they are. There's a dumping order on 134A.

COMMISSIONER SCHMIDTLEIN: Right. So I'm trying to understand, you know, where do you start here? Why when you're looking at components, how do we --

MR. CANNON: Okay. So when you look at 134A, we look at your traditional factors, physical characteristics and uses, made in the same equipment, channels of distribution.

COMMISSIONER SCHMIDTLEIN: But don't the other three components also have those differences?

MR. CANNON: Some of them. Some of them, yes.

COMMISSIONER SCHMIDTLEIN: Okay. So what -- be more specific. What do you mean only some of them?

MR. CANNON: Well, the other three components are used in different uses. They're used to make the blends, and so they end up in different end uses, and it's their physical characteristics which make that possible. So yes, each component has a somewhat different characteristic. 125 is used in a lot of these, because it's not flammable. But it's lower temperature. Barbara will get me straight.

But you need something to mix with it to get it colder, so you add some 32. This is very crude. The purpose was to replace R-22 because of its ozone depleting nature, right. So R-22 was taken off the market. There needs to be a replacement. There is no perfect replacement. So the industry invented the blends to replace R-22.

R-12, freon, was also taken off the market. That was what was in your car. 134A worked there. So 134A, a stand-alone, could replace R-12. But a family of components that existed were blended to fit into the niche that used to be R-22. So a simple organizing principle is to think of it in that fashion, and that's indeed how it came about.

If Mexican had filed a dumping case on 134A, would we have that in the product too? We might. I mean I could see that it's not as a factual matter how close of a call is it. It's difficult. I could be arguing here if you hadn't had the other case, this is all one product and there's a continuum. I could hear myself doing this. But you have --

COMMISSIONER SCHMIDTLEIN: So 134A, right. So that's what I'm trying to get at. Is it --

MR. CANNON: So what happens when we looked at it, we thought actually it does sort of fall out on that side of the line, in the sense that 134A fits into the R-12

family of product. The blends fit into the other product line, R-22. In that fashion, it actually was a completely rational way in order to organize, and it's consistent with your finding that 134A was a single like product.

And even more importantly, your first -- your starting point, the beginning of like product is what's the scope? What's the Commerce scope? What imports are we talking about? We're talking about the imports of the blends and the imports of the components that are used to make the blends.

That's the Commerce scope, components and blends. So the first starting point for the Commission is do we have the identical product? Yes, you do. You have the identical product. We make it. I think if you add 134A, you still find injury. But we've got the identical product.

COMMISSIONER SCHMIDTLEIN: Okay. My time is almost up, so who --

MR. CANNON: We can come back.

COMMISSIONER SCHMIDTLEIN: Thank you.

CHAIRMAN WILLIAMSON: Commissioner Broadbent.

COMMISSIONER BROADBENT: Thank you very much. I think in the testimony today, it might have you, Mr. Cannon. You said that you expected double digit growth after the 2011 EPA ban on the production of new air conditioning

equipment designed to use CFCs and HCFCs.

Were these demand expectations reversed after the EPA's 2013 ruling in response to a court case, to allow more of such equipment to -- than previously anticipated? How did this ruling affect prices and consumption of AFCs (sic), and I'll let you defer to your group there.

MR. CANNON: So I'll refer this to the witnesses. I believe that what you're referring to is that after R-22 was sort of taken off the market or restricted or heavily regulated, at some point in there, 2013, there was an expansion on allowance of more R-22.

So I think what the question is did that impact the HFC demand or market? Is that --

COMMISSIONER BROADBENT: Yes, fine.

MR. CANNON: Okay.

MR. BACHMAN: I can start. This is Jim Bachman with Chemours. The two are entirely unrelated. R-22 was refrigerant used in large quantities for equipment design for R-22 that was being phased out, and by EPA regulation you could no longer make a piece of R-22 based equipment come 1/1/2010.

So the market converted to manufacture air conditioning equipment with 410A, both commercial and residential air conditioning equipment. It's that installed base of air conditioning equipment that requires service.

So the quantity of 22 that's in the marketplace has nothing to do with the quantity of 410A that's required to service the installed base of 410A equipment, that had begun being built in that 2008-2009 time frame and which continues to grow in the marketplace today.

So these are very different applications that we're talking about. So it's been unrelated. We saw no impact on the in-scope blend products as a result of the 22 that the EPA put back into the marketplace.

MR. HAUN: Commissioner, this is Glenn Haun. First, I want to go on the record to make sure everybody knows. Despite being in a coalition, you know, the three companies and specifically myself as a sales director, we are fierce competitors.

So although we may agree with our approaches and our answers today, we certainly only know about each other based on what we learn out in the market, and what customers share with us. So with that being said, I will say I do agree with Mr. Bachman's assessment of the answer he provided.

MS. SASSANO: This is Beth Sassano. Can I build on a little bit of what Jim said? So one of the things, when the new 410A equipment was designed, you can't now put R-22 back into that equipment.

So maybe that's just to clear it up. So it's

not like when more 22 came on the market, people could take that and put it into the 410A equipment. You cannot. The designs of that equipment are totally different. So I don't know if that helps answer some of the question.

COMMISSIONER BROADBENT: But we do have the phase out of the R-22 that was kind of slowed. I mean it was a pretty abrupt phase out when the EPA first out with the regulation. The court challenged that, and then the phase out required was much less dramatic, as I understand it. So isn't the installed base, isn't that changing demand, because you're --

MR. BACHMAN: This is Jim Bachman. When the EPA put the additional 22 back into the marketplace, it was for service of equipment that had been designed for 22, that had been produced prior to 1/1/2010. It did not add new equipment with 22 in the marketplace.

COMMISSIONER BROADBENT: But then you could still keep using your old equipment with the R-22?

MR. BACHMAN: You could, and you could have anyway. There was ample supply of 22 in the marketplace to service that equipment.

COMMISSIONER BROADBENT: Okay. Yeah, if you could ^^^^ this is a part that you can tell I don't quite understand the impact here, but maybe just a little bit of description when you file your post-hearing briefs, that

would be really helpful to me.

MR. LEVY: Commissioner Broadbent, Jack Levy for Cassidy Levy Kent. We'll of course elaborate in the post-hearing submission, but your question was framed in terms of volume effects, of course apparent domestic consumption is what it is and it's growing throughout this period for the in-scope product, the blends.

But in relation to price effects, I would also call your attention to Exhibit 2 of Petitioner's submitted materials. Here you have a price sheet, one of many that we see in the industry once a week from importers of Chinese product, this one from BMP, Inc., and it lists the prevailing price for R-122 as well as prices for other in-scope HFC blends.

I think what's readily apparent from that sheet is that what's left of demand for R-22 in the U.S. market is in an entirely different sphere in terms of price.

MR. CANNON: If your copy's not great there Commissioner Broadbent, the price of R-22 is $331 for a cylinder. The price of the R-410A is $57.90.

COMMISSIONER BROADBENT: Okay. That's really helpful. I have just a couple of questions for Mr. McCoy from the union. Can you talk to me a little bit about the training that's involved for the workers that are making this domestic product, different categories of training, how

long your workers generally train for?

MR. McCOY: For the workers that are making the components, you have a very extensive classroom, learning about the process, learning about what you're raw materials are, the safety aspects of it. You have classroom every day. You have hands on, and it takes 120 days' worth of training, sitting at a control panel, walking through the outside, learning the packing systems, how they work, all your pressures and temperatures.

And then after the 120 days of training, you actually go on what we call go on shift work, and you are shadowed by a senior operator for an extended period of time, to learn how to operate the process. So it's a very extensive training part of learning how to operate one of these facilities.

COMMISSIONER BROADBENT: Okay. So that's the bulk of the workers that we're talking about in this case, that are associated with the production of the domestic product or are being trained in this component technology?

MR. McCOY: Yes ma'am.

COMMISSIONER BROADBENT: Is that -- just out of curiosity, and this is not directly relevant, but is this training done by the companies or are there community colleges or high training programs?

MR. McCOY: No. It's done by the company.

COMMISSIONER BROADBENT: Okay. So you get -- as

a worker, you get accepted into the company training program?

MR. McCOY: Yes.

COMMISSIONER BROADBENT: To get this kind of sophisticated capability. That's really interesting. Thank you very much. I appreciate that.

MR. McCOY: Thank you.

COMMISSIONER BROADBENT: And thanks for coming, because it puts a really interesting perspective on the whole case, for you to be here.

MR. McCOY: Thank you.

COMMISSIONER BROADBENT: I just have a couple of minutes left. I guess following up on the labor theme, Mr. Cannon what extent should the Commission consider labor intensity in its analysis of whether there's a significant process used to transform the HFC components into the blends?

MR. CANNON: So we're not asking you exclude blenders, because they're not manufacturers. So we're not asking you to look at those factors. To be clear, we're asking you to exclude National, not because it's a blender but because it relies on imports.

Nevertheless, if you look at the pink sheets and you look at page five. It's either my eyes or it's really printed faintly, it says at the top "National refrigerant should be excluded." I'm sorry, the next page. I'm looking

at the wrong one. This one's easier.

If you look at the second set of data, wage rates, dollars per hour, the top line shows you what component producers pay. These are the factory jobs. This is a kind of a job which you can earn this much money, make somewhere north of $80,000 a year and support a family in America. Then you look at the wage rates below that. This is a blending job, right. This is what they're paid.

That tells you about the relative skill level. They don't have the skill level of the manufacturing jobs, and we know from this election cycle how huge this issue is, right. This is a big deal in America. It's serious business to keep manufacturing jobs alive and not turn us all into blenders.

COMMISSIONER BROADBENT: Okay.

CHAIRMAN WILLIAMSON: Okay, thank you. Commissioner Pinkert.

COMMISSIONER PINKERT: Thank you. Just have a couple of follow-up questions. First of all, following onto Commissioner Kieff and Commissioner Schmidtlein on the components versus the blends issue, I understood your testimony, Mr. Cannon, about the use of the semi-finished product analysis, and I think you were particularly focused on dedication for use of the product, the component products in producing the blends.

But I'm wondering, do components and blends trade in separate markets? Are there distinct markets that they're trading in, and anybody on the panel can address that. I see a head shaking the back.

MS. CLARK: As mentioned before, there is no market for components. So components are brought in exclusively to the U.S. to make the blends for HVAC and refrigeration. Does that answer your question?

COMMISSIONER PINKERT: So you're saying there's no merchant market?

MS. CLARK: There's no merchant market for components.

COMMISSIONER PINKERT: Okay.

MS. CLARK: Only the very tiny fire suppression market that was mentioned earlier. It's about one percent of the total market. So for 96 percent of the business, there is no merchant market.

COMMISSIONER PINKERT: Thank you. Any other comments on that question?

MR. CANNON: So as you experience in many products and cases, there is a market where components are sold. They can be imported directly. They can be sold by these producers to each other. You heard testimony. At one time there were distributors, ERGUS, Airgas, Coolgas, Hudson. There were many distributors who rather than buy

the blend would buy components.

And then they'd blend them and put it in the cans, and that's because they had canning lines, cans, jugs, whatever you guys call these things, cylinders. There you go, get me straight. Docks. They would put them in the pink cylinder, right. They had a whole -- that was their business model. They were running 500 stores. They have lines to fill cylinders.

So rather than buy the blend, they would just buy the two components, and they competed in that fashion. But today, because of the cheap prices of the imports, that has essentially collapsed, and now there is a market where these producers sell to each other and to blenders such as National, the components, right.

That though is a market only to use the product for blending. That's the reason it's unlike product. But it doesn't mean that there isn't a market that exists. I mean they indeed do sell, right? You guys all sell to each other components, apart from --

COMMISSIONER PINKERT: Well, I would ask you for the post-hearing, Mr. Cannon, take a look at the specific factors in the semi-finished product analysis. I understand your point about the first factor, and the first factor is a very important factor. There's no question about it.

But take a look at that separate markets factor

and please address that with reference to your testimony about the fact that components are traded.

MR. CANNON: Yeah we will, and it will be that it is the same market, because the two components only can be blended and then they're sold in the blends market, right? In fact, you would even have this, I'm talking to a customer, where I don't want to say a specific company, but I think we can back this up, that they might offer to a customer look, we'll supply you the blend blended, or we'll sell you the two components and you can blend it and here's like the cost differential, you know.

We'll give you a -- we'll let you make X percent margin if you want to buy the components instead of the blends. So they will do business that way. But it is the same business, right? But if you're the customer, you either want to buy the two blends and blend them, or you want to buy the already blended. Is that -- I don't know whether you guys can comment on that or not.

MR. HAUN: This is Glenn Haun with Arkema. Yes Jim, I can certainly confirm that. You know, the challenge for us as an industry is, and specifically for Arkema as a company, is you know, the Chinese manufacturers and suppliers and really industry in China, were very adaptive and, you know, drove down the price so quickly in components and blends, but ultimately blends, that it has put us, you

know, in a position where we can't survive.

We will not be able to survive, and to Jim Cannon's point earlier, if you separate the blends from components and you were to confirm, you know, blends but not components, we'll ultimately be in that same problem as well, because you know, the Chinese will be adaptive and you know, they'll ship isos over at below market cost of just components, and the three manufacturers sitting here that employ hundreds of people will not be able to survive.

COMMISSIONER PINKERT: Thank you. Now turning to some ancient history, if you look back to 2010-2011, or maybe it's not so ancient Mr. Cannon, but anyway six years ago or so, in 2010-2011 --

(Simultaneous speaking.)

COMMISSIONER PINKERT: What happened with R-125 pricing and why in that time frame?

MR. IRANI: There were raw material supply constraints that affected the ability of us to sell 125. There was no capacity restraint on 125. But as the raw material availability became limited, therefore it can appreciate supply-demand dynamics. Prices did increase.

MS. SASSANO: Yeah, this is Beth Sassano from Chemours. Just to build on what he had said, it was a global issue. So the raw material shortage affected, you know, the globe. It just wasn't a U.S. phenomena.

MR. HAUN: And this is Glenn Haun, and I would just add that significant has come online, you know, all in China since that time frame. So whatever condition may have existed in 2010 does not exist today.

COMMISSIONER PINKERT: And staying with R-125 for a moment, what happened when Honeywell closed its R-125 capacity?

MR. IRANI: Omar Irani with Honeywell. When we did choose to curtail our capacity, it was purely a function of the need to reduce our cost burden. We were just unable to make any reasonable profit on our asset base, and had to make that decision purely for cost containment purposes.

COMMISSIONER PINKERT: But what impact did that have on the market, the curtailment?

MR. IRANI: As far as I can tell, none.

MR. BACHMAN: This is Jim Bachman with Chemours. I'll tell you, it's very disheartening. I talk to distributors everry day in the U.S., and almost every complaint I get around pricing and competiveness is as a result of product that's being put into the market by the Chinese competition.

I've had distributors who have been 100 percent loyal to the Chemours Company and DuPont before that for 20 and 30 years, who have called me and say I can't send my customers down the street to buy Chinese 410A anymore, and I

know you can't go any lower on the price. I apologize, but I'm going to have to buy some of this stuff in order to blend it into my cost picture, so I can keep my doors open and continue to service my customers.

So there's a real causal effect here that we've seen in the marketplace of this Chinese material, and it's not just one conversation. I've had this conversation with numerous loyal Chemours distributors.

MR. HAUN: This is Glenn Haun with Arkema. I'll also confirm that we've had the same conversations with many long term customers of ours, and to the point where the customers almost beg us, beg us to match the price of what the Chinese offer, and we've just gotten to a point over the years that we can't do it.

Separately from that, you know, in multiple conversations I've had with National Refrigerants, and I've dealt with everybody in their company including the person who manages their refrigerants, the owner of the company as well as the person I believe you're going to hear testify to, you know, price has been driving factor for them in what they purchase from us or what they don't purchase. So you know, the Chinese prices have killed this industry.

COMMISSIONER PINKERT: Ms. Clark, I see that you might have something to say back there.

MS. CLARK: Well, I just wanted to add that

based on our estimates of the capacity in the world today, any plant closing would have no impact on the price of the materials in the market. There's a severe overcapacity globally for both 32 and 125.

COMMISSIONER PINKERT: Thank you very much.

CHAIRMAN WILLIAMSON: Thank you. Just to follow on this 125 question, so if there was constraint and I guess what, the 2010 period, did that affect -- you said that's been taken care of. Someone said the Chinese capacity. Was there anything done in the U.S. market to make more 125 available, because that would imply that the Respondents are saying well, we came in because, you know, we met that need that others, that the domestics couldn't.

MR. IRANI: This is Omar Irani with Honeywell. It was never a function of available 125 capacity whatsoever. There was always plenty of 125.

CHAIRMAN WILLIAMSON: Oh, it was both? Well, whatever went in to make that --

MR. IRANI: Correct. That's correct.

CHAIRMAN WILLIAMSON: Okay, and that got cleared up by when?

MR. IRANI: I want to say it lasted a pretty significant amount of time, six months?

CHAIRMAN WILLIAMSON: Oh, but that was --

MR. IRANI: Yeah. It was quite some time ago.

I mean it has long since been resolved.

CHAIRMAN WILLIAMSON: Yeah. Okay, thank you.

MS. SASSANO: This is Beth Sassano from Chemours. Just to build on that, my understanding was that that happened through 2011, but by the beginning of 2012 it was all resolved, and there was no capacity situations or issues with the raw materials at that time.

CHAIRMAN WILLIAMSON: Or lingering effects.

(Off mic comments.)

MS. SASSANO: HF. It was HF mainly from China.

CHAIRMAN WILLIAMSON: Okay, thank you. How do prices in the U.S. compare with prices in other markets? Is there any evidence that prices in the U.S. are higher? Looking at Table 7-7 on the prehearing report, page 715, make me think that they are, that they aren't higher in the U.S.

MS. BUTERBAUGH: This is Magen Buterbaugh from Chemours. I think your question was around the pricing of the 400 blends around the world, and where they are versus the U.S.?

CHAIRMAN WILLIAMSON: Yeah, because so often we hear that, you know, people say that the U.S. is the most attractive market. That's why the imports are here, but is that the case here?

MS. BUTERBAUGH: So as you can see during the

Period of Investigation, the prices in the U.S. fell drastically. So as I think all of the companies can attest to, the U.S. pricing as it exists in the Period of Investigation and today, is far below our cost of manufacturing and is the lowest in our global business today.

CHAIRMAN WILLIAMSON: What are prices outside of the U.S.?

MS. BUTERBAUGH: I'm stating that the prices outside the U.S. are generally higher than the U.S., as a result of the low-priced Chinese imports being in the U.S. market.

CHAIRMAN WILLIAMSON: Okay. I guess that's -- that's what I was looking for clarification on. Thank you. This is for Honeywell. Can you tell us a bit more about uses for the new refrigerant 1234 YF? What happened to the R?

MR. WINICK: Sure. This is Richard Winick, I'm with Honeywell. 1234 YF was developed primarily as a low global warming replacement for 134A for the automotive industry. So it's a very specific and sort of narrow application generally for that product.

CHAIRMAN WILLIAMSON: Okay. Does existing equipment need to be modified to switch over to it?

MR. WINICK: So in the automobile industry,

there are some very small modifications that are needed in the hardware under your hull to use the product. But generally, 1234 YF can be used in very similar equipment. It operates in a very similar way, just like 134A did prior.

CHAIRMAN WILLIAMSON: Okay. Okay, thank you. In answering the questions about the swap post-hearing, I was wondering how do the effective prices for components in your swap agreements compare to the prices offered to other HFC blenders on the open market?

I also assume that the responses will also deal what if the components you're swapping are of different values, different market values? But I assume that's all going to be answered as part of that. Thank you.

How large is the market for reclaimed/recycled HFCs, and is there a difference in customer perceptions or usage between recycled conversion blends?

MR. BACHMAN: Sure. Jim Bachman with Chemours. In today's market, the volumes of recycled HFC blends, particularly the ones that are in scope here today, and even the out of scope blends, it's very insignificant relative to the amount of R-22 that gets reclaimed and recycled in the marketplace. Just the sheer volume of the different products that exist in the marketplace so far, and quite frankly the value of the products as well.

It's much more worthwhile for a contractor and a

reclaimer to reclaim 22 when they can put it back into the market at $300 a cylinder, versus 410A, selling at today's marketplace. By the time you take it out of a piece of equipment and recycle it and try and put it back into the marketplace, there's just no value.

At the prices that these blends are trading, there's just no value in performing reclaim operations in the U.S. market right now, and that's why the volume is so small.

CHAIRMAN WILLIAMSON: Okay, thank you. Let's see. Petitioners state when considering different direct import pricing data, we may not consider information regarding calls for direct importing. However, the Commission usually strives to ensure that price comparisons are at the same level of trade. So how do you justify your argument on this point?

MR. CANNON: Commissioner, I think they are at the same level of trade. I dispute that in today's world, that direct imports are a different level of trade, when the importer also buys directly from the domestic manufacturers. So if a company like National brings an ISO tank, which by the way it owns a fleet of them, if it brings an ISO tank from China or one of these companies shifts a tractor-trailer with a tank on the back of it, they both go directly to National.

They compete head to head to go in the same loading bay, so to speak, at the location. That is head to head competition. That is the identical level of trade. So I don't agree with the -- with the notion that there are different levels of trade.

That is a vestige of the way the world used to be when there were always middlemen traders and importers. That's disappearing in the market. That market is flattening that doesn't exist. Now having said all of that, the margins of underselling of the direct imports are so large that you could add the amount that they estimate to pay for these ISO tanks they have.

Add that onto the price. They're still underselling. So you have it either way. I just don't -- I don't think it's a realistic view of the world, and it's not only this product, right? You see it in all the products in all your cases. It's the Walmart world. It's the phenomenon of big box stores that stopped using a middle man to bring their goods.

They started sending their own container to China and putting some textiles on at one stop and putting some packaged goods on at another stop, and they put on some sports goods at another stop and brought the container back to their store in America. Once the retailers or in this case the blenders or distributors or end user OEMs, once

they cut out the middle man and go straight to the foreign source, we're at the same level of trade.

I carry on too much about this, because we have other cases as you're aware, and they all talk about this.

CHAIRMAN WILLIAMSON: Okay, okay. So you're saying that there are a difference in the cost of getting the thing from one place to ^^^^ from Point A to Point B --

MR. CANNON: You ask for the prices DDP, duty deliver paid. That's the common commercial transaction terms in America. That's how everyone prices on their contract documents. You tell them give us DDP prices. You tell the domestics give us your FOB origin price, apples to apples. You're at the same level of trade. It's not complex.

CHAIRMAN WILLIAMSON: Okay, good. Thank you. My red light just came on, so thank you.

COMMISSIONER JOHANSON: Thank you, Chairman Williamson. I wrote separate views in late 2014 in the chlorinated isos from China and Japan case on the topic of whether or not to include tableters in the context of that case within the domestic industry.

While I encourage you to review those views post-hearing and to try to fit the facts of the current case to the framework that I used then, perhaps there's some further public observations that you all can make about the

expertise and the financial requirements for blending operations.

MR. ROWE: Richard Rowe with Arkema Commissioner. I think earlier there has been testimony that distinguishes on the training, first of all, from a human capital standpoint from our operators, operating blending units versus operating the actual production units for producing components.

In order of magnitude the skill sets, the training, the skill sets, the expectations are very, very different. Not to say non-existent at the blending level, not to say that, but in fact recognizing the significantly higher complexity of component production.

In terms of the capital intensity that we've spoken about in several different ways, there is a significant order of magnitude difference between the investments that are required to get into the component manufacture, manufacture of HFC components, to maintain your operating units in a safe and reliable fashion for component manufacture, as distinguished from blending operations.

Depending upon these standards that are set, that order of magnitude referenced investment can be 25 to 1, 50 to 1. It's significant.

MS. SASSANO: This is Beth Sassano from

Chemours. Just to add a little bit too. So our component manufacturing facilities are separated from our blending facilities, and a number of reasons for that. The level of skill, as he's mentioned, the high hazard materials you're working with, just the physical size of those facilities.

Our blending facilities are located in a different place. It's a different level of expertise and much fewer workers actually to, you know, handle that kind of task environment versus the components.

MR. HAUN: This is Glenn Haun. Just to add to both those comments, I believe it was National's attorney who opened up this morning saying they had 100 people involved in their blending facility. I can't question them, the number of people they have, but I would question the number of people that are actually involved in blending.

The actual process of blending is, you know, could be very simple. Now they may have a more complicated blending process but, you know, if you look at the picture in the presentation of the two isos and what I referenced and saw at a location years ago, you know, it's as simple as taking, you know, two components and in the case of 410 blending them together.

What National probably has a large part of that 100 employees doing is filling the cylinders. So that's actually taking the gas out of whatever vessel you have it

and then putting it into that cylinder that's right there. That's also why the Chinese have been able to do it so well and so cheap because, you know, their costs are so much lower than we have in the U.S.

MR. CANNON: And just wanting to recall that at the preliminary stage at the conference, there was a witness, Ken Ponder, he's on the list I think for today, and he testified that when he heard that it takes a million dollars to blend, he testified well, I'm putting my business up for sale, because I wish I could get that much money, okay.

So I'll give you that. I'll give you the transcript. But it doesn't take a whole lot to become a blender.

MR. McCOY: Yes. This is Dean McCoy. I'd like to add to that. We have only two blenders at the facility in Calvert City that blends all the products compared to the other facilities that make the components. So to give you a little insight, it only takes two blenders to blend the components there at Calvert City.

COMMISSIONER JOHANSON: All right. Thanks for your responses. I'll look forward to seeing more perhaps in the post-hearing, and once again in light of my -- what I did in the chlorinated isos case. Okay. Both the Chinese Respondent at page 15 and National at page three lean

heavily on the explanation that the domestic industry is not serving independent blenders.

They claim that either the U.S. component producers who have blending operations just don't want the competition in the downstream markets, and that's with National at page 42, or that the domestic industry is already at full capacity, and that can be seen at page 27 of the Chinese brief. How do you all respond to these claims, which seem to be largely at the heart of what the Respondents are arguing?

MR. HAUN: This is Glenn Haun. So as I previously stated, you know, we've had regular business with National Refrigerants. You know, I've been in my role for five and a half years and I've never received a phone call, an inquiry, an email from ICOR until coincidentally, you know, after the anti-dumping case was approved to move forward.

So magically I got a letter from the principal of ICOR requesting a quote on blends, on components, which I then offered to, you know, discuss the sale of those products with him, and he then backtracked and said the only thing he wanted was one of the components, not all of the components.

So you know, again we're in business to sell product. I believe it's on the record that our 32

production unit is well below effective capacity, and I'm in charge of selling product, you know. If I could have sold product to any of those blenders, you know, and if I can sell product we will.

COMMISSIONER JOHANSON: All right, thank you Mr. Haun. I might stick with you or with another Arkema witness. As the Chinese Respondents cite to a passage in Arkema's annual report that details a legal dispute between some of the domestic producers and the European Commission regarding what is described as anti-competitive practices, does this have any relevance to the issue before us now?

MR. ROWE: Rich Rowe with Arkema. Commissioner, I think as one of the other members of the coalition mentioned earlier, there is fierce competition that exists within the HFC and fluorochemical producers within the coalition. The claim that relates, that is referenced relates to 1234 YF, which my understanding is entirely out of the scope of this particular issue or case.

COMMISSIONER JOHANSON: Is that also a refrigerant?

MR. ROWE: It's a refrigerant, a next generation refrigerant used in mobile air conditioning, single component, single material, not at all a blend.

COMMISSIONER JOHANSON: All right. Thanks, Mr. Rowe. To what extent, if any, does the price of patented

out of scope blends affect in-scope blends, and are there packets on out of scope blends set to expire in the next one or two years?

COMMISSIONER JOHANSON: And would those expiring patents affect prices of the in-scope blends?

MS. SASSANO: This is Beth Sassano from Chemours. So I think you asked is there any effect from the price of the patented blends on the in-scope blends?

COMMISSIONER JOHANSON: Are there any--does the price of patented out-of-scope blends affect in-scope blends?

MS. SASSANO: From my knowledge, and I can ask others to comment, they are totally unrelated and they do not impact--the price of the patented blends does not impact the price of the in-scope blends. It's separate.

COMMISSIONER JOHANSON: Mr. Bachman?

MR. BACHMAN: Yes, this is Jim Bachman with Chemours. The patented blends that we sell are roughly two to three times the current pricing for some of the in-scope blends, and in fact we have lost volume to some of the in-scope blends because they're trading at values well below fair market value.

COMMISSIONER JOHANSON: Alright, thanks for your responses there. And I think that ends my questions. I appreciate you all for appearing here today.

CHAIRMAN WILLIAMSON: Thank you. Commissioner Kieff?

COMMISSIONER KIEFF: I join my colleagues in thanking you all. I have no further questions. I look forward to reading your post-hearing, and to the submission from the other side as well, and thank you all for coming. The human element labor, as well as management, is always very helpful for us. Thank you.

CHAIRMAN WILLIAMSON: Thank you. Commissioner Schmidtlein?

COMMISSIONER SCHMIDTLEIN: Thank you.

Mr. Bachman, what did you just say with regard to the interaction between the in-scope and the out-of-scope blends? You said you'd lost volume to the in-scope blends? Is that what I understood you to say, because of the low prices?

MR. BACHMAN: Yes. That's what I've said, that the adoption rate for some of the patented blend products is slow because of the relatively low priced pricing on some of the in-scope blend products.

COMMISSIONER SCHMIDTLEIN: So the in-scope blend prices are having an effect on the out-of-scope blend prices? Or purchases, I guess?

MR. BACHMAN: Yes, they can have that tendency.

COMMISSIONER SCHMIDTLEIN: So--and this was going

to be, this is a nice segue here, so the in-scope and out-of-scope blends do compete with each other?

MR. BACHMAN: Well, no. The way I should say this is that our 438A which we sell as MO99 is a hydrocarbon-based blend product that's used in old R-22 equipment.

COMMISSIONER SCHMIDTLEIN: Well let's focus on the eight that are using the same components. Are those under patent? Are these some of the blends that are under patent that Commissioner Johanson was asking about?

MR. BACHMAN: I'm sorry? Please repeat?

COMMISSIONER SCHMIDTLEIN: The eight that use the same components as the five in the scope. The eight out-of-scope blends. These are--

MR. CANNON: He doesn't see the tables.

COMMISSIONER SCHMIDTLEIN: Okay, well this actually is not confidential. This is R407B, R407D, 407E, 407F.

MR. CANNON: Right. He was talking to you about R438, which is down--

COMMISSIONER SCHMIDTLEIN: I see it.

MR. CANNON: --almost to the bottom of the page.

COMMISSIONER SCHMIDTLEIN: Yes, which also uses some of the in-scope components.

MR. CANNON: --competes with R-22. In other

words, it drops into equipment that uses the mineral oil and competes with R-22. So when he's talking about competing, it's not competing with HFC blends. It won't fit in that--

MR. BACHMAN: That's correct.

MR. CANNON: --410A equipment.

COMMISSIONER SCHMIDTLEIN: Okay, but I want to focus on the eight that do exclusively use the in-scope components.

MR. CANNON: Right. And I was just clarifying for him so that he would see that I gave him the staff report.

COMMISSIONER SCHMIDTLEIN: Oh, okay. So the eight that use the in-scope components, do those compete with the five? The eight out-of-scope that use the in-scope components--

MR. BACHMAN: No, they're formulated differently for different use in different equipment.

COMMISSIONER SCHMIDTLEIN: They are?

MR. BACHMAN: Yes.

COMMISSIONER SCHMIDTLEIN: And so can you all--and maybe you can do this in a post-hearing brief, but I would like to understand more what are the market segments that those out-of-scope, those eight out-of-scope blends, are serving. You know, who are the end users, if you will. And do those eight currently have patent protection?

MS. SASSANO: This is Beth Sassano from Chemours.

As I'm looking down this list of eight, there's one, two, three, four of the eight that I know of that aren't even sold commercially in the market. So I do think in the post-hearing brief we really do need to address this to share some of the knowledge about--some of these are listed by their ASHRAE numbers, as Barbara was saying. They may have been innovated in design, but then the industry converted.

So they are really immaterial to this case and probably shouldn't even be on this list.

COMMISSIONER SCHMIDTLEIN: Okay. Well, I think this, I mean I guess these--right. I think it would be very helpful in the post-hearing if you can explain what these blends, what markets these blends are serving since they are composed of the same in-scope components.

MR. HAUN: This is Glenn Haun. I would just like to add something to the general context of the subject we're discussing. You know, the injury that's been done, and the plants that we operate are all based on the two products that you see on the table in front of you, 410 and 404. I mean, that drives our business. That drives our business economics, and if you aggregate the in-scope and any out-of-scope blend that's either on the list of 8 that you just discussed, or the list of 38 or 40 that exist separate from that, you know those two products still account for

the majority of the business in the U.S.

So trying to segregate the out-of-scope blends from the in-scope blends is maybe something you need to do legally, but to manage the injury that's been done to us you've got to make a decision, or you should make a decision, we're asking for your decision primarily on those two products, 410 and 404, because that's where the Chinese have driven the prices down to points where we cannot operate our plants anymore.

Thank you.

COMMISSIONER SCHMIDTLEIN: Okay. Alright, I have just a few more questions to follow up on. These are a little bit--

Well, one question I had, Mr. Cannon, if the Commission did find that there are two separate like-products, one for components and one for blends, what is the case for going affirmative on components?

And how would we consider the fact that Petitioners here are importing subject components?

MR. CANNON: Well, okay, what is the case, first. The case, first, is that the imports of components are substantial and increasing, and they occupy a huge portion of apparent domestic consumption, component only, looked at as a stand-alone case.

COMMISSIONER SCHMIDTLEIN: If we find there are

two separate products, like-products.

MR. CANNON: If you find two separate products.

Secondly, there is an apparent upturn in domestic shipments of components in 2015 that I have to explain confidentially, but I guess--well, I have to explain it confidentially. It has nothing to do with market or price or anything else. I'll explain.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. CANNON: Thirdly, a huge portion of market share of components is imports. And there is under-selling on the imported products. There's two under-selling pricing products that are a huge volume, product five and product six. That's 32, 125, under-selling like every quarter, every comparison, always.

On the P&L of these products, 32, 125, 134A, you have a separate stand-alone P&L for the domestic industry. There's more blood on the floor on components than there is on blends.

COMMISSIONER SCHMIDTLEIN: Well how do we consider it? Is there some aspect of self-injury here, since the--

MR. CANNON: No.

COMMISSIONER SCHMIDTLEIN: --entrants are importing--

MR. CANNON: As you've seen in many cases, as you saw recently in sugar, as you've seen in ribbons, there is a

point at which if you can't beat 'em, join 'em. So domestic industries are driven to also import in order to stay in the market. You heard one of the witnesses testify there's a meet-or-release clause, because one of the other producers stopped buying domestically because they had to because the Chinese price was so low for the components that they resorted to that price.

Now if one domestic producer injures another, that is injury by reason of imports. That is U.S. capacity that gets impacted. That's jobs that are lost. That is the U.S. industry as a whole that is harmed.

And putting it in perspective, as you can see from these data, the U.S. industry are not--sure, they are importing, but that's not their business. That's not the major part of their business. That's a very small part of their business.

But you have many cases, when I said "sugar," the U.S. industry, the refiners, were importing some of the sugar from Mexico because it's a commodity product traded on the market, and the prices were so low. You didn't hold it against them, that the market prices have been driven to this point that they then import. You're going to say, oh, they're not injured because they had to import?

It depends how you look at causation in this market. They didn't build factories in America to become

importers. They built them here to produce here. And I think that's the way the Commission should look at it. It's a really full case, it might be a 357 case, it's on pinball machines. So the U.S. pinball machine industry got driven completely out of business. They stopped producing.

The Commission said, well, there's no industry. There can't be injury. The court said, are you kidding? If you are really effective at unfair trade and you drive them out of business, that the factory is still there and they can turn it back on? That's not injury? Of course it's injury. It's a question of degree.

COMMISSIONER SCHMIDTLEIN: Okay--

MR. CANNON: And lastly, you could find, based on what happened here and the facts pattern, right, there's injury on blends, absolutely, currently. And with components, if you put an order on blends, that will be real and eminent. There would absolutely be a threat tomorrow. They would be blending. In fact, many of their customers that they used to sell to, Airgas, A-Gas, Coolgas, they still sell to them. They all have lines, right, in place. Hudson. They can fill cans themselves by components. They're set up. The equipment exists. And they're their customers, and they're still supplying them. They didn't stop supplying them because they have some like self-interest in unused capacity and refusing to deal with

people. That's not rational. That's not what this industry is about. That's not what the record shows. I need to calm down.

COMMISSIONER SCHMIDTLEIN: Well I would invite you to address that in writing in your post-hearing. My time is up. I have a few more odds and ends, but I will yield in case somebody else has some questions.

CHAIRMAN WILLIAMSON: Commissioner Broadbent?

COMMISSIONER BROADBENT: I don't have any more questions. I just want to thank the panel. I know it's tough to coordinate all the different interests at the table, and you guys have done a good, comprehensive, cohesive presentation and I appreciate that. Thank you.

CHAIRMAN WILLIAMSON: Okay, I just had one question, and then we'll go back to Commissioner Schmidtlein's questions.

This is talking to the current situation. How do you respond to the argument that because R-125 is used in all of the in-scope blends, lack of available capacity for this component constrains production of other components and blends? I'm talking about currently, not before.

MR. IRANI: I'm sorry, could you just repeat the question?

CHAIRMAN WILLIAMSON: How do you respond to the argument that because R-125 is used in all of the in-scope

blends, lack of available capacity for this component constrains production of other components and blends?

MR. IRANI: This is Omar Irani with Honeywell. There is no lack of capacity on 125, therefore I can't think of any downstream constraint.

CHAIRMAN WILLIAMSON: Okay, fine. Thank you.

MR. IRANI: You're welcome.

CHAIRMAN WILLIAMSON: Commissioner Schmidtlein?

COMMISSIONER SCHMIDTLEIN: Okay, I guess I'm the only one left.

So a couple of other questions that you could answer in the post-hearing. The Chinese Respondents point out that some HFC blend purchasers reported that HFC prices are indexed to raw material prices--or maybe you can answer this now. This is a pretty quick question--are these raw material indices tracking the cost of HFC components, or the raw materials that go into the components, do you know?

MR. CANNON: I think we'll have to answer that in post-hearing.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. CANNON: Yeah, we'll have to do that in post-hearing.

COMMISSIONER SCHMIDTLEIN: Okay. Another question for post-hearing is having to do with the capacity reductions in the market during the POI. And you discuss

those at page 48. The Respondents have discussed them, but their explanation differs. That's at the Chinese Respondents' brief at page 22-23. Can you address these differences in your post-hearing, since I think those are confidential.

And then the last question was triggered by something you said in our first, when I was questioning you in the first round, having to do with how to analyze 134A as a component. And you said, Mr. Cannon, it's outside the scope and the Commission should start with the scope in determining how we analyze domestic like-product.

And so I guess my question for the post-hearing is:

What's the basis for your statement? Is that Commission practice? Is that--in other words, so here where we have a component that has two uses, has an independent use--we have a product that has two uses, an independent use, and a use as a component.

We have a case on the independent use, and we have a case on the components and what they're used for. So legally, how do we analyze that? And do we have to start with the scope? Because that was a question we've been discussing here.

MR. CANNON: So the statute says--

COMMISSIONER SCHMIDTLEIN: And I invite the other

side to address this in post-hearing, as well.

MR. CANNON: The statute says 1677.10, the product which is like, or in the absence of like, similar in characteristics and uses with. So if you have the "like product," you're done. Okay? So statutorily, there's a hierarchy. You start with like. In the absence, you expand.

Here we have like. We have identical most like. The legislative history says you're supposed to narrow and look down as fine as you can, or build it around the industry that matches up to these imports and determine if there's injury.

And when you read the legislative history, you read the Senate report, what they were talking about was trying to focus in on the product line that the businesses maintain their data they can get sort of very accurate and as close as possible to, because they didn't want you to be too broad and therefore miss that someone is being injured, or miss the effects or overlook the impact of imports.

So we have a product that is like, or in the absence of like, similar. Okay? I don't need to go to similar. I can stop at "like." By the language. And we have the industry that makes the like product, and they can show you in their books and records that production, those sales, those prices, those costs.

At that point, you're done. And you don't need to go beyond.

So it is indeed your practice. It has been the practice of the Commission since 1979 when the law became that way. So it is long-standing administrative practice, but it is also compelled by the context and language of the statute.

So for those reasons, I think it is very compelling. This is, you might say, a lesson learned. I've sat at many staff conferences where folks that do not practice here a lot will come in and they'll make a like-product argument, and what they're really asking is: Exclude my product from the scope. And your attorney will sit there and say, no, no, you ask that question to Commerce. We the Commission start with the Commerce scope.

They say that because it comes from this passage, "like, or in the absence of like similar characteristics".

COMMISSIONER SCHMIDTLEIN: okay. Well I invite you--you have the opportunity to address it in post-hearing, if you like, and the Respondents as well.

And other than that, I don't have any other questions.

MS. NIKAKHTAR: Commissioner Schmidtlein, this is Nazak Nikakhtar from Cassidy Levy Kent--

COMMISSIONER SCHMIDTLEIN: Oh, sorry.

MS. NIKAKHTAR: I just wanted to really quickly add to that.

COMMISSIONER SCHMIDTLEIN: Sure.

MS. NIKAKHTAR: Maybe because I think you're going to hear a lot in the afternoon about the two separate like arguments about how components and blends should be two separate like products.

And I just wanted to direct the Commission's attention to Table 1-4 of the prehearing brief where, and to testimony you've heard today, where the vast, vast majority of the components are almost exclusively dedicated to the production of blends.

And the Commission has very strong and long-standing precedent that basically says that when a raw material, or let's say an input, is almost exclusively dedicated to the production of the downstream product, then that invokes the semi-finished product analysis. And under the sem-finished product analysis, the ample record evidence demonstrates that the components and blends are a single like product.

We will elaborate more on this, but I really wanted to draw the Commission's attention to the facts that you have before you, and there is long-standing precedent that definitively states that when the upstream product is almost exclusively dedicated--almost exclusively--to the

production of the downstream product, that really weighs heavily in favor of finding a single domestic like product. Thank you.

COMMISSIONER SCHMIDTLEIN: Okay. Thank you.

CHAIRMAN WILLIAMSON: Thank you. Commissioner Kieff?

COMMISSIONER KIEFF: I just wanted to very briefly mention that because I will have to leave early this afternoon, I may not in fact get the live participation with much of the afternoon panel. But I want to assure the afternoon panel that I will be reading the transcript and looking at the post-hearing submissions.

And I think we have teed up the issues well enough that you're aware of what we're wrestling with, and I will look forward to your input, even though I won't be here with you this afternoon.

Thank you.

CHAIRMAN WILLIAMSON: Thank you. Any further questions from the Commissioners?

(No response.)

CHAIRMAN WILLIAMSON: Does staff have any questions for this panel?

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

CHAIRMAN WILLIAMSON: Thank you. Do Respondents

have any questions for this panel?

MR. MARSHAK: No.

CHAIRMAN WILLIAMSON: Thank you.

Okay, it is time for a lunch break. We will resume at 1:30 in order to get as much Commissioner participation in the afternoon as possible. So it's going to be a rather quickly lunch for everyone.

I want to remind--before we break, though, I want to remind everyone that this room is not secure, so please do not leave confidential business information around in the hearing room. And we will see you at 1:30. Thank you.

(Whereupon, at 12:43 p.m., the meeting was recessed, to reconvene at 1:30 p.m., this same day.)

AFTERNOON SESSION

(1:33 p.m.)

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

CHAIRMAN WILLIAMSON: Thank you. Welcome to the afternoon session. Mr. Marshak, you can begin when you're ready.

MR. MARSHAK: Good afternoon. Ned Marshak from Grunfeld Desiderio, representing Chinese Respondents.

You have heard this morning from the international conglomerates with some careful planning and creative resort to patent and trade laws that have attempted

to control the refrigerant industry in the United States in the past, present, and future.

We would like you now to turn your attention to the remainder of the industry, the independent companies who also produce HFCs in the United States, and the reasons why subject imports have neither injured nor threatened injury to Arkema, Chemours, or Honeywell.

First, you will hear from Maureen Beatty, Executive Vice President, National Refrigerants, Inc., who is accompanied by Robert Yost, the Director of National.

Next, James Tieken, owner and founder of ICOR International, Inc., a second domestic producer who, like National, supports the imposition of dumping duties on Chinese imports.

Third, James Dugan, Vice President of Economic Consultant Services, accompanied by Jennifer Lutz, who will discuss--to the test for determining whether the domestic industry is injured or materially injured, and the economic analysis, with the caveat that we of course cannot discuss confidential information.

And finally, Jarrod Goldfeder, of Trade Pacific, will provide the legal rationale supporting Respondents' position. Also on our panel is Peter Williams, President of New Era Group, whose members include a domestic blender and a domestic reclaimer. Mr. Williams, like our other

panelists, will be available for questions.

MR. GOLDFEDER: Mr. Chairman, before we turn it over to Ms. Beatty to begin our testimony, I just wanted to say one thing.

Obviously these cases are an adversarial process. Different, like-minded reasonable people look at the facts, the same facts, and reach different conclusions attributed to different significance.

I know in the 12 years I've practiced before the Commission I believe I've had the stronger case in every single time I've been here. I haven't won every one of them, but that's just the nature of the process.

But what I've never seen in 12 years is a Petitioner's attorney come up and say that he expects that when the Respondents' panel will come up that they will lie to you. I find that exceeds the bounds of zealous advocacy. I find it offensive, and especially untrue.

Our panel here includes some of the most knowledgeable and honest people in this industry. I'm sure any of the morning's industry witnesses will tell you that they've dealt with--when they've dealt with Maureen Beatty for years, she's always been an honest straight-shooter with them.

We are here to tell you the facts, tell you our experience, and answer all the questions you have, and we

look forward to giving our testimony and your questions. Thank you.

STATEMENT OF MAUREEN BEATTY

MS. BEATTY: Good afternoon. My name is Maureen Beatty and I am the Executive Vice President of National Refrigerants, and I've been with Nation for nearly 30 years.

I appreciate the opportunity to speak before this Commission and welcome any questions that you or your staff might have. I am joined today by my colleague, Rob Yost, who is National's Technical Director.

I would first like to tell you a little bit about National. Our company was founded in 1983 and, since it's founding National has been an independent, family-owned producer, packager, and distributor of refrigerant products, and it still is today.

Over the course of 30 years, National has invested tens of millions of dollars in technology and personnel to develop one of the most state-of-the-art refrigerant blending and packaging facilities in the U.S, if not the world.

We are headquartered in Philadelphia and our plant is located in the south in Rosenhayn, New Jersey, about 30 minutes away from the Delaware Bay.

Currently our Rosenhayn complex employs over 150 people, about three-quarters of whom are on the factory

floor producing the five blends covered by this case, and many other blends that are exempt.

The plant includes a refrigerant tank farm, a computerized packaging area, a reclamation system, and an extensive suite of cylinder and ISO tank containers. It also includes an HRI certified laboratory staffed by a team of experienced chemists and technicians who ensure the high-quality standards of all refrigerant components that we purchase, and the blends that we produce and package.

National has also invested significantly in developing a distribution network throughout North America. National is a full-service company with programs that cover every aspect of refrigerant management to contractors and end-users.

It was also the first and currently the only AHRI certified reclamation facility in the U.S. I have to say that with all National has invested, and with a workforce that rivals or exceeds each of the Petitioners in size and technical knowhow, it is surprising to hear them say that National should not be considered part of this U.S. industry.

It is especially peculiar when you consider that the three Petitioners are publicly traded companies with hugely diversified operations all around the world and billions of dollars in revenue.

National, in contrast, is a family-owned company whose sole business is manufacturing and distributing refrigerants. This antidumping case jeopardizes the future of our company. Please allow me to explain this, because this is a critical point.

National is different from the three Petitioners in that it only manufactures blends, but not any of the individual components. Based on my land-standing business dealings with them, I know that in addition to their blend production Arkema domestically produces R32 and R134-A, and Honeywell domestically produced R125 and R143-A. We have never done any business with DuPont or Chemours as it is now know for these products, but my understanding is that they only produce R134-A in addition to blend.

Now this is where our issue comes to light. R32 is required for three of the five subject blends, but only Arkema produces it. R125 is required for all five subject blends, but only Honeywell produces it.

R143-A is required for two of the five blends, and again Honeywell is the only domestic source. Nonsubject R134-A is required in three of the five blends, and Honeywell does not produce it but Arkema and Chemours do.

These three company have cleverly overcome this problem by structuring themselves so that they swap components with each other. That way, they each consume

their own components and get what they are missing from one of the other two. With this arrangement, Arkema, Honeywell, and Chemours can always satisfy their own blending requirements.

Because National has no component production, we've received no invitation to join this alliance. National has to get components the old-fashioned way and buy them in the open market. But there are no distributors or traders who sell U.S.-made components.

So if Arkema, Honeywell, or Chemours don't want to sell to National, or they can't sell us what we need, then we really only have two options. We can either import components so that we have what we need to keep our plant running, or we'll be forced to go back to the days when the blends were patented and we were only a distributor and not a U.S. manufacturer of these products.

National wants to avoid the undesirable step of laying off any members of our American workforce, so we have chosen to import the components that we can't get domestically. We do not import any HFC blends from China because we already have the equipment and technical expertise to produce them in our own facility in New Jersey.

Over the years National has built strong relationships with Chinese suppliers who have provided the same quality components in the quantities that National

needs without any requirement to also purchase their blends.

National has multiple supply options in China, as opposed to just one option per component in the U.S. Historically, National has been a purchaser of blends from Arkema and Honeywell, especially for R410-A, where we are probably the largest non-OEM U.S. purchaser prior to the patent expirations of the in-scope blends.

Buying blends has been necessary to satisfy our customers' requirements when we can't get access to enough components, or when we have to devote our own component inventory to producing other blends.

I have little doubt that the Petitioners would love to see National exit the domestic industry as a producer and have no choice but to buy larger volumes of their blend. And this is what will happen here if the Commission votes in favor of the Petitioners.

This is why National must oppose the imposition of antidumping duties on imports of HFC components. We cannot understand how the antidumping law can be used to benefit companies that could not or would not sell us what we needed. We do not see how component imports can be blamed for any injury because without those imports our U.S. manufacturing operations and jobs would truly suffer.

Now I do want the Commission to fully understand our position regarding the availability of domestic

components. From 2009 through 2013, National was unable to obtain a written agreement with any domestic component producer. 2014 was the first time that National was able to obtain an agreement to purchase a small quantity of domestic components, but the supplier was unable to guarantee that the supply would be entirely of U.S. origin.

Our purchases of domestic components increased between 2013 and 2015, especially in the last six months of 2015 when U.S. component producers, for whatever reason, made more available to us.

Still, what they have been willing or able to supply to us comes nowhere close to satisfying National's blending requirements. And it has been clear from my discussions that freeing up additional supply for National has caused them some hardship, especially for R125. So their claim that they have all of this extra component capacity available to National is news to us.

In fact, we have heard that Honeywell itself has imported millions of pounds of R125 from China in recent months due to certain domestic supply problems.

The same is true for blends. Back in 2014, Honeywell told us that they had 4 to 5 million pounds of R410-A and R404-A available. Shortly thereafter, we were advised that they wouldn't have the components available for their own internal production of these two blends for years

due to existing commitments and lack of capacity.

Suffice to say that we were surprised when Honeywell recently advised us that they had additional components available to sell to us. In an ideal world, National would secure most if not all of its components domestically, given the shorter delivery times. And we almost always accept domestic components when offered.

The few instances in which we have declined an offer were because the offers didn't make sense, given our current inventory position. And, to take a good example, National is a large buyer of R134-A from Mexican and Arkema, and historically has imported very little of this product.

So when there are U.S. suppliers actually competing for our business, as opposed to the one component supplier model in this case, we have been able to buy from domestic suppliers.

In fact, we have a very good and long-standing business relationship with Arkema that goes back decades. But Arkema can only sell us R32, and it is not permitted to sell us any R125 that it obtained through its swap agreement. For that reason, Arkema requested that National buy R125 from its Chinese facility, which we did, during this Period of Investigation.

Arkema has also offered to import R125 for us, but why would we buy R125 with an importer's markup when we

can just directly import it ourselves?

As for Honeywell, we have bought R125 and R143-A from them, but the amount of R125 that we have been able to buy domestically satisfied less than one-quarter of our production requirements during the investigation period.

For R143-A, that amount has been even less. If antidumping duties are imposed on HFC components, we will have no guarantee that Arkema and Honeywell will sell us components in the quantities that we need.

History has taught us that they either cannot or will not, because they are in the business of selling blends, not components. And National will always be an afterthought until they satisfy their own internal needs and swaps with the other two members of their alliance before making commercial sales to companies like us.

To be frank, neither of these three companies advertise R132, R125, or R143 on their websites or otherwise actively market components. So the notion that these companies are losing component sales or market share just isn't realistic.

Even assuming that they could make more components available to National, they would have all the negotiating power in the absence of competition. And if we can only get R32 but not 125, what good is that when R125 is a component in all five blends covered by this case.

National's ability to obtain R125 dictates how much of the other components it requires. I also would like to discuss some other important aspects of this industry that explain the competitive landscape during this investigation period.

National first began producing two of the subject blends in 2008 after we obtained a license from the patent holders of R407-A and R407-C.

When the patents on these and the other three blends expired between 2009 and 2011, National faced no barriers to producing these five blends except of course for its ability to obtain the necessary components.

But patent expirations and not imports explain in large part why blended component prices in the U.S. market were already falling when the investigation period began.

Patents give a headstart to the patent holders so they have time to recoup their investments and build market share and a protected market with limited competition. When patents expire, competition rises for the now-commoditized product and price pressure occurs.

That is just simply supply and demand economics. It happened several years ago with HCFC blends. It has happening now with HFC blends. And it will happen again with the next generation of HFO blends when they go off patent.

As a side note, I want to mention that the Petitioners have been very active in lobbying the EPA to approve their new patented products, especially for HFOs, for certain applications and to support the delisting of off-patent HFC blends.

For example, R404-A and R507 will no longer be permitted to be used in retail food refrigeration applications because they have a higher global warming potential than HFOs. So they are losing demand for these HFC blends in favor of their newer, higher valued and patent-protected refrigerants.

The Commission should also be aware of the R125 shortages that occurred in 2011 and 2012 because of the reduced feedstock and increased global demand. This caused R125 prices to spike to all-time highs, and because it is used in all five HFC blends the blend prices went up as well.

This means that these blend prices were already at an atypically high level in 2013, so of course the only way they could go was down. That had nothing to do with Chinese imports.

While on the topic of price, I want to address one point from the Petitioners' brief. A couple of times they quote me from the staff conference in which they say I conceded that low prices drive our decision to source

components from China. That is not what I said.

The question from the staff was: What factors do National's customers consider when they decide whether to buy U.S. or Chinese product?

I responded regarding National's experience in selling its U.S.-produced blends in the aftermarket and noted that the most important purchasing factors are meeting industry specifications and price.

Actually, I should have also mentioned availability, which is key for our blend buyers. And for our sourcing of components, I cannot emphasize enough how important availability is. The price just doesn't matter if you can't get what you need when you need it.

I next want to clarify some important confusion regarding R22. HFCs were developed to replace ozone-depleting CFCs and HCFCs because they do not deplete the ozone layer.

The Petitioners state at page 34 of their prehearing brief that in 2010 the EPA prohibited the production of R22 in the U.S. That is simply wrong. R22 can be produced through 2020, although its production is subject to EPA-imposed quotas referred to as allocations.

In 2013, the EPA increased the allocations, especially for Arkema, and as a result R22 supply in the U.S. increased significantly and prices fell. Because R22

can be used in the same applications as four of the five HFC blends, we saw HFC blend prices fall as well. This factor also had nothing to do with import competition.

I also find it unbelievable that the Petitioners have argued here and to Commerce that the blending process is easy and inexpensive. Anyone can do it, they argue, and it doesn't cost very much.

No one here is saying that blending requires as much investment as component manufacturing, but to say that blending itself is simple, doesn't require much capital investment, and adds little value, is untrue.

National has invested tens of millions of dollars in facilities, equipment, technical knowhow, and its workforce to become the leading HFC blend producer in this industry.

It is one thing to argue theoretically about how much money would be required to establish the most bare-bones facility, but it is quite another thing to establish an operation that has the required technical skills, safety procedures, regulatory compliance, and distribution network on a commercially meaningful scale.

Blending is complex and costly, and everything must be handled properly from the receipt and storage of components, all the way through transportation to the customers, or bad things can happen.

And the market assigns much greater value to the blends than to the components used to produce them.

In conclusion, if duties on components restrict or prohibit import of the components, and U.S. component producers only sell or swap components with each other, then they will force the market back to the days when these HFC blends carried patent protection. In that scenario, we will not be able to produce these in-scope blends and run our business.

Duties on HFC components will also limit our ability to produce a wide range of other HFC blends that are not included in the Petition and for which the Petitioners have not claimed injury.

This case has the potential to destroy our manufacturing operations beyond the five in-scope blends. For example, National produces the R422 series of HFC blends using R125. By our estimation, the R422 series already occupies a larger space in the market than R407-C, which is included in the Petition.

National does not believe there's unfair competition resulting from imported HFC components. If anything, the unfairness might lie in the lack of competition between the U.S. component producers and their refusal or inability to sell key components to a meaningful degree.

How can there be unfair competition from imported components when they do not compete to sell components in the U.S. market? The HFC components simply should not be subjected to any antidumping duties. National's business in both the subject and exempt refrigerant blends would be unfairly altered and restricted if duties are placed on components.

Again, I appreciate this opportunity to be here. Thank you.

STATEMENT OF JAMES TIEKEN

MR. TIEKEN: Good afternoon. My name is James Tieken. I am the owner and founder of ICOR International, a small refrigerant company based in Indianapolis, Indiana.

`ICOR manufactures proprietary and nonproprietary HCFC and HFC refrigerant blends. ICOR is a member of many trade groups, including the Alliance For Responsible Atmospheric Policy and HARDY.

I would like to share with you a little company history. I began working in the refrigeration industry in the early '80s as a service technician. In 1988, my wife, Karen, and I started a small refrigeration service company called Indianapolis Refrigeration Company.

We preformed service work in grocery stores and restaurants in central Indiana. I was aware of the changes coming to my industry as they pertained to the refrigerants

we were using. The main focus at that time was that we were not going to be able to vent refrigerants. And that we would have to capture them in a container.

This interested me, and in 1992 I developed what I call the Spooter 2, a hand-operated refrigerant recovery device. I patented the device and started selling them, in addition to repairing refrigeration equipment.

I started developing larger scale refrigeration handling skills when we bean our refrigerant reclamation service in 1993. We would pick up used appliances for the City of Indianapolis, remove the refrigerant and scrap the appliances.

This eventually turned into taking refrigerant from other HVACR companies, heating and ventilation air conditioning and refrigeration companies, cleaning it up, and reselling it.

Manufacturing refrigerants initially looked like something only the big chemical companies could do. But none of the products they were promoting worked very well. The Montreal Protocol was mandating the end of CFC production, and I believed I could solve the other R12 replacement shortcomings and developed Hot Shot R12 replacement.

Hot Shot was an immediate hit, and eventually became the best-selling R12 replacement on the market. We

sold our service business in 1993 and needed a name that was a little more far-reaching that Indianapolis Refrigeration Company, so in 1995 ICOR International was born.

Around 2000 we discovered that HCFC refrigerants were also going to be phased out by the U.S. EPA. This included the products we used to make Hot Shot. I went to work formulating a good R22 replacement, and actually came up with two of them: New 22 for air conditioning applications, and One Shot for lower-temperature applications.

I also developed an HFC replacement for Hot Shot, aptly named Hot Shot 2. ICOR sold its last cylinder of original formula Hot Shot in 2014. ICOR is a small company in a room of chemical company giants. In the big refrigerant picture in the Untied States, our imports don't move the needle. But to my 20 employees and myself, your antidumping decision will make a big difference in our lives.

When I started down this path I believed the saying "build a better mousetrap and the world will beat a path to your door." But I soon found out, you build a better refrigerant, DuPont's lawyers beat a path to your door.

In 1996 my welcome to the industry was letters from all three companies at that time, DuPont, Allied

signal, and ELP Autochem, predecessors to Chemours, Honeywell, and Arkema, that I needed to cease making Hot Shot because the manufacture and sale of Hot Shot infringed multiple patents owned by them.

Of course I was not infringing any of their patents, but I later found that this was standard operating procedure to scare off anyone that dared step on their turf.

I was summoned to DuPont's headquarters in 1997. I was told that the industry had decided that Hot Shot was not part of their plan and that 401-A, B, and C were the industry's choice as the preferred R12 replacements.

MR. TIEKEN: I was also told I would never be able to source material I needed, to continue making Hot Shot. In no uncertain terms, it was explained to me that it would be best if I ceased production of Hot Shot.

Well, I was young and dumb. I begged, borrowed and paid a premium to get raw material. But around 2000, I decided we needed to start looking overseas to procure component materials. It was apparent we could never count on domestic suppliers as a dependable source of product.

I started assembling a fleet of tank containers and started setting up meetings with Chinese manufacturers. We started buying from the Chinese and never looked back. We still spot buy from domestic producers periodically, but it is apparent that if I kept putting all of our eggs in the

domestic producers' basket, it wouldn't take long for us to end up as an egg stain on the floor.

This leaves us where we are today. Still the small guy, a lot bigger than we were twenty years ago, but in deep peril if anti-dumping duties are imposed in this action. Back in February of this year, I sent a request for quote to Honeywell, Chemours and Arkema for pricing on HCFC components and blends. I got nothing firm back from Arkema, and it took Honeywell and Chemours months to get me a price. Chemours even refused to give me pricing until June for R125 to be delivered in July.

No one can run a business when you don't find out what raw material is going to cost until a few days before you get it. Many of ICOR's actually require ninety-day notice prior to a price increase.

The prices I received from Chemours and Honeywell were clear signs to me that even today, neither wants my company's business. Chemours price quote for 125 was $4.20 per pound, and Honeywell's was $3.85 a pound. These prices are absurd. Just compare them to the blend prices. And if these companies are given a monopoly on product sold to the United States, it will take them about five minutes of deliberation to put every small business like ICOR out of business.

Even including potential anti-dumping duties,

both of these prices are substantially higher than the 125 from China. Honeywell surely knows this because it has been importing hundreds of tons of our 125 from China since the beginning of the year.

This leads me to believe that Chemours and Honeywell are not giving me a quote for domestic 125. Instead they are offering me Chinese 125 and their quotes include the anti-dumping duties plus their markup.

I'm not a lawyer, but I can't imagine anti-dumping laws were meant to protect Chemours and Honeywell's ability to act as middle man for imported 125. I want to speak briefly about the price of 125 as a component relative to blends containing 125.

Normally I would expect 125 to be sold as a component for half of what blends are sold for. The only reason that I can see that this normal pattern would not hold would be a domestic shortage of 125, similar to what happened in 2009 and lasted until 2011.

This would likely cause distortions that may skew 125 prices for a couple of years. I believe and have read in industry publications that we are heading into another shortage of 125, but under normal market conditions, the price of 125 will be quite different than that of blends containing 125.

I hope the Commission will, as I do, see through

the chemical giants' smoking mirrors and reach a negative injury determination for our 125. That would keep my company in business and allow twenty of my friends to keep their jobs. Doing so will not cost a single job at Chemours and Honeywell. Thank you.

COMMISSIONER WILLIAMSON: Unfortunately, it looks like it may be thundering and lightening outside, and that's the cause and not anybody's feed in here.

STATEMENT OF JAMES P. DOUGAN

MR. DOUGAN: Good afternoon, I'm Jim Dougan of ECS, testifying on behalf of Chinese respondents. Unfortunately, a lot of the data that I would like to discuss are business proprietary with most of the key tables having been redacted in the prehearing staff report. So I'm somewhat limited in what I can say in a public hearing, and you are spared my PowerPoint slides.

But I will address some of our main points and direct you to parts of the confidential record where the proprietary data are discussed. As you will hear from Mr. Goldfeder, respondents believe that a finding of separate like products for components and blends is warranted in this investigation.

I will leave the legal arguments to the lawyers, but from an economic standpoint, the conditions of competition between the two products are so different, that

it is not only logical, but essential to discuss them separately, to develop a clear understanding of their respective injury profiles.

So that is what we have done in Chinese respondents' prehearing brief, and that is what my approach will be today, confidentiality allowing.

First, subject imports did not cause adverse volume effects to the domestic industry. With respect to components, the domestic industry cannot credibly claim that subject imports were the cause of adverse volume effects.

At the preliminary conference, a witness from Honeywell stated that the petitioners 'manufacture these components to be able to produce HFC blends,' not to supply components to other blenders.

As you heard this morning, respondents and petitioners agree. There is essentially no U.S. merchant market for components. They are produced, swapped and sold in what amounts to a closed system. Among the three petitioners and National, to make HFC blends, both in and out of scope, with only a small fraction that are purchased by other parties.

You have heard testimony from domestic producer, National, from Ms. Beatty, both in the prelim and now at the final, that petitioners were either unable or unwilling to supply National with HFC components in any significant

quantities until 2014, and even then, not in quantities sufficient to meet National's full needs.

While petitioners make vague claims about unused capacity and the ability to supply components, their inability or unwillingness to supply sufficient volumes of components to National, undermines the credibility of those claims. The fact that imports of components are necessary to support domestic blending operations is also supported by the fact that petitioners themselves are significant importers of those components.

Thus, the Commission should consider the domestic producers of in-scope components to have been and to be at this moment, operating at full capacity. I encourage the Commission to look at the component specific utilization figures in Staff Report Table 3-6.

And weigh these data versus the statement of petitioners this morning, versus the statements of Ms. Beatty and Mr. Tieken this afternoon regarding the availability of domestically produced R125, and see whose testimony is more credible.

Moreover, any reported reductions in component capacity cannot be attributed to the subject imports, as discussed in detail at Pages 21 to 23 of Chinese respondents' prehearing brief. Petitioners claim that this capacity could be restarted if the order is put in place.

But I encourage the Commission to make a close examination of Staff Report Table E-1 and consider whether the capacity in question would be viable at any market price, not just when competing against subject imports, but with other domestic producers.

This arrangement was at odds with the logic of petitioners' strategy, that is, given the large investments required to produce components at a commercial scale, it makes sense for one producer to focus on production of each component.

Petitioners' prehearing brief confirms that they reported no lost sales or lost revenues with respect to components. Had petitioners offered components for sale to National or other customers, but been turned down due to subject imports on the basis of price, presumably they would've reported this in their questionnaires. They did not.

As is the case with HFC components, the Commission should view petitioners' reported utilization for HFC blends with skepticism. If, in fact, petitioners were unable to produce and supply additional components during the POI, instead of being unwilling to do so, they likewise could not have produced more blends without having to import additional volumes of components.

This intuition is supported by the testimony of

Ms. Beatty as to her actual experience, when in 2014, Honeywell told her that they did not have sufficient components available to make certain blends, after having said just earlier that they had ample available supply of those blends.

There is additional proprietary information at Page 25 to National's prehearing brief that calls petitioners' reported capacity utilization figures into question. Thus, the Commission should view the domestic blends industry as also operating at its full effective capacity.

It follows that any adverse volume trends experienced by domestic producers, including, but not limited to loss of market share, that they cannot be attributed to the subject imports. With regard to price effects, subject imports did not cause any adverse price effects to the domestic industry. Overall prices for HFC components and HFC blends, as measured by the AUV of U.S. shipments and net sales, declined somewhat over the period.

However, the pricing data showed mixed trends, with prices for some produces decreasing, but prices for others increasing. Thus, there is no conclusive evidence of price depression by reason of subject imports. Even where price declines did occur, especially early in the POI, this can be explained by several other factors.

First, by the fact that the patents for the five in-scope blends expired in the years preceding the POI with three of the five expiring in 2011, just before the beginning of the prelim POI. The erosion of the price premium commanded by products under patent protection isn't something that would happen all at once, but would continue over time, at least as long as the early part of the final phase POI.

Secondly, as discussed at prehearing report Page 2-14, an EPA ruling in April of 2013 increased the supply of HCFC R22, a refrigerant that HCF blends had been developed to replace. This increase in the supply of a substitute product adversely affected the demand and pricing for the in-scope HFC blends and components.

This morning, representatives of petitioning companies claimed that demand and pricing for R22 and in-scope blends are completely unrelated. They mention that equipment designed to use these blends couldn't use R22. What they didn't say, very carefully, was the reverse, which is the relevant point.

I refer you to Staff Report Table 1-18, where it says, 'In commercial refrigeration applications, existing equipment is typically retrofitted to use R404A, R407C or other HCF blends in lieu of R22. The citation for that is the petition, Pages 14 and 15. So petitioners tell you one

thing in the petition, and then they say another thing when they're sitting here before you.

Third, the early part of the POI may -- so of course, demand and pricing for in-scope blends that can be retrofitted for use in R22 applications, would be affected by additional availability of R22. The size of this impact is unclear, but to say, as petitioners did, that they are completely unrelated, is simply not a credible statement.

Third, the early part of the POI may still have been experiencing a hangover effect, as prices returned to equilibrium after spikes caused by shortages of HF, the key raw material in 2011.

Just as there was no evidence of price depression, there is no evidence of price suppression. COGS to sales ratios reported by domestic producers show no evidence of a cost-price squeeze over the POI.

The underselling record in this investigation, likewise, provides no evidence of adverse price effects, by reason of subject imports. We discuss this in detail at Pages 35 to 40 of Chinese respondents' prehearing brief.

While the details are proprietary, we submit that what the data show about intraindustry competition, changes in market share within the key pricing products and price leadership in the market, all rebut the conclusion of adverse price affects by reason of imported blends.

This morning, petitioners said that imports were the lowest price in the market, in a market where price matters. I encourage the Commission to examine Page 40 and Exhibit 6 and 7 of Chinese respondents' prehearing brief to test the accuracy of that statement.

Moreover, we submit that the evidence clearly demonstrates that the use of subject import HFC components by domestic blenders causes no injury to the domestic industry producing those blends. You heard a long discussion about National and their ISO containers this morning. But they're not the only direct importers of the components.

More about this is BPI, but it makes me wonder how the domestic producers can be harmed by these direct imports, given the identity of the direct importers. And I think, to test this, the Commission can do a two-step process. First, compare the average unit values of National's direct imports of components to the average unit values of the direct imports of components by other importers.

Second, compare the sales prices of National for their blends to those of the sales prices of other domestic blenders. We do this at Pages 37 to 38 and Exhibit 5 of our prehearing brief. And when you've completed these analyses, you have to wonder how, other than by their sheer existence

in the marketplace, National and their imports of components are harming domestic blenders.

The third thing I wanted to mention about underselling is Slide 7 to the Petitioners' presentation this morning talks about 410A in cylinders, a blend being sold in cylinders. This is Pricing Product 2 in the underselling data that you have.

I would encourage you to look at the underselling versus overselling pattern for this product. And then determine whether there is harm being caused by the pricing of subject imports.

On impact. Subject imports cause no adverse impact to the domestic industry. There is no evidence that any declines in employment were by reason of subject imports, particularly with respect to components. To that I refer you to my earlier testimony about the viability of certain facilities.

The financial data reported by the domestic industry do not indicate that subject imports had an adverse impact on the industry. To the contrary. The industry recorded its best performance in 2015 when subject import volume and market share were at their highest levels. This is true for blends and components and for the industry viewed on a single like product basis.

This improving trend was apparent at the

preliminary phase and was discussed in detail by respondents in their post conference brief, thus, cannot be attributed to the effects of the petition and what happened in the second half of the year.

The lack of injury by reason of the subject imports is even more obvious when out-of-scope blends are considered. Although petitioners have defined the scope to exclude them, it's hard to imagine how R410A, which is 50% R32 and 50% R125, is so drastically different from R410B, which is 45% R32 and 55% R125, so as to warrant being a different like product, when the scope contains blends that have far different compositions.

Moreover, prehearing report Table 2-6, shows that many out-of-scope blends can be substituted for in-scope blends with only minor changes to equipment, and I believe that's responsive to a question asked this morning by Commissioner Schmidtlein about evidence for the overlap in competition.

If the financial results from operations on these out-of-scope blends are included, as shown at Table C-4 of the Staff Report, the industry's profitability is significantly healthier.

I mention this, not as a specific argument to include out-of-scope blends within the like product, but rather to illustrate how the scope, as drawn by petitioners,

vastly understates the performance of their HFC blends business overall, including those blends made with the in-scope components.

Nevertheless, with respect to the in-scope components and blends only. This is a mature market with mature products for which the patents have been expired for at least four years. So investment indicators such as capital expenditures and R&D expenses would be expected to be flat or declining.

This is particularly true since recently published EPA regulations, as shown at Exhibit 15, the Chinese respondents' post conference brief, states that by 2020 or sooner, all of the in-scope blends, as well as in-scope component R125, will be unacceptable for end-use in a variety of applications. And not just for new machines, but also to some retrofitted units.

At the preliminary phase, petitioners' counsel suggested that the industry was suffering injury because it was not earning enough from its operations on in-scope HFC components and blends to invest in future products.

This logic is frankly backwards. It does not make economic sense for domestic producers to argue that investment in their next generation of products should be funded from their off-patent products.

Rather, that investment should have been, and

likely was, funded by the monopoly profits generated by these products during the period for which these companies held exclusive rights to manufacture and market them.

And it is likely funded by the profits being generated currently, by the proprietary refrigerants that they have excluded from the scope. It is disingenuous for petitioners to exclude consideration of these blends and next generation products from the investigation for all purposes other than the degree to which they claim their development cannot be supported by the profits earned and the products that they have included within the scope.

In any event, and whatever they may tell the Commission, the domestic producers are already making these investments in the next generation of products. Chemours and Honeywell have publicly reported their plans to invest over five hundred million dollars in U.S. plants to produce HFOs.

Clearly, the returns that they earn on the in-scope components and blends, provided no impediment to those investment decisions, and therefore, provide no evidence of injury by reason of subject imports. Thank you.

MR. GOLDFEDER: Good afternoon again. For the record, I am Jarrod Goldfeder, counsel to National Refrigerants and again, we appreciate the opportunity to appear here today.

I will conclude our panel's presentation with a discussion of four of the pertinent legal issues in this case. But first, before I forget later, I want to say that we all do appreciate the staff's hard work in this investigation.

The final phase questionnaires reflected a tremendous amount of consideration and work, and while I can't say that National enjoyed preparing its responses, there's no question that the record of this final phase is particularly comprehensive.

So the first issue that I will address, which should come as no surprise to anyone, is the definition of the domestic like product. As explained quite at length in our prehearing brief, the final phase record fully supports a finding of two separate like products, whether that analysis is done using the semi-finished like product analysis or the traditional six-factor test.

I'm sure no one in this room wants to hear me go one by one through eleven separate criteria, so let me just make a few over-arching remarks. First, our reading of the preliminary determination is that the Commission largely focused and gave way to the first dedicated to use criterion.

And as we discussed in our brief, the plain meaning of the word 'dedicated' is used only for one

particular purpose. Now here the record shows that HFC components do not have a dedicated use to the production of the downstream article, which in this case, the downstream article is the five specific HFC blends that the petitioner has targeted in its case.

The data is proprietary, but Table III-13 of the prehearing Staff Report confirms that U.S. producers produce a not-insignificant percentage of out-of-scope blends on the same machinery and equipment used to manufacture the in-scope blends.

Table I-22 leads the same conclusion. When evaluating U.S. producers commercial U.S. shipments of in-scope and out-of-scope blends, the out-of-scope blends are not part of the downstream article for purposes of the semi-finished analysis.

When also considering the other independent uses for the in-scope HFC components, which you've heard about, including as a stand-alone refrigerant, in fire suppression and foam blowing applications and in several other uses, there's no question that these HFC components are not dedicated to the production of the five specific in-scope HFC blends, and certainly they're not even almost exclusively dedicated to the, to use the petitioners' term of phrase.

Second, blending -- no one argues that blending

is not as extensive as component manufacturing, but the Commission's criterion is not whether the process used to transform the upstream article into the downstream article, is as extensive as the process to manufacture that upstream article.

The analysis of whether that transformation process itself is significant and extensive. Ms. Beatty already addressed it in her testimony and we'll be happy to address any questions, but the petitioners' notion that blending is simple and adds little value is simply unsupportable.

It is a complex and extensive process on its own, and both the additional blending costs and the value added are significant, as our prehearing brief demonstrated.

Third, the petitioner argues that Page 17 of its prehearing brief, that the Commission should treat out-of-scope HFC blends and in-scope HFC blends as separate like products, because from their perspective, non-scope blends, and this is a quote, 'are formulated to have different physical characteristics which render them suitable for specific equipment and distinct applications.'

That is exactly our point as to why HFC components and HFC blends are separate like products. And our brief provides an extensive discussion of the critical differences in physical characteristics that do draw clear

dividing lines between components and blends.

Fourth, we understand that the Commission's first route will be to consider the like product issue using its semi-finished framework. But given the independent uses for the in-scope components that I've just discussed, the Commission can exercise its discretion to the extent even necessary and consider this issue using its traditional like product analysis. There is precedent for doing so, and we cited it in our prehearing brief.

And the Staff Report and other record evidence fully support a finding of two separate like products under the traditional analysis. This is especially true considering the limited interchangeability of components and blends. The entirely distinct channels of distribution through which they are sold, and the entirely distinct perceptions of producers and customers regarding these two product groups.

The second issue I want to address is National's status as a member of the domestic industry. If the Commission finds two separate like products -- in my mind, there's no question that National's not a member of the domestic component industry, but it is a member of the domestic blend industry. And this morning you heard -- no dispute -- that blending itself is sufficient manufacturing related activity.

If the Commission does find a single like product, it should not exclude National from the domestic industry because it has no component production. As Ms. Beatty explained at length, National's primary interest is as a domestic producer of blends. It supports a substantial number of production workers at its New Jersey facility.

And it does not import any in-scope HFC blends from China, did not import any during the investigation period. It has imported HFC components by necessity because of found domestic supply for components inadequate for its production requirements.

It is completely disingenuous for the domestic industry to put National in a position where it had to resort to large volumes of imports of components and then turn around and say that National should be excluded from the domestic industry as a result.

The Commission correctly included National in its definition of the domestic industry in its preliminary determination and the facts of this final phase record provide an even more compelling basis to include National.

The third issue I want to address is the Commission's injury analysis. As you've already heard from Mr. Dougan, if the Commission considers components as a separate like product, the record compels a negative determination for components, given the almost complete

absence of head-to-head competition between domestic component production and imports of subject Chinese components.

In that regard, I want to note that Page 25 of the petitioners' prehearing brief very wrongly claims that U.S. component manufacturers could have supplied more HFC components to National. Their arguments reference confidential information, so we will need to address this further in post hearing.

But I just do want to say for purposes of today, that the record data demonstrate that U.S. producers' commercial sales beyond their internal consumption and swaps, just is not a significant portion of this component industry's business.

The fact that Arkema, Honeywell and Chemours do not actively market their components on their websites or elsewhere speaks for itself. And the Commission need look no further than the capacity utilization data in Table 3-6 to corroborate the veracity of the claim that there's a lot more R125 available for production and sale to National. But as Ms. Beatty has explained, without R125, it doesn't matter how much R32 that Arkema can sell it, when it cannot get the R125 that is a component in all five of the subject blends.

MR. GOLDFEDER: Some of the Petitioners claims

that they would have sold more to NRI is at odds with their assertion that there's no merchant market for HC components.

If there is no open market, where is National supposed to get the components it needs or have the guarantees that it will always have supply available when it needs it, and the Petitioners' claim that duties on components are necessary because, as they put it, any of the 60 or more companies already certified to reclaim or reblend HFC refrigerants will begin to circumvent a potential order.

That's just wrong on several levels. As a factual matter, no company is certified to reblend HFC refrigerants. As a practical matter, reclaiming and blending are not the same, either in terms of scale or the nature of the operations, and the financial, technical and regulatory barriers to enter the blending industry are high.

The suggestion that some or all of these 60 companies are suddenly going to begin importing massive amounts of components just isn't realistic. If they could blend, they already would blend. As a legal and policy matter, the Petitioners' argument is essentially that they don't want new entrants in their blending industry.

The Commission should not reward the Petitioners' blatant maneuver to protect their oligopoly and stifle and open and competitive domestic industry. Now if

the Commission finds a single like product that encompasses both components and blends, the record still supports a negative determination for the reasons that Mr. Dougan has explained, and which were set forth in our prehearing brief.

That's especially true considering that there is no meaningful competition between domestic production and subject imports for components, or in the OEM market for blends.

The final issue that I will address is critical circumstances. The Commission has an exceptionally high threshold for critical circumstances, and that threshold has not been met here. The record shows an only minor increase in subject imports in the six month post-petition period. So that alone supports a negative critical circumstances determination.

I do want to note that the Petitioner has argued in their prehearing brief that the Commission should consider this new data source. But they never argued to the Commission that the Commission should, in their comments on the draft questionnaires, that the Commission should use a different framework or source or collect the data in a different way.

So the fact that the prehearing report data doesn't support their argument is not a reason to throw out the staff report's data and use a different source. When

you also consider the positive post-petition effects, or when you consider the increased prices and revenues that you heard about this morning that have occurred since the petition has been filed, there's no evidence that post-petition imports will seriously undermine the remedial effect of any order. That concludes our panel's prepared testimony. We do look forward to answering your questions and thank you again.

CHAIRMAN WILLIAMSON: Thank you for that testimony. We'll begin this afternoon's questioning with Commissioner Pinkert.

COMMISSIONER PINKERT: Thank you Mr. Chairman, and I thank all of you for being here today, to help us to understand these issues. Ms. Beatty, I'm not trying to put words in your mouth here, but I'm trying to understand your testimony and what you base it on. And so I want to ask you, are you saying that Petitioners are attempting to harm your U.S. blending operations by means of this investigation?

MS. BEATTY: If NRI is unable to -- if NRI is unable to secure adequate quantities of components at fair prices, and the lack of competition in the industry which imports have provided that balance then yes, that will cause significant harm to our business.

COMMISSIONER PINKERT: Well, and I'm just

thinking out loud here. But is it possible that their objective has nothing to do with that point, but that perhaps it would have some negative impact on you? But they're trying to keep the unfairly traded imports out of the U.S. market.

MS. BEATTY: I can't necessarily, other than what the Petitioners have stated in their brief. But National's position is that it's the component aspect. We're not taking any position regarding the dumping that they're claiming that's happening on the HFC blends, because that's -- we don't import any blends, so we don't have experience in that field.

COMMISSIONER PINKERT: No, I understand. I'm just saying that if we're trying to characterize what the Petitioners are doing here, and you and I think Mr. Goldfeder as well pointed to the potential impact on your blending operations, is it possible that that's just collateral impact from the point of view of the Petitioners, that what they're trying to do is simply have an impact on conditions of the imports coming into the U.S. market?

MR. GOLDFEDER: Commissioner Pinkert, this is Jarrod Goldfeder for the record. We have said jokingly amongst ourselves that this case actually should have been called hydrofluorocarbon components and blends therefrom,

because as you hear this -- read their brief and hear their testimony, you know, it almost feels like the discussion of the impact of blends in the market has gotten a little bit lost.

You know, you've heard a lot about we're concerned about these components coming in, because that means that these 60-some mom and pop shops, you know, are going to suddenly begin bringing in all these components and become blending, that are somehow going to start producing these meaningful production in competition with them.

You know, while Ms. Beatty has testified what our position has been, is that if components are included in this like product and if duties are put on it, and you know, that significantly limits the imports of components, when you have a company like National who depends on components for its blending operations, their options are limited.

They can only go to one company for 125, because others don't produce it or are not allowed to sell what they get through swaps. You can go to Arkema and Arkema can say you can come in and take all the 32 you want. Well, that's wonderful but, you know, if you don't have any 125, you're just going to have a lot of 32 sitting in your plant with nothing to do.

So I mean our position has been, you know, we don't want to really get into, you know, what is the

Petitioners' true motivation here. That's speculative.

But the truth of the matter that the effect of this case, if components are -- National's access to components is limited, is that they will not be able to blend at the level that they have been, and if the Petitioners are not willing to sell them their components, especially 125 in the quantities that they require, you know, National's blending operations are put in severe jeopardy.

COMMISSIONER PINKERT: Okay. So I'm to understand that your testimony on this matter is not focused on the intent of the Petitioners, but rather you just want us to understand that if your blending operations cannot obtain the components that they need, that that will be harmful to those operations?

MS. BEATTY: This is Maureen Beatty. Yes.

MR. MARSHAK: Can I just make a comment? Need Marshak. Just it's the impact of anti-dumping order, because it's a Chinese product and you have Department of Commerce dumping duties, which Petitioners knows are going to be prohibitive because of the surrogate value methodology. So if you have an anti-dumping duty order on Chinese components, particularly 125, you won't be able to buy Chinese 125 anymore.

That means it's sole source from a company in

the United States, and if that one company can't supply it, you can't get it. If you can't get it, you can't blend in the United States. So that's the domestic independent producers.

COMMISSIONER PINKERT: Okay. But again Mr. Marshak, you're not saying that that's the Petitioners' goal in filing this petition?

MR. MARSHAK: We're not saying it's the goal. But we're saying that everybody knows that when you're dealing with a Chinese case, that's the impact of filing a petition against the Chinese chemical product. It may not be the goal, but it's the impact.

COMMISSIONER PINKERT: Is it the sole impact? Is that what you're saying?

MR. MARSHAK: It's a very probable impact because of the nature of this proceeding, that it would put an independent company who needs 125 out of business if there's no availability of that 125 from the sole source.

COMMISSIONER PINKERT: I've understood that point now two or three times. But I'm asking you is that the sole impact, the sole likely impact in your view of a successful petition in this case?

MR. MARSHAK: It's one very important impact.

COMMISSIONER PINKERT: Okay. I'll leave it at that. Now what happened in the market when Honeywell

curtailed its capacity with respect to R-125? Did that cause pricing to firm up? What was the impact in the marketplace?

MS. BEATTY: This is Maureen Beatty. I wasn't aware that Honeywell curtailed their supply directly. It was told to us that they lack the capacity. So then we had to go ahead and secure volume elsewhere to meet our requirements.

So we had some agreement in place to supply some volume to us, and that pricing had been predetermined. So I'm not sure that their statement about reducing their capacity, that I would have direct knowledge of what that impact was on the price to National.

COMMISSIONER PINKERT: Thank you. Anybody else want to comment on that point?

(No response.)

COMMISSIONER PINKERT: No? Okay. Well, if you could look at that for purposes of the post-hearing and see if there's anything you wish to add, I think that would be helpful. Now my last question for this round is whether it's your view that the prices of the blends are indexed to the prices of the components in this market, are they indexed?

I understand that there was testimony that one affects the other, but is there an effect by means of

inclusion in an index?

MS. BEATTY: What, do you mean a published index? I'm sorry. This is Maureen Beatty.

COMMISSIONER PINKERT: Well, if you have testimony about a published index, I think that would be helpful. But I guess more generally, is there some formula or some way in which you can translate the prices of the components into the prices of the blends?

MS. BEATTY: Okay. Well certainly the price of the components affect the price of the blends but not solely, because there is value added in the blending process, and that is recognized in the marketplace by the prices that the product, the blended products are sold.

COMMISSIONER PINKERT: If this is something that is proprietary, you could discuss it in the post-hearing.

MR. MARSHAK: Yeah. We were discussing whether we could say anything here, and we realize that we can't. So we'll try to put something in the post-hearing, based on your pricing product analysis that we could amplify on our post-hearing brief.

COMMISSIONER PINKERT: Thank you very much, and with that, I do have to leave the hearing at this point for personal reasons. But I will be reviewing the entire transcript. Thank you very much.

CHAIRMAN WILLIAMSON: Thank you. I really want

to express my appreciation to the witnesses for coming this afternoon. On the subject of R-125, are there non-subject sources for R-125? For example, are there other countries in Europe, do they use ^^^^ are they using the same blends that include R-125 and where are they getting their product from?

MS. BEATTY: This is Maureen Beatty. Yes, Europe has a market where there's a requirement for R-125. That market is restricted under what they call FGAS regulations. So there basically is a maximum amount of HFC refrigerants, covered blends and non-covered blends included. It's a GWP-weighted basis.

So there is some small volume of a plant that had been opened by Mexicam. It had shut down. I'm not exactly sure of the date several years ago, and then recently tried to reopen. But it is not a large, commercial-scale production facility, certainly not to the order of magnitude that the Honeywell facility in the U.S. is.

CHAIRMAN WILLIAMSON: So are you saying they are restricting their exports of 125?

MS. BEATTY: They have internal demand themselves, to satisfy their own requirements to service the installed base of the equipment in Europe. So they're under regulatory restrictions for the same products.

CHAIRMAN WILLIAMSON: What about elsewhere? There are a lot of hot areas around the world. Are 125 not used in those, the refrigerant?

MS. BEATTY: Well, that is an excellent observation as we sit here in Washington in the hot weather. Yes, there's heat all around the world and these products are in demand, the blended products are in demand around the world. However, the reason ^^^^ my understanding is the reason there are not plants for 125 around the world is that you want to set these plants up as close to possible as where you get --

You source some of the raw components, and fluorospar being one of those fundamental raw materials, with the largest deposit of that being available in China, which makes them a natural source to set up a plant, and Mexico also has a supply of that.

So that's why you're not seeing large commercial scale plants all around the world that you would think would be created simply based on the demand for the products that contain it.

CHAIRMAN WILLIAMSON: So is there a worldwide shortage in R-125? This is one of the first China cases where usually the Respondents come in and say well you know, if y'all cut it off from China, it's all going to come from some place else. It's not going to come from the domestic

market. We had a big tire case a few years ago and that was argued vigorously and yet --

MR. MARSHAK: I think what Ms. Beatty said is the answer. There's the source of fluorospar, and this is based on what we learned from doing this case in the Department of Commerce and what they want for surrogate countries again is it's Mexico and it's China.

So the key raw material you get from Mexico or you get from China, and as far as we know, there really aren't any other major sources around the world. So the production of these products it's in China, it could be in Mexico --

CHAIRMAN WILLIAMSON: Do the Chinese restrict the export of the raw material?

MR. MARSHAK: I obviously don't know. I mean we could ask them. But --

CHAIRMAN WILLIAMSON: I'm sorry. Most of them come in and say look, if you put dumping duties on, we're not going to get R-125, and there's been no talk about non-subject sources or any of that. It's just baffles me.

MR. MARSHAK: As far as we know, there are no significant non-subject sources, and that's because the raw materials, you've got them in China, you get them in Mexico and the production of this product is in probably Mexico, the United States and China, because of the availability of

the raw materials. Non-subject imports is really not an issue in this case as far as we know.

We'll ask our clients. We just don't know of any other than the United States because of Mexico fluorospar, and because of China, because fluorospar is available in China. Why those two countries? I have no idea why.

CHAIRMAN WILLIAMSON: Okay. Well, I invite you and Petitioners, if they want to shed any light on this question post-hearing, it would be useful, because I mean you make the point about the high capacity utilization of R-125 in the U.S., the plants here, and alluded to a problem. I'm trying to figure out is there some other solution to it.

Okay. What about in terms of the other components and blends in Europe or elsewhere in the world, as long as we're on the question of non-subjects? Is there anything you can say about that?

MS. BEATTY: Maureen Beatty. So as I mentioned, there are regulatory restrictions currently in place in the EU.

CHAIRMAN WILLIAMSON: That's for all of the blends and all of the components?

MS. BEATTY: It would cover all of the blends and all of the components. It covers the class of products

that contribute to global warming. So any product that has a GWP would fall under that umbrella of. So they established a cap, which means there's a maximum amount of GWP that can be either manufactured in or brought into the EU.

So there's restrictions in the EU. Whether the product is domestically made in the EU, whether it is sourced elsewhere around the world in order to satisfy their requirements. In other parts of the world, the developing countries come to mind certainly in Asia, they are currently in negotiations with the rest of the world to regulate.

Also all HFCs are global warming products in the U.S. This is also part of those negotiations. Those developing countries lag the current regulatory prohibitions on ozone-depleting substances by ten years, which means it gives them an extra ten years, as they're developing, to continue to utilize the existing ozone-depleting substances.

So there's a bit of a lag, although there is great efforts being undertaken, and the U.S. participates considerably along with Mexico and Canada, to try and get HFCs regulated similar to the ozone-depleting substances, and that would include the developing world. So they will be subject to regulations once the world agrees.

CHAIRMAN WILLIAMSON: Okay, okay. Thank you for that answer. This for ICOR. You argue that R-125 should be

a separate like product from blends. Under your reasoning, should the Commission find each component to be a separate like product, and if not then why not?

MR. MORGAN: Commissioner Williamson or Chairman Williamson, we made that argument. We fully support the argument that National made in its brief concerning all of the components being one like product and blends being a separate like product, and they have spoken to that and can speak to that.

We were just pointing out that 125, if for some reason the Commission didn't agree with that analysis, that pointing out the facts that support a separate like product finding for that, and that's all we were saying, is that the facts do exist and support that finding should the Commission go down that road.

CHAIRMAN WILLIAMSON: That R-125 should be a separate like product?

MR. MORGAN: Correct. But not advocating that as the primary, our primary view is that the position espoused by National is the way the Commission should go. But should the Commission decide -- we're making it in the alternative to what National has argued.

CHAIRMAN WILLIAMSON: Okay, thank you. This morning, I had asked ^^^^ asked the panel the same question. How large is the market for reclaimed and recycled HFCs? Is

there a difference in customer perception or usage between recycled and version blends?

MS. BEATTY: Well, I'll start with the last part, because I actually remembered what that question was.

CHAIRMAN WILLIAMSON: Okay.

MS. BEATTY: There's no difference between a reclaimed refrigerant versus a newly-manufactured refrigerant. They're all supposed to be made to the same specification or recycled to the main specification. However, it is important to note that at this time there is no requirement to reclaim HFCs.

Currently, the only refrigerants that are subject to mandatory reclamation are CFCs and HCFCs, CFCs being phased out 20 years and still in use in much, much smaller quantities, as would be expected, and HCFCs as we start to approach its end production date.

The demand for reclaimed R-22 will remain in the marketplace, and there will be no distinction that can be made being reclaimed and newly manufactured material once that happens. So my point in all of this is that while there are 60 or so EPA-certified reclaimers, they're only certified and they're only required to be certified ozone-depleting substances. Until EPA imposes a mandatory requirement to reclaim HFCs, then we won't know really what that market loss like.

But we can learn some things from what has occurred in the past with the phase out of CFCs, and as we're going through the phase out of HCFCs, and that is while there is ample supply of newly-manufactured products, there really isn't a demand for the reclaimed version of those same products.

CHAIRMAN WILLIAMSON: Okay, thank you. My time has expired. Commissioner Johanson.

COMMISSIONER JOHANSON: Thank you, Chairman Williamson. I'd like to begin by thanking all of you for appearing here today. From questionnaire responses, U.S. producers sell primarily under contracts and importers sell in the spot market.

Are there differences in the types of purchasers that purchase via contracts or via spot sales, and are there different in scope AHFC blends or components more likely to be sold on a contact or in a spot market?

MS. BEATTY: Typically, you would have long-term contracts for the refrigerant manufacturers to supply blends to the original equipment manufacturers, who have requirements to precharge their equipment when it leaves the factory. So those are typically going to be where you find large volumes of fixed -- fixed volumes at fixed prices for longer term contracts.

COMMISSIONER JOHANSON: How about the stores

which were discussed this morning in -- by the Petitioners. They talked about National having 500 such stores and Trane having stores as well. Are those under long term contract too?

MS. BEATTY: I could not speak to their experience with the OEM-owned distribution locations. However, I know for our distributor, which is not owned -- we are not owned by our distributor, we do not necessarily have long-term contracts, because we may market this into the after-market, and there after-market demand can fluctuate depending on regulatory requirements for other products that are being offered into the market.

COMMISSIONER JOHANSON: Thank you, Ms. Beatty, and I guess I'll ask you a similar question to what I asked the Petitioners this morning, and that was regarding the after-market, which you just spoke on, versus the OEM. I had mentioned that in the R-134 investigation here at the ITC, there seemed to be a major distinction between OEMs and the replacement market. That was a major factor in that investigation. Would you say that is still very much at play here?

MS. BEATTY: Yes. The OEM market is different than the after-market.

COMMISSIONER JOHANSON: That is your primary market, is that correct?

MS. BEATTY: Correct.

COMMISSIONER JOHANSON: Okay, thanks.

MR. GOLDFEDER: Commissioner Johanson I wanted to add, and it's confidential data, but as we discussed in our brief, I think it's pretty telling if you look at the percentage of U.S. producer sales that are made to the OEM market versus importer sales, in terms of looking at the competitive landscape in this market.

COMMISSIONER JOHANSON: Okay. Thank you, Mr. Beatty (sic). It was a long brief, so you pardon me for not recalling all of it. But it was very useful to read.

MR. GOLDFEDER: I appreciate any part of it you could read.

COMMISSIONER JOHANSON: It was busy.

MR. GOLDFEDER: I'm aware.

COMMISSIONER JOHANSON: But it is a very complicated subject though, I have to admit, since we have so many different products at issue. Petitioner states that the patents on the in-scope blends expired well before the beginning of the Period of Investigation, so that any effects on volume and price should have already been felt prior to the Period of Investigation.

Are there any more long-lasting effects following from the patent expiration that are being missed today, and National mentioned that Chinese patents didn't

run out until 2012. That's at page 45 of the brief. Were the Chinese patents a significant obstacle?

MS. BEATTY: This is Maureen Beatty. We referred to the patent on R-410A, which the Petitioners have indicated is ^^^^ they've provided a lot of data regarding sales on that and the imports of that blended product. I'm sorry. Can you repeat the question?

COMMISSIONER JOHANSON: Okay. Let me see here.

MS. BEATTY: I'm sorry, Jarrod. The patents. I apologize for that. I'm a little nervous and it's been a long day.

COMMISSIONER JOHANSON: Certainly.

MS. BEATTY: So with the Chinese patents, it's one thing when they came off in the U.S. and there was the ability for companies like National, who had blending facilities and could put those products, you know, into packages in the U.S. A main change, though, we think is that the Chinese, there was a patent on 410A that was still live in China when the patent expired in the U.S., which prohibited the Chinese from manufacturing 410A and sending it into the U.S. in that blended form.

And then once the Chinese got the ability to manufacture a DOT, a Department of Transportation specification cylinder, that's when you started to see a shift in based on the data that the Petitioners have

provided, imports of packaged 410A coming into the U.S., which now meant it was not -- there was nothing arriving --

It wasn't really arriving in bulk form. It was arriving in the form that is sold into the marketplace. So the contractors that they talked about this morning are through the wholesale distributors.

MR. DOUGAN: Commissioner Johanson.

COMMISSIONER JOHANSON: Yes, Mr. Dougan.

MR. DOUGAN: Oh sorry. Jim Dougan, ECS. Just to add, I think I alluded to this in my testimony. I think, you know, the patent expiration, at least for some of the patents, occurred right at the end of 2011, which is a year before the beginning of the final phase POI, but of course right before the beginning of the prelim phase POI.

If you look at the record in the prelim, which included 2012, you will see a much steeper decline in price during the course of 2012 than you do in any of the data that you have before you in the final phase record. That's the ^^^^ that is the combination, I believe, of the patents going off, expiring, and the sort of comedown from the HF shortages that occurred in 2011.

So you kind of had those two things in combination, which would have led to higher prices in 2011, which caused most of the price decline that you were going to see to have happened in 2012. That would continue, and

it was particularly I guess exacerbated or extended by the EPA allowances on R-22 being extended in 2013, in terms of the price effect that it would have on the in-scope blends.

So you have two factors really contributing to most of the price effect say in 2012, probably lingering into 2013. But then when the R-22 allowances were extended, that contributed to additional download pricing pressure.

COMMISSIONER JOHANSON: Thank you, Mr. Dougan. Also thank you Ms. Beatty for your responses. This morning I asked the Petitioners about commodity prices, and I mentioned that commodity prices have generally been falling, such as for oil and steel products over the past several years.

Have these trends affected the types of raw material costs of HFC production for you all? If you can't respond to that, that's fine. If you want to do that post-hearing, that's okay.

MR. MARSHAK: While Jim is looking, we will put more in our post-hearing brief. We'll get back to our clients in China and see if that had any impact --

COMMISSIONER JOHANSON: Okay. That would be useful, because this is something which in most of our investigations is a more prominent issue than it appears to be in this hearing or in this investigation.

MR. DOUGAN: I'm not sure about that

characterization maybe. I think it's a little different than --

COMMISSIONER JOHANSON: I think we -- there are so many other things up in the air right now that we simply aren't hearing as much about it.

MR. DOUGAN: I think there are a lot of factors at play. This is not a case like you see in -- I think I believe it was PET resin, where there's actually formula index pricing to the underlying raw materials or something like in the steel products, where there's an incredibly high correlation between the raw materials and the selling prices.

Here, what is in the public staff report does say that there's 406 responding U.S. producers reported that raw material prices have fluctuated since January 2013, but a U.S. producer reported that HF prices increased in 2014 but decreased in 2015. So I think that's all I can say publicly about that. So that's all I can say.

COMMISSIONER JOHANSON: Okay. Thanks for your responses. Now the yellow light has come on. I'd like to ask another question, but I think I'll hold off and come back in the second round. Thanks for your responses.

CHAIRMAN WILLIAMSON: Okay. Commissioner Schmidtlein.

COMMISSIONER SCHMIDTLEIN: Thank you. I'm not

sure who -- one of the fact witnesses I guess, maybe Ms. Beatty. Do you -- in your view, do the out of scope blends compete with the in-scope blends that we have in this case? So we have eight out of scope blends that use the in-scope components, and then we have a number of other blends that have an in-scope component and some other component.

MS. BEATTY: This is Maureen Beatty. Yes, that the -- and I'm going off of memory on the list of those eight. Not all ^^^^ there's one product that comes to mind, 407F, which is a product that is patented and marketed similar for the same applications, as one of the covered blends, 407A. There are also other out of scope blends that the Petitioners have indicated that are no longer manufactured.

However, I would just like to clarify that they may no longer manufacture some of those HCFC-containing blends. They have exited the market on that, but there are companies like National who are manufacturing those because we do have customers who still have requirements for that equipment, and have for whatever reason determined that they're not ready to switch out of that or to actually probably replace that piece of equipment.

So all of these blends were really designed, whether they're in-scope or out of scope, to replace R-22 and depending on the different application, whether it's air

conditioning or refrigeration, would determine which product someone would want to use.

The other factor that would play into a purchaser's, like an end user's decision, a contractor's decision to use a particular refrigerant might also be what oil is contained in the original equipment, because if it's a mineral oil, if they move to an HFC refrigerant they need to switch oils or have some other additive in there that would help the oil return back to the compressor.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. DOUGAN: Commissioner Schmidtlein, if I may add to that. Jim Dougan, ECS. Table 2-6 of the staff report is titled "The Firms' Responses Regarding Out of Scope HFC Blends, Substitutes for HFC Blends," and then for each of the in-scope HFC blends, there's a listing, a column of out of scope HFC substitute, and then a column indicating which modifications would be needed to make that substitution.

In some cases, there's retrofitting; in some cases just minor changes to the equipment and then I guess in the case of 507, maybe a little bit more retrofit. But for at least three of the four, it seems to be relatively minor change to accommodate these substitutes.

COMMISSIONER SCHMIDTLEIN: So is it the position of the Respondents then that the out of scope blends should

be considered part of the same like product as the in-scope blends, since they're competing with each other?

MR. MARSHAK: I know we've mentioned this in our brief. We think it's more a condition of competition, where you should really look at what's going on with the out of scope blends.

But as far as, you know, like product, this case is so complicated with R-34A and the out of scope blends, I think the best way to look at it is you have the petition filed against certain components, against certain blends, and that should be the outer limit just because of the nature of this type of product.

But within those outer limits, we believe there's clear dividing lines, a very clear dividing line between the components and the blends. I mean otherwise, it just might be too difficult.

COMMISSIONER SCHMIDTLEIN: So you agree with the Petitioners, then, that we should start with the scope in determining like product?

MR. MARSHAK: Yes. I mean we'll have to say you start with the scope, because just -- especially because the nature of this case, with all these other potential blends. So you start with the scope, but within the scope, just with the components and the blends there, we think, based on the Commission's traditional analysis, is just very clearly a

distinction between the components and the blends within that scope.

We'll accept their scope, because otherwise you have this issue with R-134A. You have an issue as to where you end on the other blends and it's very difficult to figure out what out of scope blends would be in and what out of scope blends would be out.

So let's stay within the scope, their scope and say look, within that scope you have your components and you have your blends. That's where we come out on this.

MR. DOUGAN: And Commissioner if I can just add to that, and I think I mentioned this in my testimony too. It's not -- I raised the profitability of these producers in these other out of scope blends, not explicitly in support of a like product argument, but as a view towards, you know, how representative are the data that you have with regard to the financial results of these companies.

How representative it is to their HFC blends overall with respect to these components, and what's really going on with these lines of business for these companies.

COMMISSIONER SCHMIDTLEIN: Isn't that the point of like. I mean -- I mean I don't think historically, I mean, the Commission doesn't just say well, we're not going to look beyond the scope in determining what the like product is, and if the product has been excluded from the

scope, then we don't consider it because we use that as the outer bounds. I mean that is not the practice of the Commission, right? That would sort of defeat part of the like product.

The like product analysis is to determine what products are competing with the subject imports, and sometimes the Petitioners have carved their scope up. But that doesn't mean that there's -- that doesn't necessarily limit the Commission in determining what should be included in the like product.

So if we have here where everybody agrees, or it seems that some agree that these out of scope blends compete and as you pointed out, these are substitutes, shouldn't they be included in the domestic like product? I mean this might be a better question for the lawyers here.

MR. DOUGAN: I'll defer to counsel on that one.

COMMISSIONER SCHMIDTLEIN: I'm looking at you Mr. Dougan, but really it's a question for the lawyers.

MR. GOLDFEDER: Well, I mean from National's perspective, obviously we haven't really taken a position on blends as a stand-alone. Our interest -- we think that whether you include in scope and -- out of scope in with in scope, you should still draw a line between components and look at that separately, because National's not an importer of the blends.

I will say I do agree with the notion that the out of scope blends are an important condition of competition here. I also think that, you know, if the Commission were to include out of scope blends, any domestic like product, you know, I think there is an even more compelling case, whether you look at blends alone or single like product, that there's no injury.

These are patented products. I think we've heard that they're not being imported. So --

COMMISSIONER SCHMIDTLEIN: The out of scope. You're talking about the out of scope blend --

MR. GOLDFEDER: I am talking about the out of scope blend.

COMMISSIONER SCHMIDTLEIN: --not being, right. Go ahead, Mr. Marshak.

MR. MARSHAK: No. Look, I totally agree that you're not, you know, you're not locked in by the class or kind of merchandise that the Commissioner -- that the Petitioners decided to bring the case against. Like product is, could be absolutely different than classic or kind, and it's your decision as to what like product is.

Just because of the nature of this case, the way the Petitioners brought the case with an R-134A case and selecting certain components and certain blends, this is a very tough call as to what the domestic like product should

be, and whether there should be a continuum of blends.

If you look at the facts, if you look at this continuum of blends and considered out of scope blends are part of the domestic like product, you have a tremendous difference in the profitability of the domestic industry. I mean it's night and day, and there may be in this particular case you have to look at that as a very important condition of competition between patenting products and the impact of products going off patent, and just you know, difficult to determine but as a very important factor as the importance.

But maybe the safest way to do it in this case is saying the domestic like product is the in scope blends and in scope components, but then look at in scope blends and in scope components.

We believe there's a clear distinction there, but with the caveat, a very, very important condition of competition are all of these out of scope blends, as how they impact the in scope blends and the difference in profits and the similarities and differences. It's a very tough call, I guess.

COMMISSIONER SCHMIDTLEIN: Well, and I guess one last question here before my time expires. So the argument you all are making, that because certain of these blends have been excluded from the scope and therefore you argue we can't find that these components are dedicated to the

production of the in scope blends, wouldn't that mean that the Commission would be unable to apply the semi-finished product analysis in a lot of cases, because we see a lot of cases where a downstream product has been carved out of the scope, right.

That is not unusual. So wouldn't your theory of how you look at whether or not, you know, and you're using that word "dedicated," wouldn't that mean that the Commission wouldn't be able to use that type of analysis in quite a few cases?

MR. MARSHAK: You'd use the semi-finished product analysis or you'd use your traditional analysis and either way, components are different and you know, however you do it. It's very difficult analytically how you get there, to what we believe has to be the correct result.

It's something that we had difficulty with when we were writing our prehearing brief, and we'll probably have difficulty in our post-hearing brief too, to take a definite position on a very difficult conceptual, intellectually conceptual subject, but we know what the result has to be as far as components and blends.

COMMISSIONER SCHMIDTLEIN: Okay, all right. Thank you. My time is up.

CHAIRMAN WILLIAMSON: Thank you. Commissioner Broadbent.

COMMISSIONER BROADBENT: Okay. Ms. Beatty, you stated that R-125 prices were at their highest due to a supply shortage in 2013. Petitioners addressed this in the morning panel, saying that the price recovery had already occurred. When was the supply shortage and why would prices still not -- still have been at high levels in 2013?

MS. BEATTY: That is because I think in the prehearing I called it the hangover effect, that it takes time for what happens in the beginning of the supply chain to actually impact the downstream supply to the ultimate purchasers of those products.

COMMISSIONER BROADBENT: Okay. This is also for Ms. Beatty. If the Commission finds two separate like products, do you support the petition as it pertains to HFC blends?

MS. BEATTY: We have not taken a position on that.

COMMISSIONER BROADBENT: Okay. Mr. Dougan, there was an assertion that a specific U.S. producer was unwilling to sell at a key, I guess that was ICOR, was unwilling to sell the key HFC component at commercially reasonable prices. Given that price competition is a key part of our analysis, how do we assess whether an offer price is commercially reasonable, or simpler higher than you were willing to pay for it?

MR. DOUGAN: This is a difficult question to answer in public. So I'll give a more extensive answer in post-hearing. But I think when the quoted price -- if this is the example that I think you're referring to, when the quoted price for a raw material input is, you know, higher than the selling price for the downstream product from which it's made, and when that comes after, long after the request for quotation is made, I think it's a reasonable inference on the part of the potential purchaser that it's not a serious offer, and it's not about being more than an import or a fair price, really truly meaning fair with respect to the realities of the marketplace, as opposed to just a comparison to import or other competing prices.

COMMISSIONER BROADBENT: Okay. Did prices for HFC components and/or blends rise in the U.S. as a result of filing the petition?

MR. DOUGAN: I'll have to take a look at those data, and I'm not sure what I can say publicly. Perhaps the purchasers on the panel can speak to that.

MS. BEATTY: Yes, they did.

COMMISSIONER BROADBENT: Okay. This is for National. On page 45 and 46 of your brief you argue that patent expirations contributed to greater availability and lower prices of HFC blends. If the expiration of patents resulted in greater competition including from subject

imports, and the result was a decline in U.S. prices, is this evidence of an adverse price effect?

MR. GOLDFEDER: Commissioner Broadbent, I'll answer that. You know, the Commission's analysis looks at price effects as a result of subject import competition. I would say that it's not an adverse price effect. I would say it's an expected or natural price effect of patent expirations that -- and the keep thing has nothing to do with subject import competition, and sometimes it's more of a chicken versus an egg.

Did subject imports cause the prices to fall? Now prices fell and subject imports are here. That doesn't mean that, you know, subject imports caused those prices to fall. That means prices had fallen and, you know, incidentally subject import prices -- subject import volumes had increased, again another consequence of patent expiration.

So when patents expire no, you know, companies are not prevented by law, by intellectual property laws, from manufacturing things on their own.

MR. DOUGAN: Commissioner, if I could add to that, what Mr. Goldfeder said. Let's say that, for example, as a result of the patent expiration, an independent company like National, who prior to the expiration of the patent did not have the legal right to make a given blend, that they

are then able to do so. If they -- let's say that they're available to source the components that they need to do.

So from the domestic producer, and then they produce and sell that blend, it's likely to be at a much lower price, independent of where they source their raw materials, than the price that was commanded when the patent monopoly was in effect.

So that is -- well, that is going to happen as a result of the patent expiration, and to be able to desegregate the effect of some of those raw material components being sourced from China as opposed to the United States I don't think is something that to have the data on the record to do.

However, I will refer you again to the comparison that I mentioned in my testimony, which is you can take a look at -- you can take a look at National's selling prices, and you can see, regardless of where they get their raw material components from, if that can credibly be said to be harming domestic blends producers.

COMMISSIONER BROADBENT: Mr. Dougan, on behalf of the Chinese respondents, I'd ask you this question. On pages 13 to 14 of your prehearing brief you argue that here is limited available capacity for additional production of a specific HFC component which in turn limits capacity utilization for other components in HFC blends. However, it

appears that capacity utilization for that specific component declined over the POI. Does this indicate that the industry actually did have excess capacity to produce this specific component by the end of the POI? And you can refer to this in your post-hearing brief if you want to.

MR. DOUGAN: I will definitely address that in the post-hearing. I have to be careful to discuss it but in general those are really high, what are we looking at? Yes, those are very high utilization rates let's just say and those are taken over the course of an annual period so whether capacity was available to a given customer at a given time during that annual period, you know, may not be necessarily so.

Also, I will refer you to the testimony also of Ms. Beatty and Mr. Tecan about their ability to source components and the availability from the domestic production facilities. I will also refer you to their testimony, I believe it was Ms. Beatty's about that they're within their supply contracts there is in allowance for a certain amount by contract with a Domestic Producer. There is an allowance for a certain amount of that supply that is not required to be of U.S. origin and that seems like a very strange clause to include in a supply contract if you've got lots of available idle capacity in your domestic facility.

COMMISSIONER BROADBENT: Alright, I wanted to

talk about some pricing trends and I'm looking at page Roman V 14 to 15, pages 14 to 15 Chapter V 14 to 15. What explains a trend in U.S. Prices for Product II as compared to Product I? Well, that's certainly not something that I think I can answer at any length publically but we did do an analysis of these products in our prehearing brief where we discussed a particular player who was gaining share and driving prices in these markets for this product so we will reference that one again in post-hearing. I don't want to get any farther into the weeds right now.

COMMISSIONER BROADBENT: I understand.

MS. BEATTY: Maureen Beatty. Although I don't know what those pricing trends are I do know that the one product one is bulked for 10A and product two is packaged for 10A and I think that there is a difference in that the cylinder product no. 2 is sold directly to the final person in the chain, so the technician who is actually going to charge it into a piece of equipment whereas the bulk product would actually be sold to someone who is either utilizing it in their own production.

An OEM for example who has pre-charged it into equipment so it becomes a component cost to their finished good or even though National has it imported bulk for 10A we do buy bulk products and so because we resell those and we are still adding value in that stream to package it into

that tradable product that is sold to the end user you would see a difference. I would expect to see a distinct difference in those two prices.

COMMISSIONER BROADBENT: Alright, thank you very much.

CHAIRMAN WILLIAMSON: Thank you. See the Commission gathered information on direct imports including the addition of direct import costs. In your post-hearing briefs, can you look at that information on page V-23 and tell me how it should affect my reading of the price comparisons for direct imports?

MR. DOUGAN: Chairman Williamson we will do so.

CHAIRMAN WILLIAMSON: Okay, thank you. The argument that the price declines over the POI were in part due to hangover effects in the shortages in R125 in 2010 and 2011. Our Period of Investigation is 2013 through 2015 so why should this hangover effect last so long? And also especially given that the Petitioners this morning he said that the thing that caused that was not capacity or something like that but a particular component and it was over in six months.

MR. DOUGAN: Chairman Williamson, Jim Dougan. I gave another response, I believe it was to Commissioner Johanson that to a similar question earlier.

CHAIRMAN WILLIAMSON: I'm sorry.

MR. DOUGAN: And the answer was it wasn't any one thing causing this. It was a confluence of things that contributed to a price decline so if you look at the prelim POI which includes 2012 and the pricing trends you see a very significant price decline in 2012 that you're not seeing in 13 to 15 to the same degree and that's a combination of the HF shortage. So it wasn't a shortage specifically of the components but a shortage of the upstream raw material with which to make them and that impacted our 134 and a bunch of other things that use it.

CHAIRMAN WILLIAMSON: It drove their prices down?

MR. DOUGAN: Well, the shortage drove prices up so the prices were up in 10 and 11 and then once when it was ameliorated the supply shortage of HF was ameliorated, then the prices came back down. The majority of that decline happened in 2012. That was also coincident with the last of the patent expirations on the covered blends at the end of 2011.

That declining trend continued into 2013 and was added to by the introduction of additional R22 supply allowances into the market place after the EPA regulation. So you had pretty high prices for all of these things in 2011, the most significant drop-off in 2012 but that continued and it continued as a result of the introduction of more allowed volumes of substitute product for which

these were intended to replace. A combination of things.

CHAIRMAN WILLIAMSON: Wasn't there also an increase in consumption?

MR. DOUGAN: There may have been. I will have to take a look.

CHAIRMAN WILLIAMSON: Which is also the question I was going to ask in regard to the, in response regarding as far as coming off patent and the more imports coming, you say you expect the price to decline but it is also when, at least the Petitioners are arguing that demand went up after the products came off patent. I didn't hear that factored into your responses to those questions.

MR. DOUGAN: Well, Petitioners always say if demand goes up prices should go up and it's interesting what they say is ceteris paribus. That is all else being equal, well all else is not equal especially when you're already in a situation where there are very significant market factors unrelated to Subject Imports that would tend to depress prices.

CHAIRMAN WILLIAMSON: But you're saying the prices should have gone down because things came off patent. I was wondering to what extent was an increase in demand might that have offset that?

MR. DOUGAN: It might have. Maybe the declines would have been even greater if there hadn't been an

increase in demand.

CHAIRMAN WILLIAMSON: Okay. Also, you look at some of the products that have come off patent in the pharmaceutical and then you try to go buy them over-the-counter. (Laughs) They're not any cheaper but that's another matter. Okay.

MR. DOUGAN: The generics are cheaper though, right so I mean the name brand drug would not necessarily be cheaper but the generic alternatives would be.

CHAIRMAN WILLIAMSON: Sometimes. Thanks. Okay, let's switch back. Petitioners argue we should use Zacro Data to assess critical circumstances. Is this source appropriate and if not, what alternatives do you suggest?

MR. DOUGAN: Jim Dougan, ECS. Petitioners want you to use those data because the data in the Staff Report don't support their argument. They had their opportunity on the comments on draft questionnaires to ask the Commission to gather these data questionnaires. The Commission does this all the time, critical circumstances. There are questions in questionnaires where you know you fill out and ask for monthly imports and inventories and all other things and there isn't anything in your questionnaires and they didn't request it so it's late to want to introduce third party data at this point.

CHAIRMAN WILLIAMSON: Okay, thank you. Are HFCs

being phased out in China and if so, what is the timeframe and how would this effect home market demand in China?

MR. MARSHAK: We will put that in our post-hearing brief. We asked our clients that last night and I am going to find their answer. I believe the answer is no but we will put more about that in the post-hearing brief.

CHAIRMAN WILLIAMSON: Okay, thank you. Why have there been increases in capacity including new plants in China and what are the expected demand trends in China?

MR. MARSHAK: And we will put more in our post-hearing brief. There are refrigerants in China. The Chinese market is still growing. If you look at the Chinese, Foreign Producers questionnaires responses you see projections for 2016-2017 is a robust demand in the home market, robust demand in the third country markets and the United States is just not as significant as home market and third country demand during the POI and also in the next two years.

CHAIRMAN WILLIAMSON: Okay, thank you. That's all the questions I have. Commissioner Johanson.

COMMISSIONER JOHANSON: Thank you, Chairman Williamson. National, on page 44 of its brief states that it has almost always bought components offered to it by the Domestic Industry. Is that a fair assessment? And when you

all mention almost was the issue in the cases where you all did not buy the product was it price, quality?

MS. BEATTY: This is Maureen Beatty. It was never quality, it was never an issue. The U.S. Producers' quality is identical to the Chinese Producers' quality. The issue was related to whether or not we had a requirement for that inventory at that time. Typically, when we had been offered domestically sourced material we try to obtain it whenever we could even if additional volumes were offered but if our inventory position at that moment didn't justify bringing on additional material whether it be domestic or imported, we wouldn't do it.

COMMISSIONER JOHANSON: But you would have requested the material, a certain amount of material, right?

MS. BEATTY: Typically, the refrigerant producers would come to us and tell us "here's what we have available for you. Here's what we have forecasted for you" and then we would tell them whether or not we have a requirement for that material and the majority of the time we did.

COMMISSIONER JOHANSON: So the issue was quantity which would impact price I assume?

MS. BEATTY: Price was not even the factor in those discussions as whether or not we had a requirement based on our planned blending and production and again which that all is based upon what our customers' requirements are.

Seasonality plays into this because some of these products have a seasonal demand to them so it might not have made sense to us to bring on some inventory at a particular time.

COMMISSIONER JOHANSON: Okay, but would you all approach them for the sales or would they approach you? It seems like if you approach somebody, you say "I want so much product at this price, what is your counteroffer?"

MS. BEATTY: Typically we would approach them to see if we could secure volumes of material as well and that's when our inventory position would tell us that we needed to acquire that material.

COMMISSIONER JOHANSON: Okay, thanks Ms. Beatty. I'm going to go back to something I asked the Petitioners this morning. This was more of a lawyer's question but on those separate views in 2014 in chlorinated isos from China and Japan and the issue there was whether or not to include tableters within the Domestic Industry. I was wondering if you all had any comments on that investigation and if not if you could look at, if you could view that case post-hearing and try to fit the facts from that case to the framework of this investigation?

Yes, Mr. Goldfeder?

MR. GOLDFEDER: Commissioner Johanson, I was just going to say that we'll read that post-hearing and address it. COMMISSIONER JOHANSON: Okay,

thank you. I look forward to seeing that.

MR. GOLDFEDER: Likely at length.

COMMISSIONER JOHANSON: Okay, that's fine. I will be more prepared next time.

MR. MARSHAK: Not at length from us.

COMMISSIONER JOHANSON: Okay. In something National raised in this brief, this was at pages 15 to 16 and also page 47, National addresses a question of tariff shifts in the harmonized chair schedule and the substantial transformation. Does the blending of components really meet the customs requirement for substantial transformation?

MR. FREED: This is John Freed with Trade Pacific on behalf of National Refrigerants. When, and Maureen or Rob can jump in if I steer off-course but when products are exported from the U.S. to say Canada the blending of those components in the United States confers Country of Origin as a U.S. Product. So when we look at the tariffship provisions in the Customs Law under Customs Law this amounts to a substantial transformation.

MR. DOUGAN: Commissioner Johanson, Jim Dougan ECS. I just wanted to add something in. I can't speak to the tariff schedule and customs but part of the discussion that we had before, part of the discussion that's in the staff report is the value-added in the blending operations.

COMMISSIONER JOHANSON: Right.

MR. DOUGAN: So the direct labor and the OFC contribution to total cogs. There is not a similar calculation for the production of components. What is direct labor and OFC, how does that contribute to the adding value to the raw materials? If you do that calculation you'll see that the answers are not drastically different than what you see for blenders. So in terms of overall absolute dollar investment, obviously no one would dispute that component industry requires you know, a larger top-line number but in terms of the percentage value added to the inputs it's, you know, they're not that drastically different and we can address that more in the post-hearing.

COMMISSIONER JOHANSON: Alright. I look forward to reading it on the post-hearing brief. The Chinese respondents referred to a passage in Arkema's annual report that details a legal dispute between some of the Domestic Producers and the European Commission regarding anticompetitive practices. Does this have relevance to the issue before us today? And also, I asked this of the Petitioners this morning and they contended that there was a different product at issue in that investigation?

MR. DOUGAN: Jim Dougan, ECS. There was a different product at issue. I know that the site itself is public but I'm trying to be sure about whether we have it bracketed or not. It is used in support of certain

Petitioners' interest in capturing a share of the growing market for HFOs and how that may have affected the repurposing of their domestic capacity. That's about how much I can say about that publically. So that's the context of it. As opposed to anticompetitive practices per se but rather long-term strategy about what's important to them as a company.

COMMISSIONER JOHANSON: Okay, thank you Mr. Dougan. On page 37 of Nationals brief, National states that it started producing two of these blends under license in 2008 and that National was importing right from the start. Was National initially importing its components from China? Were they not domestically available to you all?

MS. BEATTY: This is Maureen Beatty. Back in 2008 when we successfully obtained a license that the patent-holder was not in the U.S. to produce the products R407A and R407C when we approached the Domestic Producers to acquire the components so that we could legally manufacture this material and offer into the market place, we were told that they were not interested in selling us components. So at that time, we then went overseas to secure the material. So that is what started the importing on the HFCs of those products because we had a product that had a requirement for them. But we had been importing other products since our inception. We didn't just start importing once these

products went off patent or we obtained a license.

COMMISSIONER JOHANSON: Right. Ms. Beatty you said that the Domestic Industry said they were not interested in selling product or unable to? Did they give a reason for that?

MS. BEATTY: We were told by Honeywell that they were not interested in selling components, their business was selling blends. Arkema we had an established relationship with them and while they would sell us the R32 for that, we still had a requirement for the R125 in order to make this product that we had just invested and obtained the license for. So again without the R125 the R32 was only partially helpful to us.

COMMISSIONER JOHANSON: Okay, thank you. If you could provide information to substantiate the unwillingness of the Domestic Industry in that instance to sell you the material that would be helpful in the post-hearing brief. Alright, well my time's about to expire. I think that is all my questions but I appreciate all of you appearing here today.

CHAIRMAN WILLIAMSON: Commissioner Schmidtlein.

COMMISSIONER SCHMIDTLEIN: I have a few follow up questions. This is for National Refrigerants. On page 14 of your brief, you referred to some testimony from the preliminary phase Staff conference where a witness stated

there is virtually merchant market for in scope components. So my question is if there is no merchant market for in scope components does this undermine your argument that there are independent uses for those components?

MR. GOLDFEDER: Commissioner Schmidtlein, Jarrod Goldfeder. No. I mean, first you know, and I know again this is the confidential data but what I referenced earlier is if you looked at just based on the Domestic Producers' data and if you define the downstream article in this case as the in scope blends they're using was not insignificant because I don't want to reveal the actual figures which are confidential but they're using components to produce non-subject out of scope blends which are not part of the downstream article that this case is looking at, assuming that the domestic-like product to begin with is defined as coextensive with the scope.

COMMISSIONER SCHMIDTLEIN: But what about the independent uses. Not just the other blends but I know we've mentioned the fire-suppressant, right, and there's some others mentioned in your brief I believe. Are there really commercial markets? I mean I guess that's the question, are there really commercial markets for those uses?

MR. GOLDFEDER: You know, for those putting the out-of-scope blend production to one side and looking at

everything else. We don't dispute that the other uses, whether it's R32 has been approved recently for use as a standalone refrigerant in some specially designed equipment, 125 in the fire suppression there is other uses. I mean, we're not saying that that is a large part of the market.

I think that depending upon the figures we heard this morning it was anywhere from 1-4%. We don't have the empirical data on that. We're not saying oh, it's going to be half the market. We now it's a small portion but when you're coming to the issue at hand which, are the components dedicated for the production of these five in scope blends the record does not support that.

COMMISSIONER SCHMIDTLEIN: And in you all's view the word dedicated means 100 percent.

MR. GOLDFEDER: The plain meaning of the word is and the Commission -- there is no bright line is the bottom line. We cited a case where I think something that was 6% was considered almost exclusively dedicated.

COMMISSIONER SCHMIDTLEIN: Yes, I saw that in here. Okay, alright. Let me see, I had a few more here. Can you all respond, this morning we heard some testimony about price lists that are circulated that include Chinese prices. Can you respond to that? Are you familiar with these price lists? Is this something that you've seen or is this a brand new revelation?

MS. BEATTY: I'll let Mr. Tieken speak on his own, but I personally have never seen any of these price sheets in the market. Not me, personally.

MR. TIEKEN: I've never seen any of the price lists either that they're talking about, so, if they're circulating, they're circulating somewhere besides our factory.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. MARSHAK: We'll check with our clients and I believe these are public, so we'll send them to China and we'll see if they know anything about them.

COMMISSIONER SCHMIDTLEIN: Okay. Do you get -- I guess, when you negotiate with your Chinese suppliers, you get that in writing, that's on a per transaction basis? In other words, I guess, you're not -- they're not sending you anything with prices on it?

MS. BEATTY: No, because we're purchasing, basically on the spot basis. It's a discussion related to that transaction, so no, they are not sending us a price list to say, 'We have this available in this volume, do you want any?' It's not the same.

COMMISSIONER SCHMIDTLEIN: Okay.

MS. BEATTY: It's not handled the same way.

COMMISSIONER SCHMIDTLEIN: All right.

MR. TIEKEN: If I could say something, I think

the price lists are for package material, and National and ICOR both, neither one of us buy pre-packaged material. We're buying material that's in large containers, so we wouldn't be buying that material.

COMMISSIONER SCHMIDTLEIN: Okay. All right. Also a question I asked this morning, having to do with the raw material prices and this is the Chinese respondents argue that the blend purchasers reported that HFC prices are indexed to raw material prices. Do you know whether they're talking about the raw materials that go into the components or are they talking about the components?

MR. DOUGAN: Jim Dougan, ECS. I'm not sure -- I'll go back and look at the purchaser questionnaires and see what -- if they specifically refer and even if they do, I'll come back. This was on the post hearing.

COMMISSIONER SCHMIDTLEIN: Okay. All right. And then the last question has to do with the price increases that we see in the pricing products in the second half of 2015. How do you all explain those price increases?

MR. DOUGAN: At least in some instances, we know that there are capacity constraints with respect to some of the relevant components for the blends and so, passing through that to their customers could be one explanation.

COMMISSIONER SCHMIDTLEIN: Can you be more specific? Or you can do it in the post hearing if you --

MR. DOUGAN: Probably have to do this in the post hearing -- but if there is a particular component that is used broadly across the blends and that is in short supply, that's going to have an impact on the prices of the blends in which it's used.

COMMISSIONER SCHMIDTLEIN: But you think you have an idea that there were some supply constraints and that's what was causing the price increases?

MR. DOUGAN: Certainly some of that has to do with -- certainly based on some of the utilization numbers that we see and then also based on the testimony of Ms. Beatty and Mr. Tieken about the lack of availability, at least of 125. And we know that one's used --

COMMISSIONER SCHMIDTLEIN: I see.

MR. DOUGAN: So I, I'm -- at least some of that is in 2016, but I have to imagine it would've impacted part of 2015 as well.

MR. GOLDFEDER: Commissioner Schmidtlein, I just wanted to add the Staff Report notes that ten of fifteen purchases reported, that isn't actually the domestic producers, Arkema, Honeywell, Chemours -- we're the price leaders in this industry and we included them in our prehearing brief, I don't know if I have the Exhibit Number, but some of the price change announcements and within days of the filing of the petition, the petitioners started to

announce price increases for blends.

And I think that's capitalizing, you know, just in any case, any product, when a dumping petition is filed, there's uncertainty in the market and I think we see, to some extent, the price leaders in this industry taking advantage of the uncertainty that they had introduced by starting to increase prices and expecting that everyone will follow suit.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. GOLDFEDER: We'll address this further post hearing.

COMMISSIONER SCHMIDTLEIN: Okay. And then my last question, to come back to this question about the like product and the components, versus the blends. And this has specifically to do with R124A.

In the Chinese respondents brief, it states that they accept that 134A is a separate like product. They accept the petitioners position. This is on Page 7 to 8. And it goes on to note that its independent use doesn't really distinguish it from the other components.

And so my question is, if the Commissioner were to find that components are a separate like product, should we then include 134A in that like product?

MR. MARSHAK: Another tough question.

COMMISSIONER SCHMIDTLEIN: I know.

MR. MARSHAK: Probably not. There's a separate case on 134a. We know the predominant use of 134A is in for the automotive industry as a stand-alone product. So there really is something different about 134A than these other components. I could see the difference and again, because it's --

COMMISSIONER SCHMIDTLEIN: But it's a component in any of these blends, right?

MR. MARSHAK: You know, the way you were asking petitioners this morning, I was kind of hoping you wouldn't ask us this afternoon, and then hoping that you would. I mean that's a really tough one. Conceptually it's very hard. And we kind of just threw up our hands and said, you know, we just don't know how to handle it. Let it be separate.

COMMISSIONER SCHMIDTLEIN: Could I say that to the CIT?

MR. MARSHAK: Enough difficult questions to deal with. You know, we just, we just didn't know. So we just figured, separate case on 134A. It really does have more of a stand-alone use probably, you know, more than 50% stand-alone use. What they're saying is reasonable, you know, we'll go with that. We're not going -- we just can't challenge everything. We want to focus on what we think is very, very important, and we don't think that's the most

important question here. So that's where we came out.

COMMISSIONER SCHMIDTLEIN: Okay. All right. Thank you very much. My time is up. I appreciate your time and your willingness to answer questions today.

CHAIRMAN WILLIAMSON: Thank you. No further questions from Commissioners. Does staff have any questions for this panel?

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

CHAIRMAN WILLIAMSON: Okay. Do the petitioners have any questions?

MR. TIEKEN: I have a few more comments I'd like to make if I could. This is Jim Tieken with ICOR International.

CHAIRMAN WILLIAMSON: Okay, go ahead.

MR. TIEKEN: Before we get done.

CHAIRMAN WILLIAMSON: Yes, go ahead.

MR. TIEKEN: I'd like to respond to a few of the things that the petitioners said this morning that I disagree with. A couple of them are -- one is that the blending operations using lower skilled, lower paid employees. I did a little figuring and without any bonuses or sales incentives figured into our average wage, our average employee at ICOR makes $65,000, so we aren't real low-paid people. Blending operations takes skilled people

that have to be good at what they do.

The other thing is that the statement that you take two ISO tanks and you put a hose, hook them together and you got a blending operation. It's pretty much public knowledge in here, not to me, but to everybody else what ICOR's sales are. I mean, you guys have all the confidential information. But we're a really small blending operation in the big scheme of things and a lot less than 1% of the total refrigerant sold in the United States.

And we have about ten million dollars in our blending operation. If that gives you an idea what it takes to make a blending operation that is legal, meets the regulation requirements. You have to have a testing facility. Ten million dollars is the size of our company. And we're really little. So you can figure what a bigger blending operation would cost.

The last thing I'd like to say is the statement that they made that all three of them had always offered product to -- well, I guess they were talking about National, because they surely weren't talking about us. Arkema and DuPont have never once called on us in a sales capacity -- never seen a salesman from them. I've called them multiple times.

As a matter of fact, when Dean McCoy was testifying, it reminded me that back when they were making

142 down in Kentucky, we were having a real problem getting 142. We used it in our Hot Shot blend. And we called Arkema multiple times -- I don't know if they were Arkema then or if they were Atofina or Elf Atochem. They've changed through the years, but -- it's all the same bunch. And they don't sell to us. And I don't know what else to say about that. You know, they can call us liars all they want, but they don't come and call on us and they don't sell to us. Now Honeywell does. Honeywell will sell to us a little bit, but that's it. So that's all I have to say.

CHAIRMAN WILLIAMSON: Thank you. If there are no other statements, does staff have any questions?

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

CHAIRMAN WILLIAMSON: Thank you. Do petitioners have any questions?

MR. CANNON: So was that their rebuttal? I'm being --

CHAIRMAN WILLIAMSON: I hear you. But anyway, was that a question?

MR. CANNON: No. We have no questions.

CHAIRMAN WILLIAMSON: Okay, thank you. I think it's time for a rebuttal and closing statements. Let's see. Petitioners have nine minutes direct and five minutes for closing for a total of fourteen minutes. Respondents have

five minutes for direct and five for closing for a total of ten minutes. And is normal, we'll combine times and you don't have to use all the time. And with that, I want to thank this panel for their testimony and for coming today, and we'll ask you to set back so that we can have our closing statements.

Thank you. Mr. Cannon and Mr. Levy. You can begin when you're ready.

CLOSING REMARKS OF JAMES R. CANNON

MR. CANNON: There's a lot of ground to cover. I think I will start with National. I'm suspicious of the conspiracy by the other people to mess with my microphone. All right.

I'm going to start with National. We've asked to have them be excluded from the domestic industry as an importer. They have unquestionably confirmed that they import. There's also no question where their main interests are. It's in importing. We've also heard that the reason that they import is that the domestic industry refused to deal with them, refused to offer them, and yet, they only talk about 125 to start with.

They've made no discussion about R32, and in fact, what they keep saying is, over and over, they, over and over they say this, 'Well, if we can't get 125, it doesn't matter how much R32 we can get.' But it does matter

to Arkema. It matters that that whole time that they were buying Chinese 125, what R32 were they buying? They were buying Chinese R32 at the same time. They perfectly well could've been using American R32 and they elected not to.

Why? Because the price was lower. And you can see that plain as day in the direct pricing data. You have the information.

Next, turning to the situation that they're alleging about Honeywell. Honeywell testified that they stand ready and willing to supply them. We will show you, as we said, I mean we promised. I have to do it now. We'll give you in the post hearing brief, that there are supply relationships, that the domestic producers are supplying these companies, both of them, and that they're supplying them once the duties went in place, where did they come? They came running to the domestic industry. Did we say no? No. We supplied them.

The issue here really is the age-old issue -- it's the price. The price of the Chinese imports was so low, they built a business on it. It's not about the willingness of the domestic industry to supply. In her testimony, Ms. Beatty says there was no agreement before 2014. That is not true. There were agreements with the domestic producers, and we will supply you with copies of them.

Then they said they were 'surprised' to get volume in 2016. They asked to purchase and we supplied them.

Next, I'd like to turn to this issue of the patents, the hangover effect. Taking the market back to the days of patents. And really it's the same analysis when you think about, not just the patents, but the supply shortage. But think about the analysis. What's the argument? The argument is that the decline in prices is caused because the patents are gone. Okay.

In theory, could be true. Could be true. What evidence do you have that tells you that's wrong? Underselling. If all this was, was the growth in demand because of the decline in patents, there's be no reason for the Chinese prices to be lower than the domestic prices. You would see a mixed pattern of underselling or everyone would be at the same price.

Where the Chinese, if they're being brought into the market because we have a shortage, they would be at a higher price. That's not what you see. That's not what the data show. So the data tell you, the data tell you that the theories of the economist are wrong. In fact, Mr. Dougan's an economist. He should know better. He's ignoring a fundamental factual element of the case. The Chinese prices are lower than the domestic prices.

Regarding the shortage itself, the shortage in 2011 was caused by a shortage of hydrogen fluoride, HF, in China. It wasn't caused by anything the U.S. producers did. In fact, the U.S. producers kept operating to the full amount they could, protected their customers. They slowed down deliveries, but they ultimately made all the deliveries in that period and they weren't the cause of the shortage. In fact, they stepped in to help live up to their customers' needs. Moreover, the shortage was over. The shortage was over well before the period itself.

All right. Next I'd like to turn to the arguments that National's made regarding the prices and the lack of competition in the market. Ms. Beatty testified that she didn't see these price lists, the Chinese price lists. I find that amazing. I'm not sure what her position is in the company. These price lists are everywhere. These are the prices that National would be able to buy from China, all right?

But what did she tell you about the prices? Her prices. They're the prices of the packed product that she sells to the end-user. Right. It's the price that National sells at retail. Now hopefully that's not what they reported to you for Product 2 or any of the products, because that's not the right level of trade.

The product price that we're interested in is

the price that importers resell in the cylinder, wherever it went, out to the trade. And so that is the point of competition. Now what they've done in their analysis is pulled out one set of prices, their own, and compared them to the domestic industry.

Clearly, what level of trade are they even reporting to us? In fact, I really -- I'm looking at the prices that they've pulled out of their own prices. Clearly, are those the correct level of trade? Is there some slight-of-hand going here?

Next, looking at these price lists, thinking about that. We have BMP -- they're a huge importer. They're supplied by LM Supply. Perhaps the largest importer in 2015 and in charge of all the growth in the market. We've got Jack McAdams, Icool, Sinochem Ningbo -- none of them are here. None of them are here testifying before you.

TTI International, perhaps the largest exporter from China, represented by counsel, appeared at the Commerce Department and fought the case. They entered an appearance here, they didn't show up. They didn't bring you a witness. Instead we have the erstwhile U.S. producers who are blenders, who is, in perspective, a smaller part of the market.

And they are here complaining about the perception that they are harmed. What really is

fundamentally before you, what's spread out on the record as a whole, what's happening is, the increase in imports brought through BMP and Icool and Sinochem Ningbo, that's the flood of the volume of imports that's having a major effect on the market in driving all market prices down.

In fact, to some degree, National's in the same boat that we are. They are trying to compete against this, the downward decline in prices. They've elected to source from China to do it. It's understandable. It's actually rational business strategy. It doesn't mean, however, that the U.S. industry should be denied relief under the dumping law.

We've had also a lot of discussion today about the like product. I almost heard that they agreed with us that the product shouldn't be expanded. I think the difficulty here is that we have this Table. The way it's presented in the Staff Report, and in that Table, there's an array of data points, product numbers, and they start with the in-scope, and they proceed outward, and so there is bright lines between each category in our view, but clearly, the first level down is the closest category, the hardest call.

If you go to the furthest out Universe HFOs, it's olefins, it's a different chemistry. It's not global warming, major difference, requires totally different

equipment. In fact, there's not yet really much of a market and it doesn't hit the residential air conditioning or commercial refrigeration markets. It's used in automobiles.

So olefins, HFOs, I think is a very clear case. You move in one layer and what do you have. Blends that include CFCs and HCFCs. Again, these products are being banned or phased out or restricted and are not used in the same equipment. They're used as drop-ins in the old style equipment.

And an important factor in your analysis, when you look at your traditional factors, is price. I still remember the BMP price sheet. Where was R22? It was selling at $330 a cylinder. Where are the in-scope products? They're selling at $57, 60, 65. So, very big difference in price. We move in one more layer. Bottom up. They have a long list of products. There are the HFCs. Again, they operate in different equipment, have different physical characteristics. They're used in the old-style application, which is being phased out, and the price points are very different.

Then we get to the hardest case, the one Commissioner Schmidtlein has been concerned about all day, in quite honesty. The close calls. Four of those eight are not produced. There's no manufacturing, there's no data, there's no information on the record. You heard from the

panel this afternoon that of the others, they don't know or they don't have data. Those also are sold at higher prices for different applications.

Now is it a close call? It is the closest. It's the closest call. We think, however, there are clear dividing lines and the volume of those products is small. You've heard about the, sort of how much of the market is components that are not used for the in-scope blends, right. 3% or 4%. Some very small picks of the puzzle. Am I out of time?

So, I think that if you think about it in that fashion, you see, this is not a product where's this sort of continuum of product. It's not bearings and they're smaller and they get larger. There are discrete physical differences between each category.

And that's the framework we want to lay out for you in the post hearing so that we can walk through each of those and I also think it would be useful to put on each -- next to each one in the column, you know, like, an 'X', if it's produced or not. If it's commercially used or not. If there's any volume. And that would give the better perspective about the issue as a whole, and you would see whether we've, in essence, spent a lot of time on something that perhaps isn't as important.

Critical circumstances -- I go back to the fact

that, as we said, this is really all about an inventory overhang, all right? It is true, we did not ask you to collect monthly data. Those questionnaires were already really long. This was pretty complicated. Now, do we need to ask you to collect more data?

Well, it turns out that the census data, according to the staff Report, I mean there's no debate about it. Have basket categories. They aren't particularly accurate at showing you that there was a surge in imports. But you don't have to worry about that. The Commerce Department has made a finding of a massive surge in imports. They asked all of the Chinese producers, 'Give us your quantity and value data, you know what the Commerce Department standards are, it's got to be at least 15% or more before the petition and after the petition.' They made a finding.

That factor, I think, we can take as a given. But that's not the factor that shows why there're critical circumstances in this case. The factor in this case is the inventory overhang.

It's been a long day. As always, it's been a pleasure. It is the case that this industry needs your help, needs your vote to help it survive against Chinese imports. We'll have much more to say in the post hearing brief, but the record before you at the end of the day shows

that imports increased, they were massively underselling and the performance of the domestic industry is not acceptable.

It's not an acceptable return on investment. You have a whole another layer of employees that have been laid off, the work force is down, a threat to manufacturing jobs. You have this case together and we believe it strongly supports an affirmative determination. Thank you.

CHAIRMAN WILLIAMSON: Thank you.

Mr. Marshak and Mr. Goldfeder, you can begin when you're ready.

CLOSING REMARKS OF NED H. MARSHAK

MR. MARSHAK: Thank you. So what are the critical issues for the Commission to consider?

First, should out-of-scope blends be included in a domestic like-product? A very tough call. We suggest that the Commission accept the Petitioners' definition and treat out-of-scope blends as a critical condition of competition, but not as a domestic like-product.

Second, one industry or two? Should components and blends be combined into a single like-product produced by a single industry when all indicia considered by the Commission in its semi-finished product analysis and traditional analysis support the existence of two separate industries?

There's significantly greater use of nonscope

components in nonsubject blends than Petitioners would like to believe existed in this case. It's a lot more than one percent.

Third, are any domestic producers excluded from membership in the domestic industry because they also import components? This really is a no-brainer. National and ICOR had no choice but to support--but to source certain components offshore when they were unable to obtain sufficient quantities of components, primarily R125, from one company producing each component in the United States.

These domestic producers did not look to China to purchase components because of price. They went because they had no choice. They were pushed, not pulled. Our witnesses did not lie.

Fourth, have imports of subject components materially injured component--materially injured companies producing components in the United States? The facts are confidential. We believe they speak for themselves. We believe there's no injury to the component industry.

Fifth, what about the domestic blending industry? Was this industry materially injured by reason of subject imports? This is a closer call than components, but at the end of the day we believe that the Commission should also reach a negative determination with respect to blends. There is no price suppression. There is no price

depression. There is no correlation between industry performance and import penetration.

Sixth, what about threat? The facts also support a negative determination. Domestic producers are not vulnerable. Industry performance has improved over the POI. Chinese exporters are not dependent upon the U.S. market. The home markets and third-country markets are of significantly greater importance to the Chinese than the U.S. market. Again, there is no evidence of price suppression or depression, and capacity utilization rates remain very high in China.

Finally, critical circumstances. The official import data do not show a steep increase in imports. Industry performance has improved, and Petitioners themselves do not believe that the remedial effects of the Order have been seriously undermined by subject imports. If they believed this, they would not have candidly admitted that following the antidumping petition prices increased and operating prices improved. That's their brief at page 4, or at 43 where they candidly admitted domestic producers' prices clearly benefitted from post-petition effects during the second half of 2015. And they said it again at the public hearing today.

These candid admissions preclude an affirmative determination of critical circumstances by the Commission.

CLOSING REMARKS OF JARROD M. GOLDFEDER

MR. GOLDFEDER: In his closing, Mr. Cannon said something that I finally agree with, probably the only thing today. It has been a long day. But beyond that, I think their presentation reveals their motivation. That if the Commission finds two separate like products based on the record, treats components separately, it's clear based on the evidence that there is no injury from imports from components. And we have set that forth in the brief.

How can there be injury when there is no head-to-head competition of any meaningful significance between U.S. production and imports?

And this is not some lie that we've come up with. We are basing our arguments on the Commission's data. The Commission's data, confidential, but it shows that when you look at internal consumption, you look at swaps, and you look at what's left over for commercial sales, that the commercial sales in the open market of components is a pittance of what they do with their components.

And we will address this further in our post-hearing brief, but, you know, what National has said in the preliminary phase, and again in this final phase, is true. They have long-standing relationships with Arkema and with Honeywell. If they could get what they needed domestically, they would. And that is best exemplified by

their 34-A activity. When there is competition and multiple suppliers of a product, they buy domestically. Their blends, they don't import the blends. They produce it domestically and they buy it domestically.

But this is a pretty savvy industry and, you know, Arkema, Honeywell, and Chemours, you know, for years they benefitted from the protection of patents. And they structured their industry in a way where every company didn't have to produce everything. You had your 125 company, your 32 company, and you had the 134A, and they came up with an arrangement where they could satisfy each other's needs. But where did that leave National? And where does it leave National if components are excluded from the market because of duties?

The Commission should be pretty concerned about that. You know, this is--the Petitioners have acknowledged, you know, blending is significant to domestic production-related activities, and cutting off the access to components will hamper that and jeopardize it. And, you know, whether it was their goal going into the case, I wouldn't say that, but it will be an effect. They will not be able--if they don't have components, if they don't have 125, they cannot blend and they will be relegated to being a purchaser.

Like I said, the data fully supports a negative

determination for components. And frankly, and again in conclusion, Mr. Cannon has doubled down, you know, and said that National has been dishonest about the existence of written agreements prior to 2014. It has been dishonest about whether it's seen the price list, or maybe he's just incredulous. They have apparently not truly correctly reported their prices in their questionnaire. They've not been honest with you about their ability to get R125.

I mean, none of that is true. We have addressed that before. We will address it again in our post-hearing. But, you know, it's just -- I don't know what to say. National has a significant workforce, and they've come to me over the past year and said, you know, what can we do about this case? If we can't get components, what are we going to do?

And so we just as the Commission to consider that in looking at this case. As I said at the beginning, the goal of the Trade Remedies laws is not to benefit one group of domestic producers over another. And in the absence of injury for their domestic component production, we just ask that you enter a negative determination.,

Thank you.

CHAIRMAN WILLIAMSON: Thank you.

I want to thank all of the witnesses, all those who participated in today's hearing's closing statements.

Post-hearing briefs, statements responsive to questions, and requests of the Commission, and corrections to the transcript must be filed by June 28th, 2016.

Closing of the record and final release of data to parties will be done by July 13th, 2016. Final comments are due by July 15th, 2016.

And with that, this hearing is closed.

(Whereupon, at 4:18 p.m., Tuesday, June 21, 2016, the hearing was adjourned.)

CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Hydrofluorocarbon Blends and Components from China

INVESTIGATION NO.: 731-TA-1279

HEARING DATE: 6-21-16

LOCATION: Washington, D.C.

NATURE OF HEARING: Final

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: 6-21-16

SIGNED: Mark A. Jagan

Signature of the Contractor or the Authorized Contractor's Representative

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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