UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	**) Investigation Nos.:**
DRIED TART CHERRIES FROM TURKEY	**) 701-TA-622 AND 731-TA-1448**
	) (PRELIMINARY)

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UNITED STATES OF AMERICA

BEFORE THE

INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF:	) Investigation Nos.:
DRIED TART CHERRIES	) 701-TA-622 AND
FROM TURKEY	) 731-TA-1448 (PRELIMINARY)

Main Hearing Room (Room 101)
U.S. International Trade
Commission
500 E Street, SW
Washington, DC
Tuesday, May 14, 2019

The meeting commenced pursuant to notice at 9:30 a.m., before the Investigative Staff of the United States International Trade Commission, Nannette Christ, Director of Investigations, presiding.

APPEARANCES:

Staff:

William R. Bishop, Supervisory Hearings and Information Officer

Sharon D. Bellamy, Records Management Specialist

Tyrell T. Burch, Management Analyst

Nannette Christ, Director of Investigations

Elizabeth Haines, Supervisory Investigator

Calvin Chang, Investigator

Steven LeGrand, International Trade Analyst

James Horne, Economist

Patrick Gallagher, Attorney/Advisor

APPEARANCES:

Opening Remarks:

In Support of Imposition (Elizabeth J. Drake, Schagrin Associates

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

Schagrin Associates

Washington, DC

on behalf of

Dried Tart Cherry Trade Committee

Donald C. Gregory, Chairman of the Board, Cherry Bay Orchards, Inc.

Chad A. Rowley, General Manager, Payson Fruit Growers

Melanie LaPerriere, President and CEO, Cherry Central Cooperative, Inc.

Tim Brian, President, Smeltzer Orchard Company

Neis D. Veliquette, Chief Financial Officer of Cherry Ke

Elizabeth J. Drake and Christopher T. Cloutier - Of Counsel

Closing Remarks:

In Support of Imposition (Elizabeth J. Drake, Schagrin Associates

I N D E X

P R O C E E D I N G S

9:30 a.m

MR. BURCH: Would the room please come to order?

MS. CHRIST: Good morning and welcome to the United States International Trade Commission's Conference in connection with the preliminary phase of anti-dumping and countervailing duty Investigation No. 701-TA-622 and 731-TA-1448 concerning Dried Tart Cherries from Turkey. My name is Nannette Christ. I am the Director of Investigations and I will preside at this conference.

Among those present from the Commission staff are, from my far right, still on her way, Betsy Haines. She's the supervisory investigator. Calvin Chang, the Investigator; Patrick Gallagher, the Attorney-Advisor; James Horne, the Economist, and Steven LeGrand, the Industry Analyst. Welcome to Courtroom B.

I understand that parties are aware of the time allocations. Any questions regarding the time allocations should be addressed with the Secretary. I would remind speakers not to refer in your remarks to Business Proprietary Information, and to speak directly into the microphones. We also ask that you state your name and affiliation for the record before beginning your presentation or answering questions for the benefit of the court reporter. All witnesses must be sworn in before presenting testimony. Are there any questions? Mr. Secretary, are there any preliminary matters?

MR. BURCH: Mr. Chairman, there is a preliminary matter. Those in support of the imposition of anti-dumping and countervailing duty orders would like to add a witness, Neis D. Veliquette, Chief Financial Officer of Cherry Ke.

MS. CHRIST: Thank you. We'll go ahead and proceed with opening remarks.

MR. BURCH: Opening remarks on behalf of those in support of imposition of anti-dumping and countervailing duty orders will be given by Elizabeth J. Drake of Schagrin Associates. Ms. Drake, you have five minutes.

PETITIONERS OPENING REMARKS

MS. DRAKE: Good morning Ms. Christ and members of the Commission staff. My name is Elizabeth Drake from Schagrin Associates on behalf of the Petitioners, the Dry Tart Cherry Trade Committee. First, I want to thank the Commission staff for all of their work on these investigations. For an industry like the one before you today made up mostly of small, family owned producers, it is important to know they can rely on a thorough and fair Commission investigation when they are facing competition from unfairly-traded imports.

The Dry Tart Cherry Trade Committee is made up of five domestic producers, four of whom will testify today. The members of the Committee account for the vast majority of domestic production. Many of them are either owned by growers or otherwise related to tart cherry growers. Based on their experience, cherry growers are also suffering injury due to imports from Turkey. However, dried production accounts for just about a third of the entire crop.

The first prong of the grower-processor provision in the statute is just not met in this case, because raw cherries are not substantially or completely devoted to the production of dried cherries. The Commission can therefore evaluate injury based on the responses it has received. In recent years, the domestic industry has invested heavily to create demand for dried tart cherries by educating consumers and promoting their product.

Unfortunately, the benefits of those efforts are not being reaped by imports of dry tart cherries from Turkey. The volume of imports from Turkey is significant. As we will discuss in our testimony, the Commission should rely on public import data to assess the volume of imports. There is every reason to believe that these imports from Turkey consist of dried tart cherries, and not any other kind of cherry.

The websites of known Turkish producers and importers of product from Turkey confirm this fact. Based on this data, subject imports more than tripled from 2016 to 2018. This surge in imports came into a market where demand was flat or declining, allowing imports to take market share directly from domestic producers. The volume of imports from Turkey is thus significant, both absolutely and relative to production and consumption.

Subject imports from Turkey have also had adverse price effects. Imports from Turkey enter at extremely low unit values. These unit values are just a fraction of domestic producers' prices. In addition, unit values for imports from Turkey have fallen over the Period of Investigation, dragging down domestic prices in the process.

As domestic producers have lost sales revenue, they have been increasingly unable to cover the cost of their production. This growing cost-price squeeze demonstrates that rising imports have caused price suppression as well as depression. Your record also shows material injury by subject imports. As imports have increased, the domestic industry has suffered declining shipments and market share, as well as falling production and capacity utilization.

Falling prices have also eaten in deeply into the industry's already low profit margins. As a result, the industry as a whole is struggling to even make ends meet. You will hear today about drying equipment that has been idled and workers that have been laid off as a result of these adverse trends. Domestic producers have been denied the ability to benefit from investments they have already made, and they have also been forced to put off additional needed capital expenditures.

Imports from Turkey threaten further injury absent relief. Turkey is the world's second largest producer of tart cherries, and growers and processors receive an array of government subsidies in Turkey, including export subsidies. Importers have already demonstrated their ability to rapidly ramp up imports from Turkey during the Period of Investigation, and that has only continued this year.

Based on first quarter data, imports from Turkey could reach three million pounds this year alone. Domestic producers have already lost significant market share to Turkish producers in other tart cherry products, such as juice and concentrate. It is too late to address that injury. But they've banded together to file these petitions to prevent even further losses in dried tart cherries.

For all of these reasons, we respectfully ask for an affirmative preliminary determination. Thank you.

MS. CHRIST: Thank you. We'll move on to the panel, and since everybody's already seated, go ahead. Please begin when ready.

MS. DRAKE: Good morning. This is Elizabeth Drake of Schagrin Associates for the Petitioner, the Dry Tart Cherry Trade Committee. We'd like to start with a PowerPoint presentation, and then move on to our witness testimony. I would like to discuss a few issues today. First is the import data that the Commission has and what assumptions or understandings we have about that data. Second, is a review of the conditions of competition and the domestic market for dried tart cherries. Then we'll talk about the volume of imports, the price effects of those imports and the impact that they have had on the domestic industry, as well as the threat of additional injury if orders are not imposed.

Turning first to the import data, in our petition we identified four HTS category under which dried tart cherries from Turkey enter the United States. This is based on bill of lading data which specifically identifies the product as dried tart cherries or dried sour cherries, and in some cases also identifies the HTS number.

In consultation with the Commerce Department, they added additional HTS numbers to the scope under which the product may enter the United States. Given the public import data, we believe the vast majority of the imports that are coming in are coming in under the first category, which is dried cherries and therefore are comfortable relying solely on import data for that category to assess the volume of imports, though we note it would probably understate imports to some extent given what we've seen in the bill of lading data.

Turning to imports under that specific category, you can see in 2018 the single largest source was Turkey, with 1.5 million pounds. Serbia was the second source and Chile was the third source, and then a few others after that that declined pretty quickly. Now in our petition we noted that we believe the vast majority of what comes in under this category is dried tart cherries, because the category itself just says "dried cherry." It's not split between different kinds of cherries.

We supported that by our own experience in the industry that there's only a very small market for dried sweet cherries in the United States, and it's really not a commercially significant product. The one exception to that may be Chile, but we do not believe that that exception applies to Turkey.

This is based on the fact that Chile basically has almost no tart cherry production. This is information from the U.N. Food and Agriculture Organization on raw tart cherry production. This is the raw crop, metric tons. 2017 is the last year for which data is available. And as you can see here again, import sources ranked by 2018 volume.

Turkey is extremely large and is in fact the second largest producer in the world behind only Russia, and thus has a very large supply of raw tart cherries in Turkey from which to produce the dried tart cherry product. Chile by contrast only had 125 metric tons of production in 2017, and that's consistent throughout the years. It simply doesn't have any significant tart raw production, and therefore may be an exception to the other countries in that one would expect its imports, maybe this relatively small volume sweet cherry rather than the tart cherry.

To try to test the reasonableness of this assumption, we looked, and this is based entirely only on public data. This is from the Commission's electronic docket information system, where of course we don't know what's in the responses of those importers or can't discuss it. But all we can see is if a questionnaire was received and from whom it was received.

When we looked at this list, the one company that stuck out to us was the first one, because that was not a name that came out when we did our bill of lading research, to put together our list of known importers of dried tart cherries from Turkey. So we wanted to do a little bit more research to see if we had missed somebody, to try to understand what this was.

And so we went on -- we did a Google search for website for this company, ACUSA. It turns out it is a subsidiary of Agrocepia, which is a Chilean company that produces a variety of products, and as you can see there, they're advertising a Bing cherry, which is a sweet dried cherry. So we believe it's reasonable to assume that Chile is an outlier from the other countries because it does not have a tart cherry crop, and that it may be producing this very kind of low volume sweet cherry that really is not a significant presence in the U.S. market.

In fact, some of our processors do process a few sweet cherries, and they can talk about how insignificant it is compared to the tart cherries, and what are the physical differences that create really different markets for these products.

But turning to the importers from Turkey, based on the importers named in our petition, based on bill of lading data, when we go to their websites we consistently see that the only dried cherry product they offer is dried tart cherries. So this is one of the importers we identified in the petition, Nature's Wild from bill of lading data, the screenshot from their website.

You can scroll through. I promise there's no other cherry products, but I can put in the other screenshots. But the only cherry product they have is the one at the bottom, the dried tart cherries.

Another petitioner, excuse me, another importers we identified on the petition is called Tradin' Organic. This again is a screenshot from their website, and it is a little hard to read. It's kind of small, but maybe you can see it better on the paper copy. They have a list of all of their dried products, and over on the far right-hand side it says "sour cherries, dried." Of course sour cherries and tart cherries are the same thing, and they don't list any sweet cherry products.

So for all of these reasons, we believe it is reasonable for the Commission to presume that all of the imports coming in under that first category from Turkey are dried tart cherries. We'll of course put in additional information post-conference about known Turkish producers and other known Turkish importers in terms of what products they offer, and our witnesses will talk today about the differences between tart and sweet cherries.

We really do think Chile is an outlier in that regard, given the fact that they don't really have much of a tart cherry crop. So moving on from the import data, I want to talk about the conditions of competition in this market. Dry tart cherries are sold through various channels including distributors.

Some of those distributors are rebaggers who may repack the bulk cherries into smaller bags for food service or retail sale, and then there's a variety of different end users. There's retailers, there's the food service industry, and then there's of course food manufacturers or what someone referred to as industrial that are taking those dried tart cherries and incorporating them into another food item, a cereal, a trail mix, what have you.

Based on our knowledge of the market, domestic and Turkish dried tart cherries are interchangeable. So we've got a bowl here of dried tart cherries from the U.S. and a bowl from Turkey. So while there can be varieties in terms of what infusion ingredients are used, what variety of cherry is used and in general they will have the same basic features in terms of having a balance between a tart and a sweet flavor, and having kind of a chewy, soft but not too soft texture that stands up and can be combined with other ingredients.

So we can talk about that a little bit more in our testimony. Other condition of competition is that the dry tart cherries can be sold as either conventional or organic. You can leave them up here. I've got enough dry tart cherries. I mean no, they've never had enough, never have enough, but I brought them for you.

(Laughter.)

MS. DRAKE: I have -- my kids keep on saying why don't we get to have more. I said stop, stop. So conventional and organic. Though both conventional and organic dry tart cherries will pretty much taste the same after they're produced; really the difference is in the method of horticulture. But you'll hear testimony today and we hope you will have questions that in the United States, there's also the production of organic tart cherries as well as conventional tart cherries.

And so both are available from both U.S. producers and from Turkey producers, and those two types compete with each other. When you go to the grocery store and look at the shelf, you'll see a bag of conventional next to a bag of organic. So at the final point of sale, consumers have the choice and that can be based on their own consumer preferences or also on price.

Another important condition of competition is the fact that the domestic industry has taken a number of steps to try to mitigate volatility in the market. They have established a federal marketing order which both smooths out volatility in supply and in prices, and also enables the industry to join together to make investments in demand and marketing, and do that together under the order.

Another organization that typifies this industry is cooperatives, and so you will see grower cooperatives and other cooperatives where producers come together, also to try to kind of mitigate the price volatility that's very common in agricultural products.

A final condition of competition in this market is the importance of price. We believe that your responses will show that there's agreement that this an important factor in the market. A lot of sales are on a spot basis, and therefore price is an important factor when different producers are competing with each other in the market.

Turning to volume, we believe the volume of subject imports is significant. This is based on public import data, where imports went from 414,000 pounds in 2016, nearly doubled to 826,000 pounds in 2017, and rose by another 83 percent to over 1.5 million pounds in 2018, for an overall increase of 265 percent.

This increase came into a market that was flat or declining, permitting imports from Turkey to gain market share at the direct expense of U.S. producers. Hopefully in our questions and answers we can talk about different ways the Commission might want to measure import volume, but we believe regardless of the way it's measured it will show a significant increase.

Imports from Turkey have also had adverse price effects. This is based on public import data, and you'll see a very low unit price, just a fraction of the domestic price. We tested this price by month, by every way we could figure to determine, you know, whether there was something aberrational or something unreasonable in the price reporting.

But every period, every region that we looked at showed prices that were just a fraction of domestic prices, and in each of the regions prices were either flat or declined and declined overall. So we believe these imports are underselling the domestic like product. We believe that the decline in import prices has also helped drag down domestic prices, and the domestic industry has also suffered an increasing cost-price squeeze over the period, which we believe is evidence of price suppression by reason of the growing volume of subject imports.

Subject imports have also had a serious negative impact on the domestic industry. As import volume and market share rose, the domestic industry lost market share. Its production declined and its shipments declined, and its capacity utilization rate fell. Its net sales unit value declined, and the ratio of cost of goods sold to sales increased.

Its operating income both on an absolute level and as a percentage of sales fell. Its net income also fell, and it had reduced capital expenditures. These are all very consistent indicators of injury to an industry which started out the period already performing pretty much on the margins, and then by the end of the period was doing even worse as imports peaked.

Subject imports from Turkey also threaten further injury if relief is not provided. It's important to understand that in this industry a cherry tree is a 25 year investment. So when producers in Turkey are receiving subsidies from the government of Turkey that include subsidies for new saplings, subsidies to support organic production, subsidies for good agriculture practice, that's putting in a 25 year source of new volume into the Turkish industry.

By the same token domestic producers, and again we're not saying that growers are part of the domestic industry, but just to understand the dynamics of the industry, the growers are also making a 25 year investment with every tree that they plant in the ground. So if they are -- and that crop has to be processed. It cannot be consumed fresh.

And so if they are not able to sell that processed product for a reasonable price, that is a major negative impact on their 25 year investment. So that's an important condition that makes the threat particularly concerning for this industry.

As we mentioned, Turkey is already the second largest producer of tart cherries in the world. In terms of -- I had talked a little bit about subsidies to growers, but the government of Turkey also has numerous subsidy programs for processors. They have a specific export subsidy program, excuse me, just for processed agricultural products.

They have notified the WTO that it applies to frozen cherries and cherries preserved by sugar, that last category being one where we see dried cherries entering. But other reports indicated they also covered dried cherries, and that's just pure debt relief per ton of products exported.

They also have their organized industrial zone programs where we have found processors of dried tart cherries in Turkey are located, deductions from taxable income for export revenue, a broad array of export credits, and subsidies for small and medium size enterprises, which would include a number of dried tart cherry producers.

Another subsidy program that's a particular concern is a program that's actually supported by the

European Union as part of Turkey's accession program to the EU, where the EU provides 50 percent support for new capital investments in the food processing sector.

Based on public information on the government websites, there's at least two processors of dried tart cherries in Turkey that have been able to make new capital investments in expanding their capacity, and have 50 percent of that cost written off by the European Union and government of Turkey.

And again once that capacity is in place, it's going to be used, and if it needs to go to export markets, which are highly attractive, then it will go there. So this supports an affirmative threat determination.

Another fact that supports an affirmative threat determination is the rapid increase in import volume we've already seen during the Period of Investigation, and even though our Period of Investigation does not include the first quarter of 2019, we put this data here just to say that imports are continuing to increase at a rapid pace.

They're already up 40 percent of where they were in the same period last year, and you'll see they've already exceeded what they were in 2016, just in the first three months, and are nearly as much as they were in the entire year 2017. If this continues, if that first quarter is multiplied times four, then we would expect to have over three million pounds of imports of dried tart cherries from Turkey just in this year, causing a serious threat to the domestic industry.

One reason the industry is here today is because they are all too familiar with competition, with unfairly traded imports from Turkey in tart cherry products. This is imports of tart cherry juice concentrate from Turkey, and this HTS category at the bottom, this is just a change, a change from I think 2011-2012. But it's the same category, and it is specific to tart cherry juice concentrate from Turkey.

I'm showing that the tart cherry product is a very significant one for Turkey producers, and you can see just a massive increase from about a million gallons or under a million gallons in 2009 to over five and six million gallons in recent years. We may be more at the beginning of this curve with dry tart cherries, but the industry felt this was an urgent issue that they couldn't wait. They didn't want to become like the juice sector, where they've now lost so much market share to imports from Turkey that they'll never be able to regain.

So for all these reasons, we're hopeful that the Commission will make an affirmative injury determination. Now I'd like to move to our witness testimony. Our first witness is Donald C. Gregory, Chairman of the Board, Cherry Bay Orchards, Incorporated.

STATEMENT OF DONALD C. GREGORY

MR. GREGORY: Good morning Ms. Christ and members of the Commission. My name is Don Gregory. I'm Chairman of the Board of Cherry Bay Orchards. Cherry Bay owns is a co-owner of Shoreline Food, LLC, a domestic producer of dried tart cherries and one of the members of this Dry Tart Cherry Trade Committee.

Cherry Bay is part of -- is a group of two family owned farms that grows tart cherries on over 6,000 acres near the shores of Grand Travers Bay in northern Michigan. My brother Bob and I, together with our friends the Veliquette Brothers, started farming cherries out of college in the early 1970's. We started working together to process our own cherries shortly thereafter.

We started by pitting the cherries. Then in 1988, we started an operation to individually quick freeze them, and we got our first dryer in the early 2000's. Today, Shoreline produces tart cherry juice, powder, dried tart cherries and frozen cherries. Despite growing into the largest tart cherry operation in North America, we are still family owned, and many our family members remain involved in the operation.

The state of Michigan accounts for about 70 percent of the U.S. tart cherry crop, with additional production in Utah, Washington state and two other locations. Michigan's climate and fresh water provides an ideal environment for tart cherry, by keeping orchards cool in the spring and we do see the impact of the harsh winds in the winter and spring.

Any of you that have been to that part of Michigan will know how important tart cherries are to the region. The rolling hills along the shores of the Bay are dotted with thousands of tart cherry trees. The Traverse City Airport is called the Cherry Capital Airport, and our annual Cherry Festival attracts hundreds of thousands of visitors.

If you've ever had a real Michigan salad, you've eaten dry tart cherries. There are hundreds of tart cherry farmers in the region and many families have farmed tart cherries for generations. In Michigan, tart cherries are typically harvested in the window from late June to mid-August, though peak harvest time will vary from year to year based on the weather and other factors.

Tart cherries are very tender and perishable, and thus almost none of the crop is consumed fresh. Instead, the vast majority of tart cherries are processed into canned cherries, frozen cherries and other forms of processed cherries. We produce dried tart cherries from pitted frozen cherries. Even though the harvest season is short, we have a plentiful, steady supply of frozen cherries available to us throughout the year to produce dried cherries.

When I first got involved in the tart cherry industry, there was no such thing as dried cherries. Most of the tart cherry crop was processed into pie filling or desert ingredients. Over the years, the American diets have changed, and we no longer eat as many pastries, cakes, breads and pies filled with tart cherries.

These types of deserts have become a special treat, rather than an every day occurrence in most homes. As a result, the fruit filling and frozen segment of the industry has declined. We started making dried cherries with an outside dryer in 2001, and decided to establish our own drying operation in Northern Michigan shortly thereafter.

The market for dried tart cherry continues to grow in importance, and we estimate that about 25 to 30 percent of all the domestic crop is usually processed into dried cherry. We started up a second dryer line at the end of 2013. The domestic industry has invested heavily in markets for dried cherry. We constantly experiment with infusion methods, ingredients, drying technology and innovations to develop the best possible product for our consumers.

We have invested heavily in research and marketing to educate consumers about the benefits of dried cherries and build demand for them. Unfortunately, imports from Turkey are now reaping the benefits of these investments. The rapid increase of the low-priced imports from Turkey has taken the market share from our domestic producers and harmed our industry.

As our shipments of dried cherries declined in 2017, and fell even more sharply in 2018, we were forced to cut production. In the beginning of 2019, our production level got so low that we were no longer able to cover the overhead and had to idle our second dryer. This forced us to lay off 32 employees. This is a hard decision for any company, but especially for a family-owned company like ours.

As our sales volume dwindled, our profits also suffered. We have been forced to reduce our capital expenditures and forego needed investments as well. Not only is our newest dryer line sitting idle, but we have not been able to justify needed upgrade to our freezer area and investments in new infusion methods. Even routine general maintenance activities have suffered.

This case is important to the viability and sustainability of our industry. If dumped and subsidized imports from Turkey continue to double every year, and continue to use rock bottom prices to buy our market share, there will be no way for us to continue. We cannot try to match a Turkey price that is way below our cost of production.

For just a second, I'd like to change hats and speak to you as a grower. Today, I'm watching some of my fellow cherry-growing neighbors go out of business. Others are using up their retirement dollars trying to pay the bills on their farm. As tough as things are at our drying plant, imports are making it even more devastating at the grower level. The Gregory and Veliquette families are committed to this industry.

I have been fortunate to spend more than 40 years of my adult life in the industry. Our daughter Emily and son-in-law Mark are now stepping up to the next generation of leaders in the industry. Mark became president of Cherry Bay Orchards last year. One of our co-founders' son who was involved in the business, Nels Veliquette, is here today.

For the future of our families, our workers and our domestic industry, we respectfully request that the Commission make an affirmative determination. Thank you.

MS. DRAKE: Thank you, Don. Our next witness is Chad A. Rowley, General Manager, Payson Fruit Growers.

STATEMENT OF CHAD A. ROWLEY

MR. ROWLEY: Good morning Ms. Christ and members of the Commission staff. My name is Chad Rowley. I'm the general manager of Payson Fruit Growers. We produce dried tart cherries in Payson, Utah. I'm the third generation of my family involved in the tart cherry industry. In the early 1960's, my grandfather, two of his brothers and some of their neighbors that were growing tart cherries decided to join together and process their own cherries.

They started with a couple of pitting lines at that time. At that time, there were not a lot of tart cherries grown in Utah. That began to change with the advent of mechanical harvesting in the early 1970's, which was much less labor intensive. More trees were planted, more neighbors joined the coop, and they built a freezer to store their raw crop.

Over time, customer tastes began to change, and there was less demand for the frozen and canned cherries used for deserts and pie filling. In the late 1980's and the early 1990's, we were producing more frozen tart cherries than we could sell. My uncle began to experiment with drying the cherries.

It took a lot of adjustments and failed starts to finally find a method for producing dried cherries that resulted in a product that was the right balance of tart and sweet, and the right texture for snacking as an ingredient in a wide array of foods.

We built our first prototype dryer in the early 1990's. As demand started to take off, we continued to grow, and other domestic producers started producing dried tart cherries as well. Today, we have several dryers and we have gone from nearly 100 percent of what we produced being sold in the frozen form to the majority of our product sold dried.

In short, the development of dried tart cherries as a product and a market is the only reason Payson Fruit Growers is still in business today. While the rapid growth in demand we saw early on has started to plateau in recent years, the much bigger threat we see is from imports. We've done a lot to educate consumers and build the market for our product. There's also a lot more we can do.

But when more and more of the market we've built goes to imports instead of domestic producers, it undermines the effectiveness of our efforts. We produce a wide array of dried, tart cherries including cherries infused with sugar, apple juice concentrate infused cherries and uninfused cherries. We've produced dried cherries from raw cherries that have been pitted and frozen.

Frozen cherries can be held in the freezer for at least two years, so we have a steady supply available to produce dried cherries throughout the year. For infused cherries, we first infused the thawed cherries in sugar or apple juice. The infusion sweetens the cherries and improves the yield.

We use the break** scale to measure sweetness. Once the proper balance of tart and sweet is achieved, the cherries are ready to be dried. We use conveyor dryers, which are common in the industry. The infused cherries are loaded onto the beginning of the conveyor belt and carried through the dryer.

As the dryer belt moves the tart cherries through the drying machine, hot air is blown on the cherries and they lose moisture. After they are dried, the cherries are typically coated in a very thin layer of oil such as safflower or sunflower oil to prevent sticking. At the end of the drying process, the dried cherries are scanned and checked for any defects or foreign material before being packed.

Dried tart cherries may also be further processed by being sliced, chopped or minced. As far as we know, dried tart cherries from Turkey are processed through the same or similar methods as what we use. Product from the U.S. and Turkey have similar flavor profiles and textures, and would be virtually indistinguishable to the ordinary consumer.

This is especially the case if the cherries have been incorporated as an ingredient in a finished product such as a trail mix, cereal, granola or other item. This makes price a very important factor in the purchasing decision for dried tart cherries.

As imports of dried tart cherries from Turkey have grown by multiples since 2016, Payson has seen its shipments and production of dried tart cherries fall. In late 2017, we were forced to cut back to a four day work week. This was hard for our workers, but we did everything we could to avoid layoffs.

As a family run company concerned with our community, we simply cannot afford to lose good people. But if our sales and production fall even further, it will be difficult to keep them fully employed. Our plant is currently only running at 60 percent of its capacity due to declining sales. The loss of sales and production volume has also harmed us financially, leading to falling sales revenue and lower profits.

This has forced us to cut our capital expenditures and stalled some of the new product developed projects we've been planning. For over 50 years, my extended family and our friends and neighbors in the area have banded together in support of Utah tart cherry growers with our processing operation. Payson Fruit needs a robust dried tart cherry business in order to fulfill that mission.

Unless action is taken on imports from Turkey, it will become more and more difficult to maintain a viable dried tart cherry industry in Utah and throughout the country. I am the third generation of my family involved with Payson Fruit Growers, and we're working to actively involve the next generation.

We hope the Commission will vote in the affirmative to make that vision reality. Thank you.

MS. DRAKE: Thank you. Our next witness is Melanie LaPerriere, president and CEO of Cherry Central Cooperative, Incorporated.

STATEMENT OF MELANIE LAPERRIERE

MS. LaPERRIERE: Good morning Ms. Christ and members of the Commission staff. My name is Melanie LaPerriere. I'm the president and CEO of Cherry Central Cooperative. While I have only been in this position for a short time, I have many years of experience in the fruit industry, including marketing, sales, operation, project management and systems implementation.

Before joining Cherry Central, I was the vice president and general manager of Naturipe Foods, a grower-owned California based company marketing blueberries, raspberries, strawberries and blackberries. Cherry Central is a cooperative owned by eight tart cherry grower processors and one apple grower processor. Payson Fruit Growers is one of the grower-owners of our cooperative.

At the cooperative level, Cherry Central owns a fruit dryer in Shelby, Michigan named Oceania Foods. Oceania Foods processes the fruit our grower-owners harvest, as well as other purchased fruit products like blueberries and cranberries. Because most of our owners are tart cherry growers, processing tart cherries will always be our strategic core.

As others have testified, nearly all tart cherries are sold in processed form and dried tart cherries are the form in which about 25 to 30 percent of the raw crop is ultimately sold. Dried tart cherries are used in a wide array of applications. They can be sold as stand-alone snack items at the retail level either under a branded or private label name. They can also be sold as ingredients in mixes of dried fruits, trail mixes or granolas in retail stores.

Dried tart cherries are also sold to food manufacturers who incorporate them as an ingredient in finished products like breads, cakes, cereal bars and finished confections like chocolate-covered cherries. They are also used in the food service industry, where they are used in a wide variety of sweet and savory applications.

Many sales of dried tart cherries first go through distributors, including distributors that may rebag bulk cherries into packages, and even combine tart cherries from several different producers into one package. As demand for dry tart cherries has grown over the years, Oceania has also expanded and added to their capacity.

The most recent dryer we added at Oceania came online in lte 2015, and we completed an expansion in 2016 adding a new infusion system. Unfortunately, we have not been able to reap the returns we envisioned from this important investment. Just as we were hoping to ramp up the sales and production on our new equipment, imports from Turkey ramped up instead. Our production and shipments have fallen as a result, and our capacity utilization is unsustainably low.

As we curtailed production in 2018 and imports from Turkey peaked, we were also forced to let some of our employees go. As sales revenues have fallen, Oceania's final performance on dried tart cherries has become increasingly dire. I'm excited to begin my new role as president and CEO of Cherry Central because I see many opportunities for our business.

We have great products and a wonderful group of committed, cooperative growers. We are hoping to invest in marketing and the development of new products, to take advantage of our recently added capabilities and grow and thrive in an ever-changing market.

But these investments are difficult to justify in a market that has been distorted by growing volumes of low-priced dried tart cherries from Turkey. We have been also forced to cut our capital expenditures and R&D and investments, instead of increasing them. I am confident that our coop will have a bright future if conditions of fair trade can be restored.

However, if dumping, subsidies and deep underselling are allowed to continue, it will only inflict further injury on an already vulnerable industry. Thank you.

MS. DRAKE: Thank you. Our last witness is Tim Brian, president, Smeltzer Orchard Company.

STATEMENT OF TIM BRIAN

MR. BRIAN: Good morning Ms. Christ and the members of the Commission staff. My name is Tim Brian, and I am president of Smeltzer Orchard Company in Frankfort, Michigan. My family first homesteaded land in 1872 and started planting fruit trees. Nearly 150 years later, we are processing dried tart cherries across the street from the original homestead.

My great grandfather and his two brothers established Smeltzer Orchard Company in 1942, and we started pitting cherries in 1946. We started drying tart cherries in 1992. My production grew along with the demand from year to year. Today, we are only drying about half the volume of dried cherries, dried tart cherries we did at our peak.

I have been working full time at Smeltzer Orchard Company ever since I graduated from college nearly 30 years ago. I became president in 2004. Smeltzer Orchard Company is an independent processing company. We're not a cooperative. While some of my family members do still have their own orchards, our company does not own any orchards directly.

We buy all of our raw cherries from independent growers throughout the state of Michigan. We pit, freeze them so we can hold the frozen cherries in inventory throughout the year. While we sell cherries in frozen form, we also use frozen cherries as an input to our drying process. We generally infuse the cherries prior to drying for higher moisture content, a softer texture and a better flavor profile.

Our dryers are oven conveyors, and the drying process is similar to what's already been described. One thing I would like to stress today is dried cherries are unique to its own. We do use our equipment to dry some other fruit, such as blueberries and cranberries, but each fruit is perceived as a distinct product by producers and consumers.

If a customer asks for dried tart cherries, they expect dried tart cherries, not blueberries or cranberries. Each fruit has a different texture and flavor profile. The natural sugar level, pH readings and moisture content are all different. For example, malic acid is the dominant acid in tart cherries, while citric is the dominant acid in blueberries and cranberries and there's others.

Even though blueberries and cranberries may also be infused like cherries prior to drying, the batches need to be kept separate throughout the process. Our formulas and time needed for infusion is also different for each kind of fruit. While tart cherries absorb the infusion through a pitter needle hole, cranberries are sliced so they absorb the infusion, or the skin of the blueberries is scraped or scarified so it can absorb the infusion.

It takes some time to clean the drying equipment, which we switch from one type of fruit to the next, because they must be kept separate throughout the process and keep their separate flavor profiles preserved. For all these reasons, we consider dried tart cherries to be completely separate product from all other types of dried fruit such as blueberries and cranberries.

Unfortunately, Smeltzer Orchard Company is operating far below capacity due to the lack of market opportunities for our product. While imports from Turkey have soared, we mostly have been left standing still. Our sales, prices and revenues have also suffered. As a result, we have not been able to contemplate any significant new investments, even though one of our two dryers is over 20 years old.

With all the time and money our domestic industry has invested in building a market for dried cherries, we should be able to see some benefits in terms of higher sales and prices. Dumped, subsidized imports have used low prices to penetrate our market and take the demand we helped create. We have joined with my fellow domestic producers to file these petitions because imports threaten even greater injury if we do not act now.

Turkey is one of the largest producers of tart cherries in the world. Any value-added product our industry develops they follow right behind. They have already come to dominate the market for tart cherry juice, and we cannot let the same thing happen to the market for dried tart cherries. Cherry farmers and processing in Turkey are supported through an array of government subsidies, including payments for the new saplings, export products, forgiveness of government debts for processed fruit exports, investment incentives and capital project subsidies.

As a small family-owned business, we simply cannot compete against a foreign government. Imports from Turkey have already more than tripled from 2016 to 2018, and the first three months of 2019 they are already 40 percent higher than they were the same period a year ago. This trajectory is simply unsustainable. If allowed to continue, imports from Turkey will weigh down our entire domestic market within a year or two.

Our company is still family-owned. Two of my brothers are actively involved in the company, and we are already involving one of their sons, my nephew, to ensure we can pass this company down to the next generation. The Commission's vote in this case will help determine whether a fifth generation of our family will have the opportunity to succeed in this industry. Thank you.

MS. DRAKE: Thank you, Mr. Brian. That concludes our testimony, and we'd be happy to take your questions.

MS. CHRIST: Thank you very much. We'll start -- we'll start the staff questions with Calvin Chang, the Investigator.

MR. CHANG: Good morning everyone, and I'd like to thank you all for taking the time to provide your testimony. It's been quite enlightening and it's very much appreciated. So my first question I think is for Ms. Drake regarding the import data. So as I'm sure you've gathered from the record that we've collected, there's been a bit of a discrepancy in terms of from a volume perspective, from what we have so far versus what the public import statistics present.

And so I know that in your presentation, you had recommended that the Commission rely on public import data in terms of the compilation of the data. But I'm not entirely sure whether that would be the best approach, or because I'm still -- I'm personally still trying to figure out exactly what's going on in the import side of things.

And so either you can mention now or maybe in post-conference what you would suggest would be the best way for the Commission to compile the import data.

MS. DRAKE: Certainly. This is Elizabeth Drake. Thank you for that question. So the reason that we think it is reasonable to rely on public import data is first of all, we believe there hasn't been sufficient importer response, and so for any company that hasn't responded or has responded without data, without any further explanation, we believe the only reliable source is the public import data or the confidential CNIF import data.

For an importer that has responded, if there is an importer that has responded with a volume that is different from what the Commission has on the rest of the record, I know that of course you and the Commission staff are working hard to try to understand what might be the source of that difference.

I would believe that the assumption should be on the side of the CNIF or public data, because we don't see any reason why the numbers wouldn't match. So a response that simply says I don't know or no response is not helpful. The reason we focused on Chile is because that is the one source that we believe that public data would overstate the imports, because they don't produce a lot of raw tart cherries.

But that's obviously not the case for Turkey, which is a huge supplier of raw tart cherries, and many Turkish producers advertise tart cherries and many importers of Turkish product advertise tart cherries. We will explore -- we'll provide more of that information in our post-conference brief.

I believe if the Commission decides it does want to offer options, one option could be the public import data, and a second option could be the public import data adjusted only for volumes that have been, you know, there's substantial evidence that that is not a dried tart cherry, that there's some evidence on the record that it's actually something else. And so we think that is the level that would be required to adjust that, because this isn't some broad basket category that we've had in other investigations, where it's some, you know, not elsewhere specified and petitioners come up with some well, it's 50 percent of subject or I don't know.

That isn't this type of case. The only thing that can come in under this category is dried tart cherries or other dried cherries, and we think all the evidence that we've seen is that what's coming in from Turkey is dried tart cherries, which is we believe that data is reasonable to rely on.

MR. CHANG: Okay, thank you for that explanation. So the next question that I have is related to the six types of cherries that are in the scope. I can't remember the names off the top of my head, but I was wondering, I know you've all mentioned in your previous presentations that there are these -- the Turkish cherries and the U.S. cherries are interchangeable.

But I was wondering if you guys could go into more specifics regarding any differences between these six different types. Are they grown on different types of trees, are there different flavors, different uses for these cherries, if any? I guess if one of the industry experts could provide some clarity on that, that would be great.

MR. GREGORY: Yes, this is Don Gregory, and as a grower I can talk a little bit about varieties of cherries. The predominant variety in the United States of tart cherry is the Montmorency cherry. We also have other tart cherries.

The other major tart cherry we have in the United States is called a balaton cherry, which is a dark juice cherry. That's probably the biggest difference between different kinds of tart cherries, is that you have -- you have some that have a lighter juice and some that have a darker juice, and then there's a lot, you know.

So we see -- in Europe we see both the light juice and the dark juice tart cherries. They may have different varieties, but basically it will always come down to light juice and dark juice tart cherries, and they are -- they're pretty much interchangeable when it comes to drying.

MR. CHANG: Okay. So to follow up on that, you all talked a little bit about Turkey's exports of the tart cherry juice. Is there a specific type of dried tart cherry that's used to produce that juice, or can any kind of dried tart cherry be used to manufacture that product?

MR. GREGORY: Well the -- this is Don Gregory again, and it's not the dried. They're not dried, but that turn into the juice, but yes. The tart cherry juices are pretty much interchangeable. There may be some slight variations at times, but they can all be used for the same thing, and as we looked at -- we were also in the juice business, and as we look at them and we find them on the store shelves and stuff, they're usually talked about as tart cherry juice. So they are very interchangeable.

MR. CHANG: Okay. So I think you all mentioned a bit about demand plateauing recently. What, if you go into more specifics as to what has caused demand for dried tart cherries to flatten, and where do you expect the demand to go in the next, you know, two to three years or so?

MR. ROWLEY: Chad Rowley. You know, the dried tart cherry industry when it started in the early 90's just took off and grew, and just recently as we've seen imports come in and maybe that product mature, it has plateaued. And as we continue to try to find ways to change that and we're working on that, the imports start to see the popularity of dried tart cherries and opportunity for them to get involved, and that's where Turkey saw that and we saw their countries are trying to do that also.

So as we try to change that trend, now we're getting pressure from foreign imports coming in and affecting that also.

MR. CHANG: Okay. But I would assume that -- based on your testimony, it sounded like just demand generally speaking for the dry tart cherries has plateaued. So I guess my question more specifically was I think someone mentioned that people are eating less pastries. So that might be one example of what's caused some shift in demand. So are there any other factors that have kind of caused the market demand to, as you said, plateau or even decrease?

Obviously, you've made it clear that the Turkish imports aren't helping the cause, but I'm just kind of wondering, just trying to get a sense of what exactly is happening for overall demand.

MS. DRAKE: So I think -- and correct me if I'm wrong. This is Elizabeth Drake. It really is more of a maturing of the market. Because the growth was so rapid as the new product was developed and because the industry, you know, has a whole marketing system in place to educate consumers about it, now that's kind of -- it's just matured.

STATEMENT OF NEIS VELIQUETTE

MR. VELIQUETTE: This is Neis Veliquette. I'd just follow up on that. It's a maturation of the market. The dried cherries have been growing. They were built here in the U.S. They've become mature, much like pie filling. Pie filling has been a mature market for many years. It shows incremental declines on an annual basis, but it's still a substantial market for tart cherry use, dried cherries being very similar. A mature market sucks up about 30 percent of the production from the growers every year.

So what we're talking about is a mature market that's known and is attractive to the importers because it's been marketed through all of our businesses and grower money as well towards this promotion. So as more people know about dried cherries, more people who've eaten them, who've seen the rapid increase over the last ten years in that market, and that's basically what we're doing now.

We're switching to a little bit different formulation, less sugar. So these are tweaks to a mature market. Thank you.

MR. CHANG: Okay. So I guess to dive a little bit more into the market, maybe more on the composition, so could you give me a sense of the breakdown of what types of products dry tart cherries are incorporated in? I know they're in like trail mix and juice. Are there any other type of products and what's sort of the basic breakout? Obviously, if you need to go into more detail, you can do it at post-conference as well. But I was hoping to get a sense of what the breakout is.

MS. DRAKE: Yeah, this is Elizabeth Drake. I'll let one of the industry witnesses respond. I just wanted to clarify maybe our testimony was a little confusing, that the juice isn't made from dried tart cherries. So those are separate. They're both different processed products from the raw or frozen tart cherry. But maybe Don or Chad, if you want to --

MR. ROWLEY: Happy to address that. Chad

Rowley. You know, when dried tart cherries started, they were kind of a snack, kind of a raisin, you know. Like people thought they were cherry raisins for a while. We tried to get away from that association. But as they've matured and now they're in salads, they're in trail mixes, we dice them, we put them in granola bars and breakfast bars and health bars, they're scattered through the diet.

And as the benefits of dried cherries, of cherries have become more known, even the food companies are trying to find different ways to use them. So as the initial likeness of a snack kind of changed and matured, we're trying to use them in other ingredients as breakfast bars, health bars and trail mixes. All those things have grown over the last years.

But even they come to a point where they start to mature and plateau a little bit. I think we're seeing that as an industry.

MR. CHANG: So has this industry always been kind of on the smaller side, because I think Ms. Drake you mentioned that the companies here before us represent the vast majority of production. So have there been any other processors that have -- that were in operation but are no longer in operation, or has it always been the same group of companies in this industry?

MR. ROWLEY: The number of companies have stayed relatively stable. There are some -- there are a few dryers that aren't represented here that dry very small amounts of cherries, and that cherries are kind of a secondary product to them. But the number of dryers has been pretty stable in the last few years. What they're drying and different products they're doing with the dried cherry is changing somewhat.

MR. CHANG: Okay. Those are all the questions that I have. Thank you very much.

MS. CHRIST: Thank you. We'll now move to the Attorney Advisor, Patrick Gallagher.

MR. GALLAGHER: Good morning, Patrick Gallagher from the General Counsel's Office. Excuse my voice; I've got a real frog in there. I'll do the lawyer stuff, right. The domestic like product, we're just talking about the cherries, right? There's no other -- sorry. Can you hear me? Nothing else that we have to look at there in terms of domestic like product?

MS. DRAKE: Elizabeth Drake. No, we believe that this is a pretty straightforward case in terms of domestic like product. Our witnesses testified that they do dry some other fruit on the same drying equipment. But the physical characteristics of that, different fruits are very different, have different flavor profiles. There even are some differences in the manufacturing process in terms --

that are dictated by the physical characteristics of the fruit itself.

They're certainly not interchangeable, and they are perceived as very different products by both producers and end users. So we don't think there's really a close question on domestic like product in this case.

MR. GALLAGHER: Okay. So we talked about the industry, right. There's roughly the five, the big five. Are we going to have any related party issues?

MS. DRAKE: I am not aware of any related party issues among our group.

MR. GALLAGHER: That's all I have. Thank you.

MS. CHRIST: Thank you. We'll now move to the Economist, James Horne.

HH Many of you today have talked about unused capacity and equipment standing idle. My question is that you also said that you can produce other products on these goods. How much unused capacity can you -- how much can you increase capacity without taking away from other goods?

MR. ROWLEY: Currently, we could double our capacity without taking away from other goods. We have a dryer completely sitting idle at this stage of the game. Is that your question?

HH That's my question, and is that, as you reported these U.S. producers, is that the production capacity we should be reporting on, your capacity utilization?

MS. DRAKE: Maybe I can answer that, because it's kind of confidential for each company. But I think through some back and forth with Commission staff, we made sure that if there was capacity that can be used to dry different products, only a portion of that capacity was allocated in the table that's being used to compute capacity utilization. So even accounting for a proportional share used for other products, there's still significant excess capacity that could be used for dry tart cherries without taking away from those other products.

HH Thank you. When we've talked about equipment standing idle the conversion between dried tart cherries and other goods, are you physically altering your machines, or are you just washing and making sure there's no contamination between goods?

MR. BRIAN: Tim Brian, Smeltzer Orchard Company. When I described -- the shared equipment is basically just being washed and keeping them from contaminating each item. To prep the fruit, now there you're doing some things to prep the fruit that are different.

Like I said as far as scarifying blueberries, you've got to scratch the skin to penetrate the infusion syrup, or you've got -- for cherries have a pitter hole or the cranberries. You slice them in two to penetrate the infusion syrup into the skin.

HH Ms. Drake, you talked about organic cherries in the U.S. market, and referenced that we'd hear more about that during testimony?

MS. DRAKE: Yes. We were just waiting for your question. Perhaps Mr. Veliquette could talk a little bit about efforts to produce organic in the United States?

MR. VELIQUETTE: Neis Veliquette, Cherry Ke. So everyone is familiar with organic products in the marketplace, higher demand. So from the grower side, which is where I'll speak from, we are currently in a transition project on 250 acres of organic product. Most of the organic cart cherries that are produced in the United States are produced in Washington at this point.

They are available on the spot market. The most recent pricing levels for frozen organic cherries on the spot market is about $1.30 per pound. I think what's very useful and informative here is that there's no distinction on the imports from Turkey between conventional and organic. Those are all coming in at a similar pricing range of around 89 cents a pound.

So when -- you can do the math fairly quickly. If it takes four pounds of frozen cherries to make a dried cherry, an organic dried cherry, just the cherries themselves, not any of the packaging or anything else, should be around $5.30 a pound. So while there is -- there is capacity here within the United States to grow more organic cherries, there are more organic cherries being grown, there are also organic cherries available to be purchased today for production.

HH Thank you. As a follow-up question, are there currently enough organic cherries being grown in the United States to satisfy U.S. demand for organic dried cherries?

MR. VELIQUETTE: Neis Veliquette again. Yes, there are.

HH Thank you. So in the pricing data we've received, we noted that there were higher than average values for Product 3, which is dried tart cherries, pitted whole, non-fused, sold in five to ten pound bags or boxes. Can you provide any reason why this one product would be higher than others on a unit?

MS. DRAKE: Mr. Veliquette might be able to elaborate, but it is kind of counter-intuitive, because you think well not infused, doesn't have sugar, so it should be less. But actually since the sugar infusion or apple juice infusion increases yield, you need much fewer pounds of frozen cherry to produce one pound of dried cherry if it's infused than if it's not infused.

So you have a lot more pounds of the most expensive input the frozen cherries themselves that you need if it's not infused to produce a single pound of dried. Is that correct?

MR. VELIQUETTE: That was an excellent explanation.

HH But why specifically this product, because there are other not infused products in our pricing list? No, that's the only, correct. Thank you very much. So this concludes my questions.

MS. CHRIST: Thank you. We'll now turn to Steven LeGrand, the Industry Analyst.

MR. LeGRAND: All right. Thank you for coming today. Let's see. Could you tell me the differences the Amarelle, Amarelle and Morello type cherries? Are they like general categories of or types of cherries, and then there's different varieties that fall within those, and then where would Montmorency fall in there?

MR. GREGORY: This is Don Gregory. I'm not familiar with the term Amarelle. We talk about a Morello type cherry as generally being in the dark juice type cherry, and other cherries like montmorency and some of the other varieties are light juice. That may be the difference between the two, but I'm really -- I've never heard the term

"Amarelle" before.

MS. DRAKE: This is Elizabeth Drake. We put the word "Amarelle" in our scope description and Morello. But we can provide some more information post-hearing, because some of these are actual varieties and some are just types or names. So we just wanted an illustrative list, but we can try to provide more information post-hearing on that.

MR. VELIQUETTE: Neis Veliquette. As a follow-up on that, what you're looking at there are mostly regional distinctions in terms of the name. So Morello, Amarelle, Montmorency, they're all scientifically cousins. They're all classified as sour or tart cherries. Some have a darker skin, some have a slightly darker juice to them. But when you look at the description of Amarelle, that's one that's more of an Italian or an Adriatic name for a Morello style cherry.

So scientifically they're all related in the same category of sour and tart cherries, but regionally you may have different names for them based upon where they were originally developed in their -- I'm not going to go into the science, but essentially they're just regional variations on names for similar cherries.

MR. LeGRAND: Okay, thank you. Can you tell me about the marketing brand name work done on the Montmorency variety of cherry and how that branding was trying to differentiate the Montmorency American cherry?

MR. ROWLEY: Yes. As we -- as our marketing arm of the industry was working together and when we first saw particularly the different product coming in, particularly in the form of concentrate, and that all of the research that we've done on health benefits, which has been the mainstay of our means of trying to sell cherries in the last years has been based on the health benefits, the anthicionate** and the antioxidants in them and the sleep benefits, and all of that work has been done on the Montmorency cherry.

So from a marketing standpoint we felt that that was an important thing to take advantage of, and to try to make sure that people understand where that research was coming from. So that was the reason we chose to go utilize the Montmorency name as a varietal.

Plus the fact that research has shown that the buying public, the discriminating part of the buying public has become very in tune with knowing where their food comes from, and that we can show that the Montmorency, you know, is an American grown product, much like you have some restaurants that tell you what farm the potatoes come from and that type of thing. That was our plan.

MR. LeGRAND: Thank you. What is the price per pound you'd pay for IQF tart cherries, so one of your main inputs for drying cherries? Tim, you said that you don't grow any cherries. So what would you expect to pay per pound for an IQF cherry?

MR. BRIAN: Tim Brian, Smeltzer Orchard Company. Well, we produce IQF cherries. So in that market, I think the last food institute listed IQF tart cherries at 90 cents a pound. We purchase the cherries from the grower themselves, and then make the IQF cherries and then make the dried product. That's kind of how the flow goes.

MR. LeGRAND: Do you ever purchase IQF cherries from Canada or say Poland or Serbia?

MR. BRIAN: I don't know of any IQF producers in Canada. Correct me if I'm wrong anybody. Again, this is Tim Brian with Smeltzer Orchard Company. The only time -- to be honest with you the only time we've ever purchased foreign fruit is when we had a crop disaster back in 2012 and 2002. Those two years, we had a complete wipe out of fruit. We had early springs with frost, and we had no fruit to produce anything with.

We did purchase some Polish cherries in those, both those two years and it was the Littoca** variety, which we basically substituted the Montmorency variety with Littocas. So there again, it shows the interchangeable of the varieties from overseas to the U.S.

MR. LeGRAND: Okay, thank you. Could you, the various industry people here, could you tell me about spotted wing drosophila and how has it affected availability and prices for cherries?

MR. GREGORY: This is Don Gregory. The spotted wing drosophila, which is a relatively new insect that we deal with at the farming level, particularly in the last three or four years, has caused -- increased the input cost at the farm level to handle that insect, and one that we've known very little about and have worked very hard in order to make sure that we don't have an issue with it in our cherries.

We have -- there's a zero tolerance for processed tart cherries in terms of having worms in them. And so you -- in fact Michigan actually has a law that the state can come in and confiscate your crop if they find worms in your cherries. Now that hasn't happened recently, but so our costs have gone up at the growing level. Unfortunately at the same time that our costs have gone up at the growing level, the value to the grower for his cherries has gone down.

MR. VELIQUETTE: Neis Veliquette, Cherry Ke. So I would concur with Don. The cost of inputs have gone up to combat this pest, but we do not receive a price premium for delivering fruit without worms. As growers we are expected to deliver marketable fruits without defects. So in order to eliminate this pest or control this pest, we do have inputs both on the organic side and on the conventional side to combat that pest.

But we do not receive a premium for delivering marketable fruit. We are expected to deliver fruit without worms at the current pricing for that season. So the current, the current RMA price, the Risk Management Agency out of USDA is 14 cents. So we receive 14 cents a pound, and you're expected to deliver fruit that's marketable.

MR. LeGRAND: Thank you. Is the pressure from spotted swing, from SWD, does that vary from year to year? I saw something out of the Michigan State Extension or Michigan University or something along those lines, providing some guidance and update from year to year, and there was some language in there that made it sound like the pressure from the fruit fly can vary between year to year.

Is that so, and how does that impact -- how does the variability? If the pressure varies from year to year, does that impact the variability of your input costs from year to year?

MR. GREGORY: The short answer to that is yes, it can impact your cost. The problem is that the insect, because the insect multiplies so rapidly that you've only got usually from the time it first appears a few days before it's out of control. So that the -- you know most growers try to make sure that they've got some type of protection on, because once you discover the spotted wing in an area, you can, you know, then you -- then you're going to have growers that were spraying their orchards every other day, trying to avoid that.

So everybody's very cautious to make sure that you're keeping your orchards in as good a shape as you can. Now you have some. But if it sneaks through, then it's an all-out fire drill.

MR. LeGRAND: And has SWD and, you know, the need to spray and the need to manage, has that impacted the availability of organic tart cherries?

MR. VELIQUETTE: Neis Veliquette, Cherry Ke. I would say not significantly, no more significantly than any other management practice that's necessary for that season. So if you have a particularly dry season, you'll have less problems with fungus. If you have a wet season, you're going to have a lot more issues with molds, funguses.

Pests are the same way. So there are, there are tools within the organic toolbox and the organic management system to address SWD or any of the other myriad issues that we could have during any season. So the short answer is no, not significantly, because there are management practices to help control that.

MR. ROWLEY: Chad Rowley. SWD, as Nels just said, thrives probably more in a wetter climate. We're from the west and a drier climate. We do have SWD, but it tends to come into the orchards after harvest so far. It can adapt. We hope it never does adapt. But we see SW after harvest, a couple of weeks after harvest in our area and it hasn't affected us as much as might have other growing regions. And the organics, it hasn't affected our organic production.

We hope it doesn't ever, but we're just hoping it doesn't, living in a different climate.

MR. LeGRAND: Thank you. Are you aware of any of SWD or a similar issue affecting the Turkish production of sour cherries?

MR. BRIAN: Tim Brian, Smeltzer Orchard Company. Yeah, we had a discussion yesterday on that, and I actually looked it up on Google Scholar yesterday. There was a paper written in 2016 in Google Scholar that they first reported the SWD in eastern Turkey in August of 2014. So it's there.

MR. LeGRAND: Is there a way you could supply, give, you know, make that article public record or supply it to us please?

MS. DRAKE: We will.

MR. LeGRAND: Thank you. So are tart cherries biennial producers, in that they -- a tree will produce heavily one year and not so heavily the next year? Or in a series of years? So sometimes you'll see an increase, a gentle increase in production and in that fourth year it will decline?

MR. GREGORY: As our climate has changed, so have the conditions as they relate to tart cherries. In the early -- we used to -- we used to or tart cherries were known as the crop that had the greatest amount of fluctuation year over year in terms of production.

Back in the 70's and 80's, that was true, and back in the 70's and 80's where we live in the Traverse City area, when the Bay froze over during the winter and you had a hard winter and you had a spring that lasted longer, those are the years you had big crops. In years that the Bay didn't freeze over, those were small crop years.

In recent years, the Bay has frozen over very few times. But our springs, our springs haven't been the same, and so that we actually have had in the last four or five years, we've seen a pretty leveling off in terms of -- in terms of cart cherries in our area.

There is, if there's a -- there may be a little bit of biennial based on the -- if you get a huge crop on the tree and the tree gets tired one year, it may not produce as many the next year. But we have not seen anywhere near the fluctuation we did back in the 80's and

90's.

MR. VELIQUETTE: Nels Veliquette Cherry Key. I'll do a follow up on that as well, because this is related a previous question that Mr. Horne asked. So Don is speaking specifically there to climactic issues. I think when you talk about biennial production, there are some apples that produce one year and don't produce as much the next year.

So when we talk about these regional variants of tart cherries, and we also heard the term "Littoca," which is another regional variation of a sour cherry. So when we look at the regional varieties like balaton, which originated over in Hungary, or the Charabique, which is native to Belgium, those are more of biennial producers. They're heavy one year and light the next year.

The Montmorency crop is more susceptible to climactic fluctuations rather than the genetics of the tree. So that's, if that's -- if you need more specifics on that, I'll have to bring my science hat out. Thank you.

MR. LeGRAND: That was very helpful. Thank you. Could you tell me how the federal marketing order works and how it might affect prices? I saw something about, you know, a certain free percentage one year and a restricted percentage. Can you delve into how that marketing order works?

MR. GREGORY: I will try to talk about our marketing order. Marketing order is basically to stabilize a quantity of cherries and to help grow a market, and that's the basic issue that it has. With the fluctuations that tart cherries have had further back in the past, it did exactly that. The concept is you only put enough cherries on the free market every given year, and our formula called -- as an industry called for putting 110 percent of the three year sales average of cherries as the minimal amount of cherries that you can put on the market in any given year.

So you take the sales of the last three years, take an average of that and you add an additional ten percent for growth of the market, and that was the minimal amount of cherries that can be put on the market. It was up to the Board to look at what those numbers were, and to make a determination.

Over the years, the formula has changed somewhat. But that's still the basis, to make sure that you're putting an adequate supply on to grow your market every year, but not to over-supply it to the point where you ruin your market or not to under-supply it in a short crop year. The concept is to have cherries available in a short crop year.

MS. DRAKE: Maybe I can just add. My

understanding is that for the restricted volume, there are several different ways that it can be used. It can be put into inventory for next year. So if that's a shorter crop year, you've got more inventory available. The producers testified they produce from frozen inventory, and there's also some percentage that's allowable for development of new products and for export. So in addition to the free quantity, there are different ways to dispose of any restricted quantity.

MR. LeGRAND: Thank you. I noticed that in the 2018 GSP report, which covers -- which affected this industry, the tart cherry juice, that at the -- Conference, the Turkish industry said well, the marketing order keeps prices, domestic prices high, forces domestic growers to sell at a higher price. So why are you complaining about us importing lower-priced products? Can you comment on that? What's your reaction to that?

MS. DRAKE: Sure, I'd be happy to, thank you. This is Elizabeth Drake. So the federal marketing order does not set prices. It seeks to smooth out supply to help also smooth out price volatility. But it doesn't set a minimum or a maximum price for different products.

The real problem that the industry has is the federal marketing order only applies to domestically produced cherries. So as they're making efforts to smooth out their supply to reduce volatility, imports can come in at whatever volume and whatever price they want.

So that really undermines the effectiveness of the marketing order by disrupting a market that they're working to try to stabilize, and in a way that's completely unregulated unlike the rest of the industry.

MR. LeGRAND: Thank you. So do you -- does the industry export any dry tart cherries, and what would the percentage of exports be in the main export markets?

MR. ROWLEY: Chad Rowley. We do export some. I don't know the percentage. I just know that our company does export some to Europe, some to Japan. But it's a very small percentage of what we do. I wouldn't know the percentage of the industry.

MR. LeGRAND: Thank you. So what role do imports play in the market? Like so are there different marketing channels that imports are sold into? Do you see them in retail or not in retail and, you know, are imports from Turkey say going to food service, but you never see them in those, you know, eight ounce packages at the grocery store for $5? Where would I find Turkish imports?

MR. ROWLEY: Chad Rowley. You can find them in trail mixes, but they probably don't stay country of origin. They could. I've seen them in their own bags, a product of Turkey. I've, so I think you're going to find them in both those areas, trail mixes and their own individual bags saying product from Turkey.

MS. DRAKE: This is Elizabeth Drake. I would just say that from what we're able to see, it seems that they're available at retail both in their own trade dress, their own branding and also private label, where they could be coming in in bulk and then being rebagged into smaller, private label bags. So there are a few different channels through which they could reach the market.

MR. GREGORY: Yeah, and I would say it's been difficult to know exactly where they're at, because we're in a market where there's a lot of spot buying of cherries going on. So your first impression as a marketer when you lose a customer is that it's one of our competitors sitting here that has that customer.

So it's not until you start figuring out, and all of a sudden you find out that none of you have that customer anymore, and it might be -- and I think it started first in the ingredients part of the industry, and then it got into what we call the rebagging part of the industry, or those that are making the trail mixes or doing -- or doing private label of the product. That seems to be where it is happening.

So it's very difficult from our position to see. It's not like all of the sudden one day one customer says I'm not buying your product anymore, because I can buy imported product cheaper, and it just kind of starts to happen.

MR. VELIQUETTE: Nels Veliquette from Cherry Key. And I think it cannot be understated that there is an effort to minimize the fact that the ingredient is from Turkey. There is no red flag with a crescent touting the fact that this is a Turkish cherry. Typically, it comes in in bulk and the rebaggers or the remanufacturers handle the product, repackage the product in a way that does not require them to have country of origin labeling on it.

This is similar to what we've seen happen in the juice market, where the juice concentrate is brought in. It's reconstituted. So it's changed enough from its first form where it was purchased as a concentrate. It's had water added to it, other juices added to it like grape or pear, and then it becomes a tart cherry juice blend, with no indication that the cherries came from Turkey.

MR. LeGRAND: Thank you. Let's see. My final question is is that -- so I noticed when looking at the tree data for Turkey for the dried cherries, that if you go back to 2015, which is I believe frankly outside of our scope of the investigation here, we imported four and a half million pounds of tart cherries from Turkey, and that represents a 65 percent decrease to 2018 levels.

And then also if you go back to 2012, we imported a little under half a million pounds, and then that grew steadily until 2014-2015, and that's -- I look back at 2012 to 2015 and I see oh, that's just like 2016 to 2018. So how do we know that this recent increasing trend over since 2016 is not a reversion to the mean? Why is this different?

MS. DRAKE: Thank you. Yeah, we discussed that as well and my understanding, and I welcome anyone from industry to testify is that in that prior period, Turkey was testing the market to see what kind of acceptance they could get, and there were a number of issues particularly with pits, with not having the turkeys be -- the turkeys, excuse me, the cherries be sufficiently free of pits.

And so there was an effort on quality control and on all of that. So then you start seeing them coming in from 2016 to 2018, but what's coming in is a very marketable product. It's a high quality product there. It's free of pits. It's gaining acceptance throughout the market, and being used in all of these channels.

So that was our understanding of that, that kind of wave data. So we don't think there's any reason to believe that this more recent wave is going to fall off due to quality issues, because they've got the quality down and they're gaining the acceptance and we -- that's why we're concerned, that this surge will just --

You know, that was the first kind of hiccup, and by now this is really reaching kind of an annual level that will continue to grow.

MR. LeGRAND: All right, thank you. That's all the questions I have.

MS. CHRIST: Thank you. We'll now turn to the supervisory investigator, Betsy Haines.

MS. HAINES: Thank you. Thank you again for the helpful testimony. Since we were talking about imports, I want to turn again to the official statistics. So you are saying that Chile's pretty much not the tart. So it would be reasonable to pull the Chile data out of the official statistics. It's what -- yes, we would agree with that. Is there any other country besides Turkey that you feel is largely sweet dried cherries?

MS. DRAKE: Besides Chile?

MS. HAINES: Yes.

MS. DRAKE: We will have to go look. We think most of them are -- the only one we've talked about is Chile, with the climate and just their production profile. That's one that we would think would be an exceptional to the rule. But we can go through the other countries and confirm that.

MS. HAINES: Let's see. Actually, I have one

-- the very tasty samples you brought, I notice that the Turkish were noticeably darker. Is that -- this is just a curiosity on my part. Is it a different cherry or are their cherries typically darker?

MS. DRAKE: (off mic) out of the -- oh, I'm sorry, out of the drying process so it will have some of that dark cherry color already in it, and then use that to infuse the next batch and the batches will get progressively darker and darker even if it's the same variety.

MS. HAINES: One of you had testified that when you had to import from Poland, the years were I think 2002 and 2012, have there been any other more recent weather, bad weather for the crops?

MR. BRIAN: Tim Brian, Smeltzer Company. No. Those were the only two exceptional years that we to look at the statistics. Those were the two completely wipeout years.

MS. HAINES: Okay, okay. I have a question about inventories. One of you testified that they can stay frozen for about two years. Not the dried, the frozen, raw cherries. So my question then is two questions. One, as you're drying it do you do that to order, or are you just continually sort of slowing drying, doing your drying process?

MR. ROWLEY: Chad Rowley. We do use frozen inventory two, three, sometimes four years old. So that's just part of that question. Our drying process, we pretty much try to stay to order. You know, once you produce a dry cherry, your shelf life starts to tip.

MS. HAINES: And what is that shelf life for a dry --

MR. ROWLEY: 18 months probably.

MS. HAINES: Okay.

MR. ROWLEY: And so we try very hard to stay right, or we know the customer and we're anticipating maybe one order ahead. But most of ours are two order.

MS. HAINES: Okay, thank you. I think that's all I had, so thank you very much for answering the question.

MS. CHRIST: Thank you. I'll just quickly check and see if there are any follow-up questions. Thank you very much. I want to also reiterate my appreciation for everybody coming to testify. You know, it's a little bit farther out, the Michigan and Utah, and I do want to mention I appreciate the additional information that you provide about your family history and the long history of the farms. It really gives us something to think about in terms of the breadth and scope of this industry.

Sometimes, you know, we just look at the last three years and we don't see, you know, the 150 years of production and the scope of the family. So I appreciate you providing that additional information. Most of the questions, as you saw, were ticked off as we went through. I do have a couple of follow-up questions.

The first one is on your PowerPoint slide on page four. There's a lot of variation even in these three years of imports, and there's a number of reasons that might be attributable to this. You've mentioned the biennial nature of the crop, potentially the different types of varieties and things like that. I'm trying to explain why there is this huge variety? Like Chile is 122,000 and then it goes down to 33 and then up to five.

What is driving some of this variation year to year in the imports, not just of the subject products but the other, I mean the other sources as well?

MS. DRAKE: Yeah, this is Elizabeth Drake. Thank you for that question. I'm not quite sure I have a good answer for that right now, but we can look at it post-conference. You know, there are other markets in Europe and other places where Serbia, for example, might. You know if their market fluctuates it would change how much they're exporting to the U.S.

Obviously when we looked at the data, we saw, you know, a steady increase from the largest source, and so that's what we were focused on. But -- and they also account for a larger share over time of the annual imports. But we can see if we can find anything about the other sources.

MS. CHRIST: Yeah. I was just curious in terms of whether or not the other countries had similar growing cycles and product varieties where they would have the conditions of competition similar to the U.S. Along the same lines, you mentioned that you're able to dry them, freeze them and put them aside in inventory for two or more years.

Do other countries have the capacity, equipment to produce frozen and have them ready for drying, and so be able to also potentially smooth out their exports to the United States over time?

MR. GREGORY: Yes, we believe they do. In fact, some of the first cherries that came in from Turkey came in the IQF form. So we are aware that they're able to IQF and freeze cherries.

MS. CHRIST: And so along those lines, you mentioned that some of the dried cherries go into like your trail mixes and then others are chopped or sliced for ingredients. Do you know if that, what that slightly further processing, is that done in the United States for the subject sources, or is that done in Turkey and then shipped sort of sliced or chopped or --

MR. ROWLEY: Chad Rowley. I don't think we know. I don't know the answer to that. I don't know that they're slicing and dicing cherries. What we've seen is coming in as whole cherries.

MR. VELIQUETTE: Nels Veliquette. I'd just do a follow-up on the question about the volumes in terms of the variation in the volumes on Serbia specifically. Last season in Europe they had a down crop. So similarly different regions experience different weather events. Last year, Europe had some issues and had a down crop.

MS. CHRIST: Thank you. Just on capacity, when you were beginning to market the health benefits of the tart cherries and increasing the demand I guess mostly in the late 90's into early 2000's, if I recollect the time line, was that increasing demand sort of created or did you -- did it replace, did your purchasers replace their consumption of say cranberries or raisins, and in the increased demand for the dried cherries?

MR. GREGORY: I don't know if we really know if they, you know, if they were using, substituting the product. You know, we obviously have to assume that the American stomach is so big, and that if we're marketing something into that stomach, something else is not going on.

So as we looked at where we were as an industry and we talked about the desert sales falling off, and we talked about the snacks and stuff, and it became obvious that the health benefits were where the American consumer was headed, and that's when we really found out, you know.

So the red color that we have in these cherries is where a lot of the benefits come from. So a lot of our research started along that line, and our objective was yes, that we wanted to, if they were eating dried blueberries or dried apples or eating something else, we wanted them eating cherries and dried cherries. That was one of our objectives. I don't know that we accomplished it or not.

MR. ROWLEY: Dried cherries were just new to the market. Brand new product and people wanting to try something new and it grew and grew. It wasn't -- sure, it might have been replacing someone else's dried purchase, but at that point it was so new that we're not sure. Other than that, it was new during those years.

MS. CHRIST: Thank you. I'm curious a little bit more about the marketing order system. Are foreign sources and the quantity of imports a factor in any of that determination in terms of the allocation of quantities?

MS. DRAKE: This is Elizabeth Drake. No, imports are not part of the formula or the way that the marketing order makes its, or the Board makes its decisions.

MS. CHRIST: And does the marketing order cover all U.S. production? Are all producers part of that?

MS. DRAKE: It covers a number of states, which account for 99 percent of production.

MS. CHRIST: That's all the questions that I have written down. I was just actually curious, because the other night I was doing some research into frozen smoothies, and they have individually quick frozen fruit in them.

So I'm wondering do dry tart cherries go into the frozen smoothie market, or should I, you know, give you some ideas about where dried tart cherries might go, because with the health benefits and the quick blending, just curious about if there are other outlets for the frozen, other than the dried tart cherries?

MR. ROWLEY: Chad Rowley. Instant IQF cherries do go into frozen smoothies. They do. There are people that use them that put them in there. The dry cherry, I put some in my smoothie in the morning. It could go there, but I don't see them popular around the country. I see the frozen cherry more popular than the smoothie. But thanks for the idea. That's a great idea.

MS. DRAKE: Well, I was just laughing. This is Elizabeth Drake, because I did find a recipe for a smoothie with dried tart cherries in it, and I thought hmmm, maybe I'll have to try that. But I haven't tried it yet.

MS. CHRIST: Yeah. I see everybody's very correct in the morning and trying to find a way, so I was curious if it was in there, in looking at that. Those are all the questions that I have.

Again, thank you very much for taking the time to educate us on the whole process and the different varieties and types, as well as the history of the industry and trying to clarify some of the anomalies in the data, so that we can understand the stories behind them and was actually driving the differences. I think we'll move on to closing remarks.

MR. BURCH: Closing remarks on behalf of those in support of imposition will be given by Elizabeth J. Drake of Schagrin Associates. Ms. Drake, you have ten minutes.

PETITIONERS' CLOSING REMARKS

MS. DRAKE: Thank you. I'll keep this brief. Elizabeth Drake of Schagrin Associates on behalf of the Petitioner. Thank you for all of your work on this case, all of your attention today and your very helpful questions. We look forward to responding further on post-conference to a number of them.

You've heard testimony from domestic producers today about their long history in the industry and all of their efforts to basically create a new product, dried tart cherries, and to market that product and to build demand for it. Now those efforts are being undermined by an increase in imports from Turkey.

Just as the market is maturing, we see the dried producers losing production, losing shipments, losing sales and operating at low levels of capacity utilization, idling capacity and laying off workers. If whatever decline might be occurring in demand, none of it can explain all of these adverse effects on the domestic industry that have occurred over the Period of Investigation.

It is only the increase in imports from Turkey that can explain the injury that they have suffered, and these imports threaten further injury absent relief. So we are very appreciative for your attention and very hopeful that the Commission will allow these investigations to proceed. Thank you.

MS. CHRIST: Thank you. On behalf of the Commission and the staff, I would like to thank the witnesses who came here today, as well as counsel, for helping us to gain better understanding of the product and the conditions of competition in the dried tart cherry industry.

Before concluding, please let me mention a few dates to keep in mind. The deadline for submission of corrections to the transcript and for submission of post-conference briefs is Friday, May 17th. If briefs contain Business Proprietary Information, a public version is due Monday, May 20th.

The Commission has tentatively scheduled this vote on these investigations for Thursday, June 6th, and it will report its determination to the Secretary of the Department of Commerce on Thursday, June 7th. Commissioners' opinions will be issued on Friday, June 14th. Thank you all for coming. This conference is adjourned.

(Whereupon, at 11:25 a.m., the conference was concluded.)

CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Dried Tart Cherries from Turkey

INVESTIGATION NOS.: 701-TA-622 and 731-TA-1448

HEARING DATE: 5-14-19

LOCATION: Washington, D.C.

NATURE OF HEARING: Preliminary

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: 5-14-19

SIGNED: Mark A. Jagan

Signature of the Contractor or the Authorized Contractor's Representative

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

SIGNED: Duane Rice
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: Bala Chandran
Court Reporter