



THE UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of: )  
 )  
 SACCHARIN FROM CHINA ) Investigation No.:  
 ) 731-TA-1013 (Final)

Thursday,  
 May 15, 2003

Room 101  
 U.S. International Trade  
 Commission  
 500 E Street, S.W.  
 Washington, D.C.

The hearing commenced, pursuant to notice, at 9:35 a.m., before the Commissioners of the United States International Trade Commission, the Honorable Deanna Tanner Okun, Chairman, presiding.

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On behalf of the International Trade Commission:

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 MARCIA E. MILLER, COMMISSIONER  
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P R O C E E D I N G S

(9:35 a.m.)

1  
2  
3 CHAIRMAN OKUN: Good morning. On behalf of  
4 the United States Trade Commission, I welcome you to  
5 this hearing on Investigation No. 731-TA-1013(Final)  
6 involving saccharin from China. The purpose of this  
7 investigation is to determine whether an industry in  
8 the United States is materially injured or threatened  
9 with material injury by reason of less than fair value  
10 of imports of subject merchandise.

11 Schedules setting forth the presentation of  
12 this hearing and testimony of witnesses are available  
13 at the secretary's desk. I understand the parties are  
14 aware of the time allocations. Any questions  
15 regarding the time allocations should be directed to  
16 the secretary.

17 As all written material will be entered in  
18 full into the record, it need not be read to us at  
19 this time.

20 All witnesses must be sworn in by the  
21 secretary before presenting testimony.

22 Copies of the notice of institution, the  
23 tentative calendar and the transcript order forms are  
24 available at the secretary's desk. Transcript order  
25 forms are also located in the wall rack outside the



1 secretary's office.

2 Finally, if you will be submitting documents  
3 that contain information you wish classified as  
4 business confident, your request should comply with  
5 Commission Rule 201.6.

6 Madam Secretary, are there any preliminary  
7 matters other than my watch and this watch are no  
8 longer on the same schedule?

9 MS. ABBOTT: No, Madam Chairman.

10 CHAIRMAN OKUN: All right, please then  
11 proceed with the opening remarks.

12 MS. ABBOTT: Opening remarks on behalf of  
13 petitioners will be made by David A. Hartquist,  
14 Collier Shannon Scott.

15 CHAIRMAN OKUN: Good morning, Mr. Hartquist.

16 MR. HARTQUIST: Good morning, Madam  
17 Chairman, members of the Commission, member of the  
18 Commission staff. We are happy to be with you this  
19 morning.

20 I am David A. Hartquist of Collier Shannon  
21 Scott representing the petitioner PMC Specialties  
22 Group this morning.

23 As the Commission is aware, an antidumping  
24 investigation was conducted back in 1994, covering  
25 imports of saccharin from China. And in that

1 investigation a negative determination was reached.

2           Since that time though there has been a  
3 dramatic shift in the conditions of competition,  
4 making it quite clear that PMC is now experiencing  
5 material injury because of the Chinese imports. I  
6 would like to highlight some of the most important  
7 changes that have occurred since that earlier  
8 investigation.

9           First, the volume of saccharin imports from  
10 China has increased significantly both in absolute  
11 terms and in relative terms.

12           In 1993, the last year of the prior  
13 investigation, saccharin from China were less than  
14 500,000 pounds, and accounted for about 20 percent of  
15 all imports. By last year, 2002, imports from China  
16 had grown to over 3.5 million pounds, and accounted  
17 for more than 65 percent of total imports.

18           In 1993, imports from China held only about  
19 15 percent of the U.S. market. PMC had about 60  
20 percent of the market in those days. During the POI  
21 here, there was a substantial reversal. Last year the  
22 Chinese market share was over five times greater than  
23 during the prior investigation.

24           Second, the pricing trends and the nature of  
25 the competition between PMC and imports from China

1 have also changed.

2 In the prior case the Chinese were just  
3 beginning to enter the market. The data currently  
4 show a completely different picture with direct price  
5 competition from the Chinese product as shown in the  
6 staff report. The Chinese have slashed their prices  
7 dramatically to gain market share, and PMC experienced  
8 losses in every year of the POI, and these losses  
9 deepened as the imports surged and prices declined.

10 Third, the product is now sold differently.

11 In the prior case, for example, the  
12 Commission noted that PMC relied on contracts for  
13 about 50 percent of its sales and offered a two-tier  
14 pricing system for large customers.

15 Now, while PMC still relies on contracts,  
16 the prices negotiated in these contracts reflect a  
17 dumped price quotes from the Chinese producers. As  
18 you know, the Commerce Department found antidumping  
19 margins of an astounding amount -- near 300 percent,  
20 among the highest I have ever seen in my career.

21 Fourth, demand has changed.

22 There will be arguments about this, but we  
23 will present evidence, and I think it's pretty clear  
24 from the staff report that demand has increased  
25 significantly for this product.

1                   During the prior investigation consumption  
2 was declining over the period. While there are  
3 various reasons for this decline, it may have been due  
4 in part to the belief then that saccharin was a  
5 harmful product requiring a warning label. That's  
6 proven not to be true, and in December of 2000, the  
7 warning labels were no longer required and demand has  
8 increased as the warning label ended. But  
9 unfortunately, because of the Chinese dumping, PMC has  
10 not been able to take advantage of this growth in the  
11 market.

12                   Fifth, during the prior investigation  
13 questions arose about the quality of the Chinese  
14 product.

15                   Chinese producers have overcome any quality  
16 issues and they now meet the qualification  
17 requirements of U.S. customers, as of course does PMC.

18                   But in sum, virtually every condition of  
19 competition that was cited either by the Commission or  
20 the respondent since the prior case has changed.  
21 Chinese producers are now the overwhelming force in  
22 the market, dominating both in volume and price, and  
23 PMS is injured in every aspect of its saccharin  
24 operations. Relief from these unfairly traded imports  
25 is critical to the survival of the company.

1 Thank you.

2 CHAIRMAN OKUN: Thank you.

3 MS. ABBOTT: Opening remarks on behalf of  
4 the respondents will be made by Bruce Aitken, Aitken  
5 Irvin Berlin & Vrooman.

6 CHAIRMAN OKUN: Good morning, Mr. Aitken.

7 MR. AITKEN: Good morning, Chair Okun,  
8 members of the Commission. It's a pleasure to be here  
9 today. I am accompanied by Shirley Coffield of our  
10 firm.

11 We are here today on behalf of Pro Trade  
12 Group's U.S. Sweetener Coalition, a group of 10  
13 organizations, including three manufacturing end users  
14 who oppose the petition.

15 At the outset I wish to apologize for the  
16 inability of Steve Fisher, Colgate-Palmolive's  
17 Director of Purchasing, to be here this morning. He  
18 had a family emergency, and we only learned about this  
19 late last night. So I appreciate the responsiveness  
20 of Mr. Bishop in getting the witness list amended on  
21 virtually no notice. We anticipate that Colgate will  
22 participate and contribute to the post-hearing  
23 submission. So any questions you have we would be  
24 happy to respond to in that form.

25 We have overarching theme today, and that's

1 that PMC is the architect of its own financial  
2 condition, and that the possible imposition of  
3 antidumping duties would be an exercise in futility.  
4 We have a panel today consisting of three witnesses:  
5 Chris Torske, the General Manager of HELM US; Wayne  
6 Ritell, Vice President of Rit-Chem; and Drew Wechsler,  
7 Managing Director of LECG, an economic consulting  
8 group. Drew is here as an economist today.

9 We have three main points which these  
10 witnesses will cover.

11 First, for a variety of reasons the market  
12 has shifted away from saccharin towards alternatives  
13 such as aspartame and others.

14 Second, the PMC faces massive problems  
15 unrelated to saccharin, in addition to problems with  
16 its own products, most specifically with quality,  
17 problems such as odor, clumping, contamination, and  
18 supply responsiveness.

19 And finally, these problems are so  
20 significant that we believe that significant end  
21 users, if PMC prevails in this proceeding and  
22 antidumping duties are imposed on Chinese product,  
23 will simply turn to alternative sources overseas  
24 rather than to PMC.

25 Thank you very much.

1 CHAIRMAN OKUN: Thank you.

2 Madam Secretary, will you please announce  
3 the first panel?

4 MS. ABBOTT: The first panel in support of  
5 the imposition of antidumping duties has been sworn.  
6 Would you please come forward?

7 (Witnesses sworn.)

8 CHAIRMAN OKUN: Please proceed.

9 MR. HARTQUIST: Good morning again. We will  
10 present the following panel of witnesses to you this  
11 morning.

12 Our first witness on my right is Gordon  
13 McCullough, a long-time veteran of this industry, and  
14 Executive Vice President of PMC Specialties Group,  
15 Inc. He runs the operation in Cincinnati, Ohio.

16 And on my left, Bruce Reinwald who is the  
17 Market Manager for Food and Feed of PMC Specialties;  
18 Brad Hudgens of Georgetown Economic Services will  
19 present the economic testimony; and we also have with  
20 us to answer any questions, Judy Thomas, who is a  
21 customer services manager for PMC; Cory Davids, who is  
22 a marketing specialist for PMC; and my colleagues,  
23 John Gloninger of Georgetown Economic Services, and  
24 Mary Staley of Collier Shannon.

25 So with that we will proceed with our first

1 witness, Mr. McCullough.

2 MR. McCULLOUGH: Good morning. My name is  
3 Gordon McCullough. I am the executive vice president  
4 of PMC Specialties Group. I have been involved in the  
5 production and sales of saccharin at PMC and its  
6 predecessor companies since 1975.

7 PMC is the only producer of saccharin in the  
8 United States. Therefore, all U.S.-produced saccharin  
9 is manufactured at PMC's plant in Cincinnati, Ohio.

10 Lamead Chemical began production of  
11 saccharin at the Cincinnati plant in 1960. The plant  
12 was then sold to Sherwin Williams Company in 1966, and  
13 then to PMC in 1985.

14 Saccharin has been used to sweeten foods and  
15 beverages without calories or carbohydrates for over a  
16 century. In the United States, it's daily used by  
17 several generations of Americans, has made saccharin  
18 an integral part of the American lifestyle. It is  
19 particularly important to those whose diet require a  
20 restriction of calories or carbohydrates. Most health  
21 practitioners favor the use of non-caloric sweeteners  
22 like saccharin in weight reduction and for people with  
23 diabetes.

24 Throughout the 1970s, saccharin was the only  
25 low calorie sweetener available in the United States,



1 and saccharin continues to be important for a wide  
2 range of low calorie and sugar-free food and beverage  
3 applications. It is used in the United States in such  
4 products as soft drinks, tabletop sweeteners, baked  
5 goods, jams, chewing gum, canned fruit, candy, dessert  
6 toppings and salad dressings. And one of the most  
7 popular uses is in Sweet'N'Low, a tabletop sweetener.

8 Saccharin is also used in cosmetic products,  
9 vitamins, pharmaceuticals, animal feeds and tobacco,  
10 and the future looks bright for saccharin. With the  
11 growing popularity of the light foods and beverages,  
12 saccharin will continue to have a significant role.  
13 In fact, demand for saccharin in the United States has  
14 grown between the years 2000 and 2002.

15 With the removal of the warning label at the  
16 end of 2000, new saccharin sweetened products are  
17 under development although PMC has not been able to  
18 share in this growth because of the surge of low-  
19 priced imports from China. Imports from China grew by  
20 over 150 percent between 2000 and 2002. PMC has lost  
21 significant sales to Chinese imports in every year  
22 during the period of investigation, and as a result  
23 PMC's shipments have declined steadily.

24 And we are here today to express our concern  
25 about imports of saccharin from China entering the

1 United States at unfair prices.

2 As you know, we filed a case in 1993 against  
3 China and Korea. While we believe we were  
4 experiencing material injury then, our financial  
5 position has now worsened as show in the industry  
6 indicators in our questionnaire response.

7 Imports from China increased to historically  
8 high levels in 2002. In fact, imports from China have  
9 surged more than ten-fold since the filing of the  
10 petition, the original petition in 1993. More  
11 important, these imports have been sold in the U.S.  
12 market at such low prices that the only way we have  
13 been able to compete is to sell saccharin without  
14 expecting a satisfactory return.

15 We are in serious trouble because the  
16 imports from China have decimated the market. The  
17 unfairly priced imports have undersold our product by  
18 significant margins throughout the period of  
19 investigation, and have caused us to lower our prices  
20 significantly.

21 In spite of the price reductions, Chinese  
22 producers have continued to beat our prices, causing a  
23 continuous downward spiral of saccharin prices in the  
24 U.S.

25 The product characteristics of saccharin

1 make the market particularly vulnerable to price  
2 competition from the dumped imports. The fact that  
3 only a few grades and product forms are used means  
4 that it's easy for the importers to stock this product  
5 in large quantities in the United States. Also,  
6 saccharin is available in a limited number of grades  
7 and product forms and is a commodity product used in  
8 industrial applications.

9           Accordingly, it is relatively unimportant to  
10 end users whether they use product of one manufacturer  
11 or another, or whether the product is produced  
12 domestically or by a foreign manufacturer, just so  
13 long as the product meets or exceeds the FCC, Food  
14 Chemicals Codex, USP and NF specifications.

15           This places us in direct competition with  
16 imports from China who produce the same product and  
17 competes for the same customers.

18           I have read the respondent's prehearing  
19 brief that PMC cannot meet the quality, quantity and  
20 delivery requirements of the major U.S. end users.  
21 Quite frankly, I find this statement appalling. It is  
22 important for the Commission to know that PMC has  
23 consistently offered a high quality product to these  
24 major U.S. end users for several decades. These  
25 purchasers did not switch suppliers because of quality

1 or delivery terms, but rather, because of low prices  
2 offered by Chinese suppliers.

3 In fact, the quality of our product has  
4 never impacted our sales. The fact that a full range  
5 of customers continue to purchase from PMC, despite  
6 being significantly undersold, demonstrates that PMC's  
7 quality is not an issue.

8 I would like to know if PMC's quality was  
9 not acceptable, as respondents argue, then why do  
10 Chinese producers undersell PMC at such substantial  
11 margins.

12 The underselling by Chinese imports has  
13 adversely affected our company in a variety of ways.

14 First, we have seen a significant increase  
15 in China's share of the U.S. market, directly at our  
16 expense. Between 2000 and 2002, we lost several  
17 annual commitments to a number of U.S. customers,  
18 including some of our top customers. This reduction  
19 of domestic sales volume has had a devastating impact  
20 on our financial performance.

21 As Mr. Hudgens will describe in more detail,  
22 our operating income was negative for the entire  
23 period of the investigation. This has resulted in  
24 steep declines in our capital and R&D expenditures,  
25 but not in our commitment to quality.

1           So our loss of domestic sales volume to the  
2 Chinese products has had a very negative effect on our  
3 financial performance.

4           The second impact of the unfair Chinese  
5 competition has been even more far-reaching. Over the  
6 past several years our customers have become  
7 increasingly familiar with the Chinese products and  
8 the willingness of the Chinese producers to supply at  
9 prices far below our own.

10           In a market dominated by a handful of large,  
11 important purchasers, we simply cannot afford to lose  
12 those accounts or to let our competitors make inroads  
13 with our longstanding ongoing customers.

14           And so we have been constrained to defend  
15 our remaining business aggressively by lowering our  
16 prices to our current customers. In this way the  
17 effects of each dumped Chinese sale went far beyond a  
18 particular transaction and affected virtually all our  
19 entire sales base.

20           In light of our worsening financial  
21 condition and the loss of market share to the subject  
22 imports, it is impossible for PMC to continue making  
23 the investments in equipment, processes and people  
24 that are necessary to be viable for the long term. We  
25 have invested one-half million dollars since January

1 of 2000 to maintain our competitive position. We have  
2 done everything humanly possible to reduce our costs  
3 and to improve our manufacturing processes and  
4 productivity. We have even implemented a number of  
5 measures to improve efficiency and to make our plant  
6 more environmentally friendly such as programs to  
7 recover methanol and catalyst. We have improved  
8 production yields, and we introduced more  
9 environmentally friendly solids.

10 We know that we must remain competitive and  
11 responsive to our customers, and we have done so.  
12 However, we have continued to lose sales to unfairly  
13 priced imports from China. We have been forced to  
14 continually lower our prices in a never-ending spiral  
15 just to maintain some market share. Our margins have  
16 been completely evaporated as dumped imports have  
17 entered into our market.

18 We are here today because we are convinced  
19 that our company is at a crossroads. If the China's  
20 pricing at current levels, we may choose not to remain  
21 in the saccharin manufacturing business and that, of  
22 course, would mean extinction for the U.S. industry.

23 As indicated in our petition, we estimate  
24 that the five Chinese saccharin producers have enough  
25 production capacity to supply the world market with

1 low-priced saccharin. And given the capital-intensive  
2 nature of saccharin production, this perhaps more than  
3 anything explains why the Chinese industry has been so  
4 aggressive in its U.S. sales efforts in the last few  
5 years.

6 A recent China Chemical Week article  
7 reported that saccharin product in China went far  
8 beyond the government's central plan in 2001, creating  
9 an oversupply of saccharin. As a result, China was  
10 forced to significantly increase its export sales.  
11 The article admitted that because of the overproduction  
12 China export prices for Chinese-produced saccharin  
13 plunged from \$1.07 ex-Shanghai per pound in year 2000  
14 to .93 per pound in 2001.

15 According to the Commerce statistics,  
16 individual export transactions were made as low as  
17 \$.91 per pound in the year 2002.

18 Unfortunately, the Chinese producers'  
19 pattern to continually beat our prices suggest that  
20 even lower priced sales are in the offing, and unless  
21 this Commission acts to neutralize China's unfair  
22 pricing practices the U.S. industry is threatened, and  
23 we would like you to do so.

24 Thank you very much for your attention.

25 CHAIRMAN OKUN: Thank you.

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1 MR. HARTQUIST: Thank you, Gordon.

2 We now turn to Bruce Reinwald.

3 MR. REINWALD: Good morning. My name is  
4 Bruce Reinwald, and I'm the market manager for food  
5 and feed products at PMC Specialties Group. I have  
6 been employed by PMC since 1996.

7 As Mr. McCullough described earlier,  
8 saccharin is a high intensity sweetener that is used  
9 primarily as a non-caloric sweetener in food,  
10 beverages, personal care products such as toothpaste  
11 and mouth wash, and also animal feeds.

12 By weight, saccharin is about 360 times  
13 sweeter than sugar, and saccharin is also used as a  
14 curing agent in adhesives, and also as a primary  
15 nickel brightener in electroplating.

16 Demand for saccharin has increased in the  
17 U.S. market primarily because of the growing  
18 popularity of light foods and beverages, particularly  
19 diet soft drinks. Coca-Cola and Pepsi have increased  
20 their purchase of saccharin over the past several  
21 years because of an increasing demand for diet drinks.  
22 Soft drink manufacturers use sweetener blends  
23 consisting of both saccharin and aspartame.

24 Blending is important because it allows  
25 formulators to capitalize on the strengths of each



1 sweetener. In addition to it be 10 to 15 times less  
2 expensive than aspartame, saccharin has a different  
3 taste profile and is more heat, time and pH stable.

4 The use of sweetener blends by the soft  
5 drink manufacturers has increased the demand for both  
6 saccharin and aspartame in the U.S. market.

7 With the recent removal of the warning label  
8 requirement, new saccharin sweetened products are in  
9 development. On December 21, 2002, President Clinton  
10 signed the Sweetest Act, which removed the warning  
11 label on all products using saccharin. Because  
12 saccharin is the least expensive high intensity  
13 sweetener in the U.S. market, the removal of the  
14 warning label should open the market to purchasers  
15 seeking a safe, low-cost sweetener in new product  
16 formulations.

17 PMC producers and markets three types of  
18 saccharin: sodium, calcium and acid. Sodium  
19 saccharin is the most commonly used saccharin in the  
20 U.S. market. It is sold in a variety of particle  
21 sizes, concentrations, and is water soluble. Sodium  
22 saccharin is produced in granular, power and spray-  
23 dried powder forms, and is used in tabletop  
24 sweeteners, soft drinks and pharmaceutical formulas.

25 Calcium saccharin has improved taste

1 characteristics over sodium saccharin and has gained  
2 recent popularity because it does not contain any  
3 sodium. Calcium saccharin is also water soluble and  
4 produced in powder form. Calcium saccharin is  
5 currently used in tabletop sweeteners, diet fountain  
6 drinks, and various other products.

7           Insoluble or acid saccharin is the acid form  
8 of saccharin, and is used in pharmaceuticals, limp  
9 balms, and chewing gum, and is only slightly soluble  
10 in water. Acid saccharin accounts for a small share,  
11 less than five percent of the saccharin market, and  
12 acid saccharin is also produced in a powder form.

13           Domestic and Chinese saccharin are  
14 interchangeable in customer applications. They are  
15 designed for and used in the same end uses by  
16 customers. Before purchasing, end users either  
17 require a certificate of analysis or conduct their own  
18 tests for purity and for adherence to Food and Drug  
19 Administration specifications outlined in the Food  
20 Chemical Codex in the United States Pharmacopeia.

21           Saccharin that meets these standards is  
22 known as food grade, and is required for virtually all  
23 uses other than the adhesives production and the  
24 electroplating.

25           Therefore, the customers' point of view all

1 saccharin is purchased based on it being represented  
2 as meeting these specifications. As a result,  
3 domestic and Chinese saccharin have the same physical  
4 and performance characteristics. Furthermore,  
5 Chinese-produced saccharin is used in the same  
6 tabletop sweetener, fountain soft drinks, personal  
7 care products, and pharmaceutical applications as  
8 domestically-produced saccharin.

9 In fact, as described Mr. McCullough  
10 earlier, Chinese-produced saccharin is increasingly  
11 sold to the same purchasers as PMC's saccharin. PMC  
12 sells saccharin to a wide range of customers,  
13 including Cumberland Packing Corporation, which  
14 produces a tabletop sweetener known as Sweet'N'Low;  
15 also Coca-Cola, Pepsico, Colgate Palmolive and Proctor  
16 & Gamble. In addition these purchasers, PMC also  
17 sells saccharin to more than 200 other end users.

18 I understand that respondents have argued  
19 that PMC is not positioned to globally supply  
20 multinational accounts. As market manager of PMC, I  
21 have direct knowledge that PMC sells to the same  
22 customers in the same channels as our Chinese  
23 competitors. Similar to the Chinese producers, PMC  
24 sells saccharin to Proctor & Gamble through their  
25 purchasing agent in Guanju, China.

1                   These multinationals switched their  
2                   purchasing patterns to Chinese suppliers to obtain  
3                   lower-priced saccharin. These large multinational  
4                   companies search for low-cost raw material products  
5                   and are making purchasing decision solely on the basis  
6                   of price.

7                   The internet auctions that some  
8                   multinationals use are indicative of the price  
9                   competitiveness of the saccharin market. In these  
10                  internet auctions price, not the company's global  
11                  positioning, is the only factor that counts in  
12                  determining which supplier gets the sale.

13                  Imports from China are making inroads into  
14                  the saccharin market by continuing to undercut PMC's  
15                  price. PMC has a history of selling saccharin to  
16                  these multinational companies for almost three  
17                  decades, and is well positioned to sell into these  
18                  markets. Consequently, PMC's lost sales are not  
19                  related to any lack of global positioning, but rather  
20                  to its inability to compete with the low prices  
21                  offered by Chinese producers.

22                  Thank you for your attention.

23                  CHAIRMAN OKUN: Thank you.

24                  MR. HUDGENS: Good morning.

25                  MR. HARTQUIST: We will turn to Brad

1       Hudgens.

2                   MR. HUDGENS: Good morning. My testimony  
3       today will discuss the material injury suffered by PMC  
4       Specialty as a result of the unfairly priced imports  
5       from China.

6                   Despite strong demand for saccharin, PMC's  
7       financial performance deteriorated over the period of  
8       investigation, forcing the company to make significant  
9       reductions in its production in 2001 and 2002.

10                   As I will show you this morning, PMC's  
11       declining profitability has been a result of the  
12       unfair import competition that it has faced from  
13       Chinese saccharin producers and exporters.

14                   Over the period of investigation PMC has  
15       been forced to reduce its prices of saccharin to  
16       retain sales and compete against the low-priced  
17       imports from China. As a result, PMC's financial  
18       performance has deteriorated in recent years.

19                   Before I discuss specific criteria related  
20       to the material injury, I would like to spend a few  
21       moments discussion several relevant factors that  
22       affect competition in the U.S. market for saccharin.

23                   First, the general demand condition for  
24       saccharin are good as apparent U.S. consumption of  
25       saccharin increased over the period of investigation.

1 Both for the growth and consumption is attributable to  
2 the increasing popularity of light foods and  
3 beverages. The bill was passed that ended the warning  
4 label requirement on saccharin-sweetened products in  
5 December 2000. As a result of the removal of the  
6 warning label many new products using saccharin are in  
7 development. Therefore, the demand prospects are good  
8 for the immediate future for saccharin.

9 Second, saccharin is a commodity product for  
10 which the primary determinant of a sale is price.  
11 U.S. saccharin customers purchase both the U.S. and  
12 Chinese saccharin and use both products  
13 interchangeably.

14 The prehearing staff report indicates that  
15 both importers and purchasers reported in their  
16 questionnaire responses that the two products can be  
17 used interchangeably. Nothing can be more supportive  
18 of a finding of substitutability between Chinese and  
19 U.S.-produced saccharin than the events that have  
20 taken place during the period of investigation.

21 China's share of the U.S. saccharin market  
22 more than doubled over the POI as PMC lost sales to  
23 imports from China entirely due to price. PMC's large  
24 volume customers have increased their purchases of  
25 saccharin from Chinese suppliers because the quality

1 is satisfactory and the prices are significantly lower  
2 than PMC's. These events demonstrate that the  
3 importance of price in the purchasing decision and the  
4 clear substitutability of domestic and Chinese  
5 products.

6 In terms of the conditions of the U.S.  
7 industry producing saccharin, PMC clearly meets the  
8 statutory requirements for material injury. Although  
9 the POI was a period of strong demand, PMC's data show  
10 downturns in almost all statutory criteria.

11 As imports of Chinese-produced saccharin  
12 rose by more than 150 percent from 2000 to 2002, PMC's  
13 production and shipments declined while the company's  
14 operating losses deepened. Both the quantity and  
15 value of PMC's domestic shipments declined during 2000  
16 to 2000. Because of the decline in U.S. shipments,  
17 PMC's share of the U.S. market plummeted over the  
18 period of investigation.

19 PMC's production of saccharin also declined  
20 in each year of the POI. This decline was most  
21 dramatic during 2000, when PMC was forced to shut down  
22 because of reduced sales. Instead of the normal four-  
23 week closure for equipment maintenance, PMC closed its  
24 operations an additional 12 weeks because of reduced  
25 sales. PMC did incur a work stoppage by the labor

1 union at the end of 2002, but professional personnel  
2 were able to continue production during this period  
3 and this work stoppage was not included in the 12-week  
4 total.

5           Given the capital-intensive nature of the  
6 production, such production stoppages have a serious  
7 negative impact on profitability. Contrary to  
8 respondents' brief, PMC does not produce other  
9 products on the equipment dedicated to saccharin  
10 production.

11           The employment of production and related  
12 workers and hours worked by these employees also fell  
13 over the POI. As a result of the reduced sales, PMC  
14 was forced to reduce its employment by almost 15  
15 percent between 2000 and 2000.

16           Indeed, PMC's injury is most evident in its  
17 financial performance which has deteriorated since  
18 2000. It's important to note that PMC's saccharin  
19 operations were profitable just before the POI when  
20 imports from China were roughly one-third their  
21 current levels. But as imports from China  
22 increasingly displaced U.S. production, PMC's  
23 financial situation went from a modest profit to an  
24 operating loss.

25           During the POI, the operating losses



1 deepened as imports from China increasingly supplied  
2 the U.S. market.

3           The Commission's record shows that PMC was  
4 forced to lower its prices to compete with imports  
5 from China. By the beginning of the POI in 2000, PMC  
6 was already in a loss position and could not afford to  
7 lower its prices further. However, Chinese imports  
8 continued to undercut PMC's prices.

9           The Commission's record shows that imports  
10 from China undersold the domestic product in all  
11 comparisons with margins of underselling ranging from  
12 9.4 percent to 59.6 percent. As a result of this  
13 underselling, PMC lost sales to imports and U.S.  
14 prices declined further.

15           It is important for the Commission to put  
16 the pricing trends shown in the prehearing staff  
17 report in context. PMC's prices had already suffered  
18 price depression before the Commission's  
19 investigation. For example, PMC's average selling  
20 price of sodium saccharin dropped by 17 percent  
21 between 1997 and 2000 as imports from China increased  
22 by 40 percent, and their import AUDs dropped  
23 significantly.

24           Consequently, by the beginning part of the  
25 POI, PMC was already suffering price depression

1 because of low-priced imports from China. PMC's  
2 operations deteriorated from a modest profit in 1997  
3 to operating losses in 2000.

4           During the POI, PMC's injury deepened as  
5 imports from China continued to surge by more than 150  
6 percent at even lower prices. As a result, PMC's  
7 saccharin operating losses were substantial and  
8 growing over the POI. Only the volume and price  
9 depressive effects of the subject imports could have  
10 had such a dramatic impact on the industry's financial  
11 indicators.

12           On the basis of such evidence the Commission  
13 should find that the U.S. industry producing saccharin  
14 is materially injured by reason of imports from China.

15           Respondents argue that PMC's financial  
16 injury was not a result of declining prices, but  
17 rather high production costs and manufacturing  
18 inefficiencies. However, PMC is the most efficient  
19 producer of saccharin in the world. PMC uses a  
20 continuous process that is more efficient than the  
21 batch process used by Chinese producers.

22           As Mr. McCullough testified earlier, PMC has  
23 implemented several measures to make the plant more  
24 efficient. The increase in other factory unit costs  
25 in 2002 was a result of the prolonged shutdowns that

1 PMC was forced to endure because of reduced sales.

2 Respondents also argue that PMC's injury was  
3 a result of declining demand for saccharin, but the  
4 data show that demand for saccharin has increased over  
5 the POI, and the prospects look good for the immediate  
6 future.

7 As a result of the warning label being  
8 removed new saccharin-sweetened products are in  
9 development. Saccharin is the most widely used and  
10 the least expensive form of high-intensity sweeteners  
11 on a sugar equivalency basis in the world. Other  
12 high-intensity sweeteners, such as aspartame, are as  
13 much as 10 times more expensive. Ace-K is more than  
14 15 times more expensive than saccharin.

15 The different chemical properties and  
16 pricing of other high intensity sweeteners limit their  
17 substitutability with saccharin and therefore have not  
18 negatively affected demand.

19 Respondents argue that PMC's product is  
20 inferior to the Chinese product in terms of quality  
21 and delivery terms. However, the Commission's record  
22 simply does not support this allegation. The  
23 prehearing staff report shows that importers and  
24 purchasers perceive PMC's product to be comparable  
25 with imports from China in product consistency,

1 quality and delivery.

2 Furthermore, PMC has consistently offered a  
3 high-quality product to a full range of saccharin  
4 customers over its 30-year history. The record  
5 clearly shows that customers switch to the Chinese  
6 suppliers because of lower prices, not to issues of  
7 quality.

8 Respondents argue that PMC is not able to  
9 meet the requirements of large multinational customers  
10 because of its focus on the domestic market, and  
11 limited capacity. However, PMC's largest customers,  
12 such as Cumberland Packing, Pepsico, Coca-Cola,  
13 Colgate-Palmolive and Proctor & Gamble are the large  
14 multinational purchasers of saccharin.

15 Thus, importers of Chinese-produced  
16 saccharin and PMC saccharin -- I'm sorry -- thus,  
17 importers of Chinese-produced saccharin and PMC  
18 directly compete for saccharin sales with the same  
19 multinational customers. Furthermore, PMC has ample  
20 capacity to supply its U.S. customers' requirements.

21 PMC has been unable to supply more of these  
22 requirements because the company cannot compete with  
23 the prices offered by Chinese producers. PMC has a  
24 history of selling saccharin to these multinational  
25 customers for over three decades and is well

1 positioned to sell in these markets.

2           Consequently, PMC's lost sales are not  
3 related to any lack of global positioning, but rather  
4 to its unwillingness to compete with the low prices  
5 offered by Chinese producers.

6           In terms of the issue of threat of material  
7 injury, I would like to make four brief points.

8           First, imports have increased by an  
9 unprecedented 152 percent during 2000 to 2000.

10           Second, the Chinese producers and largest  
11 exporter to the United States, Suzhou Fine Chemicals,  
12 has recently added substantial capacity.

13           Third, inventories of Chinese-produced  
14 saccharin were significant over the POI and pose a  
15 further threat for price suppression in the year 2003.

16           Fourth, Chinese-produced saccharin has been  
17 sold in the U.S. market at such low prices over the  
18 POI that there is the threat these prices will  
19 continue to increase demand for further imports from  
20 China.

21           So based on the rapid and significant  
22 increases of exports to the United States, substantial  
23 increases in capacity and inventories, and  
24 significantly declining import prices, the volume of  
25 less than fair value imports from China will continue

1 to increase absent an affirmative determination by the  
2 Commission.

3 Thank you.

4 MR. HARTQUIST: That completes our direct  
5 testimony, and we will be happy to answer questions.

6 CHAIRMAN OKUN: Well, thank you. And before  
7 we begin the question let me thank all the witnesses  
8 for appearing here today, for providing us your  
9 testimony and for your willingness to answer our  
10 questions. We very much appreciate having you here  
11 today.

12 And I will begin the questioning this  
13 morning. It's an interesting case again. We can go  
14 to the coffee shop and see what there with the sodas.  
15 It's always interesting to have something before us  
16 that we know a little bit about.

17 One thing, let me just start, and I think,  
18 Mr. Reinwald, I will start with you. You had talked  
19 in your testimony, and of course covered in the brief,  
20 the end uses of saccharin. And I wonder if you could  
21 characterize for me in any more detail where PMC's  
22 primary end uses are.

23 I mean, where are the majority of your sales  
24 during the POI? And do you think it's changing  
25 looking forward?

1                   MR. REINWALD: I think most of the bulk of  
2 sales of our --

3                   CHAIRMAN OKUN: Pull your microphone just a  
4 little closer to you. Thank you.

5                   MR. REINWALD: Most of the bulk of our sales  
6 are in either tabletop sweeteners or dental products.  
7 These seem to be the areas where we lost most of the  
8 volume of business.

9                   You have a certain group of those customers  
10 that are these large multinationals that really  
11 account for the bulk of the use of saccharin  
12 domestically in the United States, and so tabletop  
13 sweeteners would be number one, dental product would  
14 probably be number two.

15                   CHAIRMAN OKUN: And what about, I know you  
16 talked about the diet sodas and the use of blending  
17 there, but what's the size of that market.

18                   MR. REINWALD: The size of the total market,  
19 Mr. McCullough?

20                   CHAIRMAN OKUN: If you can just use your  
21 microphone.

22                   MR. McCULLOUGH: I'm sorry. The size of the  
23 saccharin market for the -- the amount of saccharin  
24 used is about 20 percent of the -- the total amount  
25 of saccharin used in the United States goes into

1 drinks sweetened with usually blends of saccharin and  
2 aspartame, and that's likely to grow.

3 CHAIRMAN OKUN: Okay. And you gave the  
4 percentages there, and I don't think I saw them in the  
5 brief or in the staff report. Do you have the  
6 percentage then of what would go towards -- the  
7 percentage of saccharin going to dental products and  
8 tabletop sweeteners?

9 MR. McCULLOUGH: Boy, I know I don't have  
10 them with me. If my memory --

11 CHAIRMAN OKUN: If that is something you  
12 could -- you can give me your thoughts, and for post-  
13 hearing if you could provide that breakdown, that  
14 would be helpful.

15 MR. McCULLOUGH: Yes, we will do that. We  
16 will give it to you in a post-hearing brief, but  
17 basically it's -- they are fairly close all to each  
18 other, but maybe the soft drinks are a little bit more  
19 than everything else totally, and then the tabletop is  
20 close, but it's not blended with anything.

21 Saccharine in dental products is not blended  
22 with any other sweetener, any other high-intensity  
23 sweeteners, and it probably accounts for close to 20  
24 percent too.

25 CHAIRMAN OKUN: Okay, actually maybe you



1 were answering two different questions, or you were  
2 talking about two different things.

3 The percentages you were just giving were  
4 the breakdown of total saccharin used in the market,  
5 so roughly equal, as I understand it, between --

6 MR. McCULLOUGH: Right, that's right.

7 CHAIRMAN OKUN: Okay.

8 MR. REINWALD: They are pretty close.

9 CHAIRMAN OKUN: And that is the -- and for  
10 that the type of saccharin that's going into those  
11 between the sodium, calcium and acid for those three  
12 different areas are?

13 MR. McCULLOUGH: They are different. The  
14 tabletop sweetener usually uses calcium saccharin.  
15 Soft drinks usually uses sodium saccharin. But both  
16 use also the sodium and the calcium, so there is, you  
17 know, the whole wide range is used. It's just most of  
18 the tabletop sweeteners has been calcium.

19 That's likely to change because recently the  
20 State of California, who knew saccharin caused cancer,  
21 decided now they do not know that saccharin causes  
22 cancer, and that sodium saccharin is being removed  
23 from their list of cancer agents, and therefore sodium  
24 saccharin is going back into California, and that was  
25 one of the main deterrents to tabletop sweeteners was

1 sodium saccharin, so therefore they used calcium  
2 saccharin for the State of California, and they used  
3 calcium for the rest of the country too just because  
4 California had such a great demand.

5 But that's all changing now because of the  
6 rules have come off, the restriction of Proposition 65  
7 has been removed.

8 CHAIRMAN OKUN: Okay, so that change again  
9 the tabletop. And then dental products use?

10 MR. McCULLOUGH: Mostly granular sodium  
11 saccharin.

12 CHAIRMAN OKUN: Okay. And so in terms of  
13 PMC sales in that breakdown, but PMC sales are, if I  
14 understood you, are primarily in the dental products  
15 and the tabletop, or a larger proportion going to  
16 those end users as opposed to diet drinks?

17 MR. REINWALD: You know, it depends on the  
18 year, but we have participated in all three of those  
19 areas every year of the POI. I think we have been in  
20 the last three years probably a bigger participant in  
21 the supply of the calcium saccharin to the tabletop  
22 sweeteners, but we have also remained a large supplier  
23 in the sodium saccharin to the beverage market, and  
24 also then into the dental products.

25 CHAIRMAN OKUN: Okay. And in terms of

1 characterizing where you have seen the most Chinese  
2 competition among those end uses.

3 MR. REINWALD: All over those three areas.

4 CHAIRMAN OKUN: Okay. So you wouldn't say  
5 of any you have lost more, because I am trying to  
6 figure out in the end uses whether there was a  
7 concentration by the Chinese in diet sodas, tabletop  
8 or?

9 MR. REINWALD: Probably more losses in  
10 tabletop sweeteners than beverages because neither --  
11 I think neither the Chinese or the Americans or PMC  
12 were supplying the beverage market as a whole. There  
13 were other producers from other countries that were  
14 also producing or selling into that area, you know.

15 CHAIRMAN OKUN: Okay. Do you have anything  
16 to add on that?

17 MR. McCULLOUGH: The Korean producers also  
18 supply into the soft drinks.

19 CHAIRMAN OKUN: Okay. Okay. And then in  
20 terms of, you talked about blending and you references  
21 that being in the soft drink market. Are there any  
22 other places where the blending is going on for the  
23 other end uses or is that primarily the drinks?

24 MR. REINWALD: It's primarily the drinks  
25 becaUse they are mostly a taste profile that the drink

1 manufacturers try to achieve. So they can achieve  
2 those profiles by using a blend of high-intensity  
3 sweeteners rather than one, and it's a pretty  
4 subjective end goal.

5 But for toothpaste as far as I'm aware they  
6 are not using any kind of a blend of at least high-  
7 intensity sweeteners like aspartame or saccharin.

8 Saccharin doesn't affect the teeth in a  
9 detrimental way, and so it's primarily used as a  
10 sweetener, and in the tabletop sweeteners, as far as I  
11 know, there is no real blend of saccharin products or  
12 other sweeteners. They keep them apart and they will  
13 blend them with other products with other products in  
14 there that help their product not cake in the packets.

15 CHAIRMAN OKUN: Okay. And in terms of the  
16 impact of blending on demand, I believe either you or  
17 maybe, Mr. Hudgens, in your testimony, you see the  
18 blending as increasing demand for saccharin?

19 MR. REINWALD: Yes.

20 CHAIRMAN OKUN: And is the percentage of  
21 saccharin changing in the blend or is it just because  
22 diet drinks and other things are becoming more popular  
23 that there is just more overall use even though it's  
24 blended with something else?

25 MR. REINWALD: It's difficult to know

1 exactly because the soft drink manufacturers, of  
2 course, keep their formulas very secret. But we  
3 believe that what is happening is the overall market  
4 is growing because they are going to starting using,  
5 they are starting to use more saccharin since the  
6 warning label was taken off, and Proposition 65 was  
7 lifted.

8 So saccharin being a high-intensity  
9 sweetener, it has -- it has sweetening capabilities  
10 higher than some of the other sweeteners out there, so  
11 they will switch to that due to cost.

12 CHAIRMAN OKUN: Okay. I appreciate that.  
13 Let me turn just briefly as I can, because I know you  
14 testified about this, but Mr. Hudgens, I just wanted  
15 to clarify. When you talked about the shutdown in  
16 2002, and of course company representatives could  
17 testify as well, I wasn't sure if you were saying that  
18 a period of that time was not included in the overall  
19 shutdown, the 16-week shutdown.

20 MR. HUDGENS: Right. The point I was making  
21 was that PMC was shut down for 16 weeks. They  
22 normally shut down four weeks. So 12 weeks was to  
23 reduce sales. And what we wanted to make clear was  
24 the respondents have argued that that shutdown was  
25 because of the work stoppage, and that was not. The

1 work stoppage was completely separate. They actually  
2 continued production through professional personnel,  
3 and the 12 weeks work stoppage, or the 12 weeks  
4 shutdown was actually a result of the reduced sales  
5 and had nothing to do with the work stoppage.

6 CHAIRMAN OKUN: The work stoppage was at a  
7 separate time altogether?

8 MR. HUDGENS: Yes.

9 CHAIRMAN OKUN: Yes, it was.

10 MR. HUDGENS: Yes.

11 CHAIRMAN OKUN: Okay, that's what I was  
12 trying to make sure that I understood. Thank you very  
13 much for those answers.

14 Let me to turn to Vice Chairman Hillman.

15 VICE CHAIRMAN HILLMAN: Thank you, and I  
16 would join the chairman in thanking you for being here  
17 and for all your helpful information in the brief.

18 I guess I had some questions along the same  
19 line, and maybe it's better put given that you don't  
20 have anything in front of you, but it would be  
21 helpful, to me at least, if you can sort of fill out  
22 the rest of the items in terms of just giving us a  
23 sense of what portion of your product goes to which  
24 end uses.

25 I mean, you mentioned that saccharin is also

1 used in other food products outside of the tabletop  
2 packages and the soft drinks. Again, I'm just trying  
3 to get a sense of what part of your sales goes there,  
4 and into pharmaceutical, animal feed, tobacco,  
5 electroplating and adhesives. I'm not asking for it  
6 in great detail, but just again generally the sense,  
7 you know, 20 percent is here, three or four percent is  
8 there. I think it would be helpful at least for me to  
9 have a better sense of kind of where the end uses break  
10 down.

11 MR. HARTQUIST: I would be pleased to do  
12 that.

13 VICE CHAIRMAN HILLMAN: Okay, thank you.

14 And then if I turn similarly to the issue of  
15 where the Chinese are concentrated. If I just look at  
16 the data that the Commission collected in terms of the  
17 products that we price, for example, and I realize the  
18 actual numbers are confidential but they clearly show  
19 the Chinese more heavily in terms of the volume of the  
20 products that we price, more heavily in some than  
21 others.

22 For example, the Chinese numbers, you know,  
23 in terms of quantity, again looking at how much they  
24 shipped look to be fairly higher in our product No. 3  
25 for example, acid or insoluble saccharin spray dry

1 powder FDC.

2 I wonder if you can tell me a little bit  
3 about the competition that you see with China for that  
4 product, and probably you ought to start by making  
5 sure I understanding who are they end users for acid  
6 or insoluble saccharin spray dry powder, you know,  
7 FTC, in essence, our product 3. I mean, who are the  
8 end users and tell me about the Chinese competition in  
9 that product.

10 MR. McCULLOUGH: Acid or insoluble saccharin  
11 is used in a small number of products. It's less than  
12 five percent of the total sales of all saccharin  
13 products, okay. But the main products that it goes  
14 into are lip balms, coatings on pills, medicinal, I  
15 guess we call them. It goes into electroplating where  
16 the company is concerned about making emissions that  
17 contain sodium, and if they do not want to make  
18 emissions using sodium, they use insoluble saccharin.  
19 It's much more environmentally friendly.

20 We have a number of customers who do such a  
21 thing. In spite of the increased cost of the  
22 insoluble saccharin, which it does cost more than any  
23 other saccharin, it does, you know, provide some  
24 benefit to not remit the sodium ion out into the water  
25 streams.



1 VICE CHAIRMAN HILLMAN: Right.

2 MR. REINWALD: Gordon, also chewing gum,  
3 right?

4 MR. McCULLOUGH: Yes, and chewing gum.

5 MR. REINWALD: Because of its insolubility.

6 MR. McCULLOUGH: And really insoluble, it's  
7 called insoluble but it's really not insoluble. It's  
8 soluble at about a half a percent, depending on the  
9 conditions, you know. You change the pH, you change  
10 the heat, you change conditions, and you can make it  
11 more soluble as you go.

12 And if you use the right amount, remember  
13 saccharin is very powerful, it's 350 to 800 times  
14 sweeter than sugar, and if you use just a little bit,  
15 it will add enormous amounts of sweetness, and  
16 insoluble does the same thing, and insoluble, when you  
17 taste it, it becomes very, very intense very quickly  
18 because it lingers longer than any of the others.

19 Sodium saccharin, if you put sodium  
20 saccharin in your mouth, put water in your mouth, the  
21 sodium saccharin just washes away very quickly.  
22 Insoluble saccharin doesn't wash away so quickly.  
23 It's not as soluble so, you know, the water does not  
24 cleanse your pallet really quickly.

25 VICE CHAIRMAN HILLMAN: Now tell me about

1 the Chinese competition that you saw again in this  
2 acid insoluble product? Which of these end uses?  
3 Again, just tell me about the nature of the Chinese  
4 competition in this product.

5 MR. REINWALD: Mostly the competition I  
6 think we saw was in the chewing gum companies where we  
7 saw most of the decrease in sales. The insoluble is  
8 used in chewing gum because, as Gordon said, it  
9 lingers in the taste area of the mouth and so you want  
10 your chewing gum to stay sweet as long as you're  
11 chewing it instead of losing the sweetness early.

12 We saw loss of sales in these companies that  
13 manufacture chewing gums in the United States in the  
14 most part.

15 VICE CHAIRMAN HILLMAN: Okay. And not so  
16 much on like the electroplating side?

17 MR. REINWALD: Also on the electroplating  
18 side. That was significant. I think in terms of  
19 volume, most of the loss in sales is in  
20 electroplating, but in terms of dollars most of the  
21 loss was in would you say electroplating?

22 MR. MCCULLOUGH: Well, I think the loss of  
23 pounds and dollars.

24 VICE CHAIRMAN HILLMAN: You need to use your  
25 microphone just the court reporter can pick it up.

1                   MR. MCCULLOUGH: I'm sorry. The  
2 electroplating business makes up about 15 to 20  
3 percent of the total use of saccharin in the United  
4 States roughly. The low-priced products go into that  
5 area, and no matter what we did low price wise, the  
6 Chinese always went lower in that particular market  
7 area.

8                   VICE CHAIRMAN HILLMAN: Okay.

9                   MR. MCCULLOUGH: I don't know of --

10                  VICE CHAIRMAN HILLMAN: Fair enough. If I  
11 could turn again to another product where at least  
12 again according to our pricing tables we are seeing a  
13 fairly significant Chinese quantity? Again, I'm just  
14 trying to understand the nature of the competition  
15 here. It would be for what we priced as our Product  
16 No. 4, calcium saccharin, granular, spray dried  
17 powder, FCC. That's how it's described.

18                  Again, if you could tell me a little bit  
19 about again who are the end users of this product and  
20 the nature of the Chinese competition in this calcium  
21 saccharin granular product?

22                  MR. REINWALD: The main area of use is in  
23 the tabletop sweeteners for the calcium. It became  
24 that way after the product saccharin was thought to  
25 cause cancer, so the users switched to calcium because

1 that wasn't a focus of the warning labels or any of  
2 the other warnings associated.

3 VICE CHAIRMAN HILLMAN: It was only the  
4 sodium saccharin that was the --

5 MR. REINWALD: Correct.

6 VICE CHAIRMAN HILLMAN: -- subject of the  
7 warning labels? Okay.

8 MR. REINWALD: So most of that volume goes  
9 towards the small pink packets or some of the other  
10 packets that we see on tabletops in restaurants or  
11 coffee shops. We saw significant losses in there in  
12 those group of customers.

13 VICE CHAIRMAN HILLMAN: Okay. All right.  
14 That's very helpful.

15 I would say again looking at the volume in  
16 our price tables, it appears that we would have seen  
17 sort of less competition from the Chinese, and this is  
18 why I'm trying to understand, you know, where you see  
19 the Chinese competition, for example, for our Product  
20 2, sodium saccharin, powder, three to six percent  
21 water.

22 Again, I'm just trying to understand what is  
23 that product, and did you perceive less Chinese  
24 competition in that product? If so, why? Why do you  
25 think the Chinese are less in that product? Again,

1 sort of what is it, what is it used for, and what's  
2 the nature of the Chinese competition?

3 MR. REINWALD: It's just in dental products,  
4 and I think primarily it's a smaller volume overall,  
5 the saccharin, the granular saccharin. It's probably  
6 used in the dental products in higher quantities.  
7 These are dental products, toothpaste mainly.

8 The powder form of the sodium saccharin is  
9 used in smaller amounts anyway so its effect overall  
10 wouldn't be seen, but as a whole that is still a  
11 significant amount of sales. The Chinese were very  
12 active there. We saw most of our annual sales being  
13 affected heavily on the powder, as well as the  
14 granular sodium grade.

15 VICE CHAIRMAN HILLMAN: Okay. Both of you  
16 mentioned, and I think Mr. Hudgens as well, this issue  
17 that there are new saccharin products currently in  
18 development. I think you've talked about that in  
19 terms of your demand projections.

20 I wonder again, and if it's confidential  
21 that's fine or just in the post-hearing brief if you  
22 could give us some examples and also help me  
23 understand the time line? I mean, when you say  
24 products are in development, it's not clear to me. I  
25 mean, how long does it take for a blend or a formula

1 for these various products to get worked out where  
2 they've, you know, decided they're going to use  
3 saccharin?

4 Again, I need both a sense of how long does  
5 that process take and the kind of types of products or  
6 if you have information or evidence that would suggest  
7 that these are the products and kind of what the  
8 demand figures might look like.

9 MR. MCCULLOUGH: Yes. Well, we can't tattle  
10 on our customers, so we'll put it in the post-hearing  
11 brief. We'll just, you know, let their secrets remain  
12 with them until they're introduced to the public.

13 VICE CHAIRMAN HILLMAN: Fair enough. Fair  
14 enough. Again, I'm not asking for anything that's  
15 confidential. I'm just trying to get a sense of again  
16 both the time line and the types of products that  
17 you're talking about when you're speaking of these  
18 increased dollar products.

19 Thank you very much.

20 CHAIRMAN OKUN: Commissioner Miller?

21 COMMISSIONER MILLER: Thank you, Madam  
22 Chairman, and thank you as well to the panel as we  
23 appreciate the witnesses being here today and being  
24 willing to answer our questions.

25 I think maybe why don't I start first with

1 just asking you to elaborate a little bit more on the  
2 quality issues that have been raised by the  
3 Respondents. Mr. McCullough, you referenced in your  
4 initial statement. You took issue with what you had  
5 read in the Respondents' briefs.

6 Let me just ask this question. Prior to  
7 this proceeding had you ever heard any of these  
8 quality complaints from any of your customers? Is  
9 this totally new in this proceeding, or you had heard  
10 some of it in the past, but just not rising to the  
11 level that you would think would prompt them to switch  
12 suppliers?

13 MR. MCCULLOUGH: Yes. There's been minor  
14 complaints in the past. There's been a number of  
15 complaints recently after the POI period where we  
16 think we have gotten an excess number of complaints,  
17 but we don't think it's because of anything to do with  
18 our saccharin. We think it has all to do with this  
19 action, this hearing.

20 COMMISSIONER MILLER: Okay.

21 MR. MCCULLOUGH: I don't know how we prove  
22 it. We haven't proved anything yet because these are  
23 all very recent, so we really haven't come to any  
24 conclusion whether they're right or whether they're  
25 wrong, but we know that all of a sudden bam, you know,

1 there were a few more complaints than normal.

2 COMMISSIONER MILLER: All right. Now, it  
3 may have been Mr. Hudgens that referenced something  
4 about the Respondents have in their prehearing  
5 submission claims that they thought there was a  
6 flavoring product being produced, and that was  
7 affecting the odor --

8 MR. MCCULLOUGH: Yes.

9 COMMISSIONER MILLER: -- or was in some way  
10 contaminating the product.

11 MR. MCCULLOUGH: Yes. Methyl anthranilate  
12 is a product that is made by PMC on the same site as  
13 we produce saccharin, on the same 38 acres, but it's  
14 far away from the actual place where we make  
15 saccharin.

16 There is no correlation between we make MA  
17 in the same equipment with saccharin? No. We never  
18 do that. The saccharin equipment is used to make  
19 saccharin and saccharin only. When you have an FDA  
20 product that is practically gospel -- well, it is  
21 gospel -- that you must use that equipment for making  
22 only that product.

23 MA, however, is the precursor to saccharin  
24 chemically, and it is a grape odor. It is the  
25 flavoring of grape in every grape product that you



1 have in the United States. If you have grape gum or  
2 grape --

3 MR. HUDGENS: Kool-Aid.

4 MR. MCCULLOUGH: -- cherries or grape candy,  
5 it's methyl anthranilate that's causing that grape  
6 taste. It is a food chemical grade grasp product.

7 We have heard complaints about such odor.  
8 We have only heard one. It's a subjective issue. We  
9 believe it's a subjective issue, and I think that  
10 nothing has been resolved as to whether it is or not.

11 We also had a complaint, what I saw in the  
12 brief from the other side, of a foul taste accusation,  
13 and we have never received any complaint about foul  
14 taste.

15 MR. REINWALD: If I can add to what Mr.  
16 McCullough said? We have one customer who has talked  
17 to us about the grape odor to our sodium saccharin.  
18 As Mr. McCullough said, it is a subjective test.  
19 We've talked about. We've tried to establish some  
20 type of methodology by which you could quantify  
21 whatever smell that they wanted. We've never been  
22 able to get that or develop such a test.

23 With them helping us, we've gone down to  
24 their plant. They have many plants that produce their  
25 product, and only one plant ever has registered a

1 complaint about that. We've taken steps to try to  
2 hold their saccharin aside for 30 days before shipping  
3 it.

4 We've tried to work it out with them, but in  
5 fact it's only one plant out of all of theirs, and  
6 even then you have sometimes people will smell the  
7 same shipment, and one person smells it, and the other  
8 person doesn't. It's been a problem to try and solve  
9 something that's very elusive.

10 COMMISSIONER MILLER: And what is the time  
11 frame that this problem was raised with you, this  
12 grape?

13 MR. REINWALD: It's been during the POI.

14 COMMISSIONER MILLER: Okay. Was it before  
15 you filed the petition? Mr. McCullough a moment ago  
16 mentioned that since you filed the petition you've had  
17 more complaints than you had before. Do you think  
18 this one was --

19 MR. MCCULLOUGH: No. Only one of these  
20 complaints, but we've had just a number of just  
21 nuisance complaints.

22 COMMISSIONER MILLER: Since you filed the  
23 petition?

24 MR. MCCULLOUGH: Not anything associated  
25 with odor.

1 MR. REINWALD: We've had labels falling off.

2 COMMISSIONER MILLER: Okay. That's what I  
3 was trying to establish. The one that has to do with  
4 the odor was something that had come up earlier?

5 MR. REINWALD: Sure.

6 COMMISSIONER MILLER: Okay. Just to make  
7 sure I understand, to the extent that there is any  
8 issue about this grape odor, it's not coming, in your  
9 view, from the methyl --

10 MR. REINWALD: Anthranilate.

11 COMMISSIONER MILLER: -- anthranilate  
12 because that's in a separate area?

13 MR. REINWALD: It's got to come from it, but  
14 it is produced in a separate area.

15 You know, the saccharin could pick that up  
16 from wind. We've done a lot of things to make sure  
17 that vents from the MA plant aren't close to the  
18 intake vents for the saccharin plant. We're not sure  
19 how it picks it up, to be frank.

20 COMMISSIONER MILLER: Okay.

21 MR. HARTQUIST: I'd like to just clarify,  
22 and we can put some more information in the brief --

23 COMMISSIONER MILLER: Sure.

24 MR. HARTQUIST: -- on this, Commissioner  
25 Miller, and maybe summarize the position on this

1 issue.

2 First of all, as Bruce has indicated, we're  
3 talking about one customer only where PMC is shipping  
4 to numerous plants of that particular customer. Of  
5 those plants, only one plant has ever raised this  
6 issue, and apparently even within that facility there  
7 appears to be disagreement as to whether there is an  
8 issue or isn't an issue, so they, in conjunction with  
9 their customer, have undertaken extensive testing to  
10 determine whether there's a problem, whether it can be  
11 measured, whether there's something that needs to be  
12 addressed, and thus far they've been unable to  
13 quantify it or really determine whether there in fact  
14 is a problem.

15 COMMISSIONER MILLER: Okay. All right. If  
16 there is something more you want to put on the record  
17 specifically that you can put in a confidential brief,  
18 you know, please do. Obviously the Respondents raised  
19 it both in their prehearing submission and Mr. Aitken  
20 in his opening statement referenced it, so I wanted  
21 you to have an opportunity and wanted to hear what the  
22 company's view on it was.

23 MR. HARTQUIST: Thank you. We will do so.

24 COMMISSIONER MILLER: Then let me ask you  
25 about another sweetener, sucralose. I've read, for

1 example, the article that was submitted in the record  
2 of the preliminary from the beverage industry or  
3 whatever.

4 We see Splenda on the shelf. That's  
5 sucralose, isn't it? Do I have that right?  
6 Sucralose --

7 MR. REINWALD: Splenda. It's Splenda.

8 COMMISSIONER MILLER: -- is Splenda --

9 MR. REINWALD: Right.

10 COMMISSIONER MILLER: -- when it comes to  
11 the tabletop sweetener, right?

12 MR. REINWALD: Right.

13 COMMISSIONER MILLER: I've read things that  
14 suggest that sucralose is, you know, capturing or  
15 likely to capture more of the sweetener market.

16 Can you tell me a little bit about how you  
17 see sucralose fitting into the sweetener market?

18 MR. MCCULLOUGH: Do you want to take that?

19 MR. REINWALD: You know, I think that all  
20 these sweeteners may certainly divide up the market,  
21 and there will always be some people that taste --  
22 they prefer one versus the other.

23 I guess the only way I could answer that is  
24 that we still see high interest in the saccharin. I  
25 can't really give you an estimate of what sucralose is

1 doing to the saccharin market. I can imagine that  
2 there's some people that prefer that as their  
3 sweetener of choice.

4 We have seen an increase in inquiries for  
5 samples of saccharin products that we make that are  
6 going to R&D projects, so that's why we believe that  
7 the market is expanding, so we think though you have a  
8 choice of high intensity sweeteners out there, we  
9 think that people, because of the warning label, have  
10 increased their interest in using saccharin as their  
11 high intensity sweetener of choice because it's cost  
12 efficient.

13 COMMISSIONER MILLER: Okay. Well, I know  
14 the beverage industry article that was submitted was  
15 from June 2001, so one of the reasons I ask, and my  
16 time has expired, but this is fairly dated at this  
17 point. It's almost two years old. I'm just curious  
18 as to whether or not the last two years have changed  
19 the perception of the product.

20 My time has expired, so I may come back to  
21 you and let you address the question a bit further in  
22 the next round.

23 MR. MCCULLOUGH: Sucrose is expensive,  
24 though.

25 COMMISSIONER MILLER: Yes. Okay. I've seen

1 that at the store. Thank you.

2 CHAIRMAN OKUN: Commissioner Koplan?

3 COMMISSIONER KOPLAN: Thank you, Madam  
4 Chairman, and I, too, want to thank the witnesses for  
5 their direct presentation and the answers to the  
6 questions thus far.

7 Let me start with you, Mr. McCullough, if I  
8 could. In your prepared testimony today you stated  
9 that low prices of Chinese product have caused PMC to  
10 lower its prices significantly during the period of  
11 investigation. However, when I look at the staff  
12 report in chapter 5 at page 4 it states that PMC's  
13 prices on Products 1, 2 and 3 exhibited no clear trend  
14 during our period of investigation, and that's based  
15 on quarterly analyses, separate quarterly analyses of  
16 each of the five products.

17 I can't get into the numbers here because  
18 I'm referring to the confidential version of the staff  
19 report, but I know Mr. Hartquist and Mr. Hudgens will  
20 be able to add to this in the post-hearing if  
21 necessary.

22 For the record, Product 1 is sodium  
23 saccharin, granular sized or unsized, FCC, 10 to 17  
24 percent water, Product 2 is sodium saccharin, powder,  
25 FCC, three to six percent water, and Product 3 is acid

1 or insoluble saccharin, spray dried powder, FCC.  
2 Products 4 and 5, however, did move down according to  
3 our staff report during the period of investigation.  
4 Your prices did. Product 4 is the calcium saccharin,  
5 granular spray dried powder, FCC, and Product 5 is  
6 sodium saccharin, sized or unsized, non-food grade, 10  
7 to 17 percent water.

8 I believe that the vast volume of your sales  
9 are in Products 1, 2 and 3 when you combine them in  
10 terms of total volume. What I'd like you to do, if  
11 you would, is comment on the disparity between your  
12 statement and what appears to me to be reflected in  
13 our staff report.

14 MR. MCCULLOUGH: Products 1, 2 and 3 --

15 COMMISSIONER KOPLAN: You need to use your  
16 microphone.

17 MR. MCCULLOUGH: Sorry. Yes. I'm trying to  
18 figure out what products these are. Okay.

19 Product No. 1 is the --

20 COMMISSIONER KOPLAN: That's sodium  
21 saccharin granular.

22 MR. MCCULLOUGH: Right. That is a food  
23 grade sodium saccharin granular.

24 COMMISSIONER KOPLAN: Right. Right.

25 MR. MCCULLOUGH: That product experienced



1 most of its decline just prior to the period of  
2 investigation.

3 COMMISSIONER KOPLAN: So the staff report is  
4 correct on that?

5 MR. MCCULLOUGH: Yes.

6 COMMISSIONER KOPLAN: Okay. Is that the  
7 same for Products 2 and 3?

8 MR. MCCULLOUGH: Yes. As a matter of fact,  
9 those products haven't moved much at all.

10 COMMISSIONER KOPLAN: That's my point.

11 MR. MCCULLOUGH: Yes. They haven't moved  
12 hardly at all, but a little bit down. You know,  
13 pennies.

14 COMMISSIONER KOPLAN: Right.

15 MR. MCCULLOUGH: No. 4 moved a great deal  
16 down, a lot down, probably almost a third, if I  
17 remember right, and the price moved during the period  
18 of investigation.

19 COMMISSIONER KOPLAN: And that's reflected,  
20 as I said, in the staff report.

21 MR. MCCULLOUGH: Yes.

22 COMMISSIONER KOPLAN: And the same with 5?

23 MR. MCCULLOUGH: No. 5 is the non-food,  
24 which means it goes into electroplating. Yes, that  
25 has also been -- the competition has come there later

1 than it did in the food grade type products.

2 A lot of competition for food grade, the No.  
3 1 product, that started in 1999, in early 1999 or late  
4 1998.

5 COMMISSIONER KOPLAN: And continued?

6 MR. MCCULLOUGH: And continued. Right.

7 COMMISSIONER KOPLAN: So then you would  
8 amend your introductory statement by saying that the  
9 prices were driven down with regard to Products 4 and  
10 5 during the period of investigation, and the driving  
11 down of the prices on 1, 2 and 3 really preceded the  
12 investigation?

13 MR. MCCULLOUGH: Yes. I would say it  
14 started during the investigation of 1, 2 and 3.

15 MR. REINWALD: It started before.

16 MR. MCCULLOUGH: Before. I'm sorry. Yes.  
17 It started before.

18 COMMISSIONER KOPLAN: Before?

19 MR. MCCULLOUGH: Before the period of  
20 investigation, but it continued during the period of  
21 investigation. It had gone so far that the percentage  
22 of change wasn't as much.

23 COMMISSIONER KOPLAN: Right. It had, I  
24 guess you would say, bottomed out?

25 MR. MCCULLOUGH: Yes.

1 MR. REINWALD: Well, we finally got --

2 COMMISSIONER KOPLAN: I need your  
3 microphone, Mr. Reinwald.

4 MR. REINWALD: We finally got to the point  
5 where we couldn't drop it much lower.

6 COMMISSIONER KOPLAN: I know. I understand  
7 that. I understand what you're saying. Thank you  
8 very much.

9 Mr. Hudgens, if I could turn to you? On  
10 page 6 of its prehearing brief, Respondents argue  
11 that, and I quote, "Petitioners' insistence that there  
12 has been an increase in overall saccharin demand is  
13 contradicted by the administrative record."

14 They cite the staff report at chapter 4,  
15 page 4, which contains the following, and I'm quoting,  
16 "The volume of apparent U.S. consumption increased  
17 by...", and I can't give the percent because it's BPI,  
18 "...while the value fell by...", and again I can't  
19 give the percent because it's BPI, "...from 2000 to  
20 2002.

21 "The increase in apparent U.S. consumption  
22 presented in this report may well be overstated  
23 because it is based on official Commerce import  
24 statistics instead of importers' U.S. shipments and  
25 thus does not take into account changes in inventories

1 or exports of the imported product. Staff cites  
2 increases in reported inventories of Chinese saccharin  
3 during the POI, the specifics of which are BPI.

4 "Respondents claim that testimony provided  
5 by saccharin distributors and purchasers confirm the  
6 staff report's reservation and that the testimony of  
7 distributors and purchasers supports their argument  
8 that demand for saccharin has been declining in recent  
9 years as new sweetener products enter the market."

10 I'd like you to respond to that. Do you  
11 have a sense that there's a more accurate way for us  
12 to be computing apparent U.S. consumption?

13 MR. HUDGENS: First, I would like to note  
14 that even if you take into consideration the  
15 inventories that were reported in the staff report  
16 that you still would have an increase in apparent  
17 consumption.

18 Second, the statement that --

19 COMMISSIONER KOPLAN: I don't dispute that.

20 MR. HUDGENS: Right. Okay.

21 COMMISSIONER KOPLAN: It's the magnitude  
22 that I'm aiming at.

23 MR. HUDGENS: Right. Right. Also, the fact  
24 that there were so many inventories and stock with  
25 Chinese importers is certainly an indication of threat

1 of injury. It's actually in our opinion more damning  
2 than the fact that maybe consumption didn't increase  
3 as much.

4 Their argument that consumption is not  
5 increasing does not go to the fact that imports from  
6 China have increased 150 percent over the period.  
7 They haven't explained that. Whether consumption  
8 increased a small amount or a medium amount in our  
9 terms is irrelevant. It's the fact that the imports  
10 increased significantly and took share away from  
11 whatever consumption.

12 Even if consumption were flat, the imports  
13 were taking share from the U.S. producers' sales, and  
14 the fact that there are large inventories in the  
15 market is a huge threat factor in terms of what will  
16 happen to price levels in the future.

17 COMMISSIONER KOPLAN: Thank you very much  
18 for that response. I appreciate it.

19 Now if I can come back to you, Mr.  
20 McCullough? This is a follow up to a line of  
21 questioning that Chairman Okun had used. I'm  
22 interested in your view of Respondents' argument that  
23 appears at pages 8 and 9 of their prehearing brief  
24 that in applications where saccharin used to be  
25 blended with aspartame to give stability to the

1       aspertame such as in soda dispensing machines,  
2       competition from other artificial sweeteners is  
3       increasing, and the companies are now using blends  
4       containing sucralose and Acesulfame K with aspartame,  
5       replacing saccharin and aspartame blends because these  
6       new products give the stability of saccharin to  
7       aspartame without the health risks.

8                     That's what they're alleging, and I'd like  
9       to hear what you have to say to that.

10                    MR. MCCULLOUGH:  That's the allegation,  
11       and --

12                    COMMISSIONER KOPLAN:  If you could move the  
13       microphone closer?

14                    MR. MCCULLOUGH:  I keep forgetting my  
15       microphone.

16                    COMMISSIONER KOPLAN:  I'll remind you.

17                    MR. MCCULLOUGH:  When this began happening  
18       with Ace K was approved in the United States and Ace K  
19       then became -- that's Acesulfame K.  Ace K became the  
20       alternative for saccharin.

21                    Saccharin had the warning labels that says  
22       it caused cancer, so a lot of people, a lot of  
23       companies, wished to not have the cancer warning label  
24       on any product that contained saccharin so they tried  
25       to formulate away from it.  Ace K became the product

1 which they formulated to to get rid of saccharin.

2 Now that saccharin does not have a warning  
3 label associated with it, there is considerable  
4 interest in going back to using either sodium or  
5 calcium saccharin because those saccharin products are  
6 between 10 to 15 times less expensive to use than is  
7 Ace K without any warning label any more.

8 COMMISSIONER KOPLAN: Thank you very much.

9 MR. MCCULLOUGH: Some day we think it will  
10 all go back to saccharin.

11 COMMISSIONER KOPLAN: Thank you for that.

12 Mr. Hartquist, Respondents note at pages 10  
13 and 11 of their brief that sales of saccharin are made  
14 either to end users or distributors and claim that for  
15 the most part subject product does not compete  
16 directly with sales by PMC. Therefore, they argue in  
17 part that the increases in subject imports during the  
18 period of investigation were not significant.

19 They state that the large increases in  
20 Chinese imports in 2001 and 2002 were simply necessary  
21 to meet the demand in the U.S. market. They  
22 acknowledge that subject imports increased by 2.1  
23 million pounds during the period of investigation.  
24 However, they note that PMC's plant was shut down for  
25 16 weeks in 2002 and that PMC failed to disclose that

1 part of that time was due to labor problems, although  
2 I do note that you mentioned the labor problems at  
3 page 21 of your brief, but it's bracketed.

4 I'd like you to comment on that if you  
5 would, and you can do that on my next round because I  
6 see my red light is on. I just wanted to get the  
7 question out. Thank you.

8 CHAIRMAN OKUN: We'll give him extra time to  
9 think about it. He was all ready. I may let him come  
10 back.

11 One thing I wanted to cover is this issue  
12 about the sales to multinational corporations. I know  
13 you've responded to it in your direct testimony and  
14 talked about it in the brief, but there were just a  
15 couple of things that I was still interested in.

16 The internet auction issue was mentioned in  
17 the briefs, and you mentioned it I think today, Mr.  
18 Hudgens. Can you tell me what portion of sales that  
19 that affects? I don't think I saw that figure,  
20 whether this is, you know, new and a teeny percentage  
21 or a big quantity, you know. Any information you  
22 could provide on that?

23 MR. REINWALD: We only have one customer  
24 that did their annual contract through an internet  
25 auction.



1                   CHAIRMAN OKUN: Okay. Would that be, if you  
2 can say in this session, a large multinational?

3                   MR. REINWALD: Yes.

4                   CHAIRMAN OKUN: And was that a contract for  
5 its U.S. sales, or is that a customer who would be  
6 doing a global supply?

7                   MR. REINWALD: I think that was for U.S.  
8 only.

9                   CHAIRMAN OKUN: Okay. Do you know to the  
10 extent, and you may not be able to testify to this,  
11 other large multinationals that you are not currently  
12 supplying to are using that?

13                   I mean, I'm just again just trying to judge  
14 whether this is something we need to look at much if  
15 just one customer or one time, one year, or is there  
16 any other indication out there that it's important in  
17 the multinational business?

18                   MR. REINWALD: It's not something that we've  
19 seen from other multinational companies.

20                   CHAIRMAN OKUN: Okay. Mr. McCullough?

21                   MR. MCCULLOUGH: We currently sell to  
22 virtually all of the multinational, transnational, all  
23 the companies that operate around the world. We  
24 haven't seen any internet reverse auctions is what  
25 they're usually called where they put out bids and you

1 get to see the bids and then it drives the price down.  
2 I haven't seen one of those kind of auctions.

3 CHAIRMAN OKUN: Okay.

4 MR. MCCULLOUGH: Not one.

5 CHAIRMAN OKUN: That's what I was trying to  
6 determine.

7 MR. MCCULLOUGH: There is one that just did  
8 it. You submitted one price over, you know, an  
9 internet auction, one price and one price only and  
10 that was it. You didn't get a second chance, I  
11 believe, in those kind of auctions, but I don't  
12 believe in the bidding and the constant bidding going  
13 down and down and down. We don't participate in those  
14 kind of auctions.

15 CHAIRMAN OKUN: Okay. During the period of  
16 investigation, has there been any change that you've  
17 seen in how the multinational corporations have  
18 sourced? In other words, the Respondents have made  
19 allegations both regarding the ability of PMC to  
20 supply worldwide account customers. Well, let me  
21 start with that one.

22 MR. MCCULLOUGH: Well, we have the ability  
23 to supply worldwide.

24 MR. REINWALD: We've not seen much of a  
25 change in terms of how they invite you to bid for

1 their business. We've seen how one particular  
2 customer was willing to give us their contract for an  
3 annual usage by their U.S. office and then was  
4 overridden by their offices in another country and  
5 they went with a world contract, so that was an  
6 unusual and new --

7 MR. MCCULLOUGH: That was due to price.

8 MR. REINWALD: We were just beat on price  
9 because we can't meet those kind of prices.

10 CHAIRMAN OKUN: Okay. So what you're saying  
11 is you have not seen the multinationals change during  
12 the period of investigation asking you to source more  
13 or source more globally? To have the contract, you've  
14 got to source the U.S., the Chinese or wherever it is?

15 MR. MCCULLOUGH: Nobody has ever said that.

16 CHAIRMAN OKUN: Use your microphone.

17 MR. MCCULLOUGH: Nobody has ever said or  
18 claimed that we had to supply every place in the  
19 world. We supply around the world. We supply to  
20 Indonesia. We supply to China. We supply to  
21 Pakistan.

22 Nobody has ever put us in the spot where we  
23 had to supply to Pakistan or China or Indonesia to be  
24 able to supply the American branch of that company.

25 CHAIRMAN OKUN: Okay.

1 MR. MCCULLOUGH: We've never had that happen  
2 to us.

3 CHAIRMAN OKUN: Okay. I wanted to hear your  
4 testimony on that.

5 Let me turn if I could for a moment to the  
6 non-subject imports. Mr. Hartquist, you started in  
7 your opening statement just giving kind of a  
8 historical perspective on the different cases. Just  
9 to be generous, it is helpful I think just to try to  
10 put the cases in context.

11 In terms of the non-subject imports during  
12 this period of investigation, one of the allegations  
13 made by Respondents is with regard to where the  
14 domestics might be losing their sales. I wondered if  
15 you could comment on the competition with the non-  
16 subject imports and whether you see it as different  
17 either in different end uses, different prices,  
18 anything you could say about the non-subject imports?

19 MR. HUDGENS: Could I just make a brief  
20 statement before Gordon answers?

21 CHAIRMAN OKUN: Sure.

22 MR. HUDGENS: If you look at the staff  
23 report, the share of consumption for the non-subject  
24 imports increased over the period of investigation, so  
25 there's no way that they could be -- you know, it's

1 contradictory to that argument.

2 The point is that China is not taking share  
3 away from the other sources because the other sources  
4 are increasing as well as China is.

5 CHAIRMAN OKUN: Right. I understand that.  
6 I guess maybe the other way to look at the argument,  
7 and we might hear a little more of that from  
8 Respondents, is, you know, PMC is just losing  
9 everywhere. It doesn't matter if the Chinese are in  
10 the market because if you're not losing to the Chinese  
11 you're going to lose to the Koreans.

12 MR. HUDGENS: The record shows two things.  
13 One is that the non-subject imports have not increased  
14 that much share, and also the AUVs are significantly  
15 higher for the non-subject imports than they are for  
16 imports from China. I think that's the key thing.

17 CHAIRMAN OKUN: Okay. What about in terms  
18 of where they're competing? Are there any differences  
19 there, Mr. McCullough?

20 MR. MCCULLOUGH: Well, I can say the names  
21 of the countries I guess. The Koreans are only  
22 competing with a major soft drink producer, and the  
23 Japanese are only competing at a major tabletop  
24 sweetener. Other than that, they have very limited  
25 effort going on in the United States to supply

1 anywhere.

2 On the part of the Koreans, they're doing  
3 very well only because their customer is doing very  
4 well and growing in its use of saccharin. When the  
5 use of saccharin was declining, that customer ordered  
6 less and less and less from the Koreans, but now  
7 saccharin is expanding. They're ordering more and  
8 more and more. It's very simple.

9 The tabletop situation with the Japanese is  
10 a long-time friendship between the two companies. The  
11 Japanese helped this company get started, as did we,  
12 and, therefore, this American company is very loyal to  
13 this Japanese supplier and will, you know, go to the  
14 ends of the earth to try to help them maintain some  
15 business. Their prices are higher, yes, but business  
16 goes on even with the higher prices.

17 CHAIRMAN OKUN: Okay. In terms of other  
18 accounts where PMC is supplying, do you have that  
19 loyalty with your customers in terms of what you've  
20 seen happen?

21 MR. MCCULLOUGH: Some of them, yes. In  
22 fact, the one that we feel we have that loyalty with  
23 is the same customer that buys from the Japanese.  
24 Traditionally he has used the American and the  
25 Japanese supplier. He has used a Chinese supplier

1       lately only because the prices just got to low, low,  
2       low. I mean, they went down over 40 percent in a  
3       year's time, I believe.

4               Throughout the industry, throughout places  
5       where the non-subject saccharin producers really don't  
6       have the widespread sales effort throughout the  
7       country, and they seldom have butted up against the  
8       Chinese directly just because they're unwilling to do  
9       so.

10              CHAIRMAN OKUN: Okay.

11              MR. MCCULLOUGH: They think some of the  
12       prices are ridiculous so they stop.

13              CHAIRMAN OKUN: Okay. All right. I  
14       appreciate those comments regarding non-subjects. I  
15       see my red light is about to come on, so I will turn  
16       to Vice Chairman Hillman.

17              VICE CHAIRMAN HILLMAN: Thank you very much.  
18       Again, I just want to follow up a little bit more on  
19       some of the allegations that the Respondents have made  
20       and just make sure that you have had an opportunity to  
21       respond to them.

22              I want to follow up a little bit with the  
23       discussion you had with Commissioner Miller on this  
24       issue of complaints. You focused there on this issue  
25       of odor in this one product, but I'm wondering if you

1 can comment on two others.

2 One is apparently an allegation again raised  
3 in Respondents' brief about one customer complaining  
4 about the lack of the timeliness of deliveries and  
5 again want to just get your sense of whether you've  
6 had any significant complaints, you know, any increase  
7 in complaints related to the timeliness of shipments.

8 Again, if this is touching on things that  
9 you would rather address in a post-hearing brief, fair  
10 enough.

11 MR. HARTQUIST: We have with us Judy Thomas,  
12 who is in charge of customer services and, therefore,  
13 customer complaints. Perhaps she can respond to this  
14 question.

15 VICE CHAIRMAN HILLMAN: Okay. If I can  
16 broaden that out? I mean, obviously with Commissioner  
17 Miller you touched on this issue of odor, but I guess  
18 I would just be curious to have a better sense from  
19 your perspective. What is the nature of the other  
20 complaints?

21 If there is, you know, something else you  
22 want to put on the record about, you know, they're  
23 sort of always out there at, you know, kind of a low  
24 level or anything in terms of the sort of number,  
25 volume of complaints? I think it would be helpful to



1 just have your side of this issue on the table.

2 MR. HARTQUIST: Go ahead.

3 VICE CHAIRMAN HILLMAN: Ms. Thompson?  
4 Thomas. I'm sorry.

5 MS. THOMAS: Thank you. As far as the  
6 timeliness, before the POI I was not aware of any  
7 problems. In 2003, there were some delays. They were  
8 communicated to the customers, and we worked through  
9 them. No customer was shut down. Delays were a  
10 matter of ramping up for the additional sales that we  
11 incurred and were a matter of just a few days.

12 We did have some complaints this year, and  
13 the majority of them were around labeling. This  
14 customer in particular has a special requirement, and  
15 it did not incur any return of product or quality  
16 issues with the product. It was simply a manner of  
17 scanning the label, so we worked with the personnel  
18 there, we corrected the labeling, and as of last order  
19 that was resolved.

20 VICE CHAIRMAN HILLMAN: Okay. Other than  
21 this one odor issue that was discussed with  
22 Commissioner Miller, have there been other complaints  
23 in terms of the quality of the product over the POI?

24 MS. THOMAS: During the POI I know that  
25 we've had quality issues as far as the odor. As Mr.

1 Reinwald had said earlier, it's one customer. They  
2 have three plants. Only one encounters a problem.

3 We had gone to the extra step of doing  
4 preship samples to that location asking them for  
5 approval before we shipped. We've received approval,  
6 we've shipped, and the end product was still rejected  
7 due to someone else saying there was an odor they  
8 found.

9 VICE CHAIRMAN HILLMAN: Okay. Other than  
10 odor, have there been any other quality related  
11 complaints?

12 MS. THOMAS: I'm not aware of any that I  
13 could comment on.

14 VICE CHAIRMAN HILLMAN: Okay. Fair enough.  
15 One other issue raised in the Respondents' brief was  
16 the issue of liquid saccharin. The allegation in the  
17 brief is that Respondents are questioning whether you  
18 included your sales of liquid saccharin to  
19 electroplating or animal feed industries in your  
20 questionnaire response.

21 Their argument is that since acid saccharin  
22 is also referred to as insoluble saccharin, presumably  
23 you would have no liquid sales of acid saccharin, but  
24 would have liquid sales of sodium saccharin. They're  
25 sort of again questioning whether this was included.

1 I'm just wanting to give you an opportunity  
2 to confirm for the record just, you know, whether you  
3 had sales of liquid saccharin in the POI and where  
4 it's included within your questionnaire response.

5 MR. MCCULLOUGH: Well, I don't know if we  
6 included the saccharin sales in the questionnaire  
7 response. Did we? I would assume, Yes, we did.

8 MR. HARTQUIST: We will confirm that for the  
9 record and make sure of that.

10 VICE CHAIRMAN HILLMAN: Okay. I just want  
11 to make sure I understand.

12 MR. HARTQUIST: We think it's yes.

13 VICE CHAIRMAN HILLMAN: Did you make sales  
14 of liquid saccharin?

15 MR. MCCULLOUGH: Yes.

16 VICE CHAIRMAN HILLMAN: Okay.

17 MR. MCCULLOUGH: Liquid saccharin is used.  
18 There are many people in the industry who receive  
19 saccharin and then dissolve it before they use it in  
20 their product. In the case of food applications, we  
21 can do nothing about that. We have to deliver a food  
22 chemicals codex product that meets that specification  
23 to the customer. Therefore, we cannot put the product  
24 in liquid.

25 In electroplating, however, it's not a food

1 application. We can supply the product in liquid, so  
2 that is what we do. Sometimes we supply rather than  
3 the granular saccharin, we supply a liquid saccharin.  
4 It's 30 percent sodium saccharin instead of 85 percent  
5 sodium saccharin, which is in the granular form.

6 VICE CHAIRMAN HILLMAN: Okay.

7 MR. MCCULLOUGH: So when we do supply that  
8 liquid the price is reduced, and it's priced according  
9 to the saccharin content of the liquid. That content  
10 price is generally -- well, we sell it as the liquid  
11 as is, 100 percent liquid, okay, so we'll price it  
12 like 84 cents for the liquid.

13 In order to figure out what the saccharin  
14 cost is then you must take the price and divide by the  
15 amount of saccharin in the liquid and end up with  
16 whatever that number is, and that price would be  
17 equivalent to the granular price on the record. The  
18 granular price would be equivalent to the calculated  
19 price in the liquid product.

20 VICE CHAIRMAN HILLMAN: Okay.

21 MR. MCCULLOUGH: Usually that's higher.

22 VICE CHAIRMAN HILLMAN: Okay. Just so I  
23 understand, you're saying the liquid is sold only  
24 solely to the electroplating industry and no one else.  
25 Now, would you say all of your sales to electroplating

1 are of liquid?

2 MR. MCCULLOUGH: No.

3 VICE CHAIRMAN HILLMAN: Okay.

4 MR. MCCULLOUGH: We sell the dry products  
5 also.

6 VICE CHAIRMAN HILLMAN: Okay. So the liquid  
7 would be? What portion of your total sales would be  
8 of this liquid product?

9 MR. MCCULLOUGH: Twenty-five to 30 percent,  
10 I guess.

11 VICE CHAIRMAN HILLMAN: Twenty-five to 30  
12 percent of your total saccharin sales are liquid?

13 MR. REINWALD: No.

14 MR. MCCULLOUGH: No, no.

15 MR. REINWALD: Just to the electroplating.

16 VICE CHAIRMAN HILLMAN: Okay.

17 MR. MCCULLOUGH: Yes.

18 MR. REINWALD: It's pretty small.

19 VICE CHAIRMAN HILLMAN: Okay.

20 MR. MCCULLOUGH: It's small, yes.

21 VICE CHAIRMAN HILLMAN: Okay. I appreciate  
22 those answers. I think actually, Madam Chairman, at  
23 this point that's all the questions that I have at  
24 this time. Thank you.

25 CHAIRMAN OKUN: Commissioner Miller?

1                   COMMISSIONER MILLER: Thank you, Madam  
2                   Chairman.

3                   I'm going to come back to my sucrose  
4                   question. In part, as I say, I have this article from  
5                   a beverage industry trade publication I guess from  
6                   June 2000 which at that point was predicting a decline  
7                   in the demand for saccharin and an increase in the  
8                   demand for sucrose, as well as Ace-K I would  
9                   mention.

10                  You've already spoken and elaborated on how  
11                  you see that having fit into the market and such. Mr.  
12                  McCullough, I heard your last comment as my  
13                  questioning ended about well, sucrose is more  
14                  expensive.

15                  I'll invite the Respondents this afternoon,  
16                  you know, to submit if there is any more recent  
17                  information from trade publications about what's going  
18                  on with these different sweeteners, but I would also  
19                  invite you all, since you're in the business, to do  
20                  the same since this does, you know, strike me as being  
21                  a little bit dated.

22                  It is also what prompted me to want to ask  
23                  you what was happening with sucrose in the market.  
24                  I mean, I can say, you know, even from just a consumer  
25                  perspective something like Splenda, which, you know, I

1 probably never even noticed until a couple of years  
2 ago, I do see more and more.

3 I mean, I won't get into it, but when I was  
4 in one of these large retailers recently and saw that  
5 they were then selling it in bulk. I was like well,  
6 you know, we all do our own research for these cases  
7 in our own way, right? When I see something like  
8 Splenda, you know, being sold in bulk at a big  
9 retailer, you know, side by side with Sweet-N-Low and  
10 Equal then I think it looks like it's, you know,  
11 making some inroads here.

12 That's what prompts the question, and you're  
13 the experts. Your point is it's still much more  
14 expensive, and you haven't seen it taking an increased  
15 share. Then I would add how it participates in the  
16 blended market.

17 MR. MCCULLOUGH: Yes. Actually, I'm going  
18 to have to do more research on sucralose because I'm  
19 not aware of how well it's doing in the market or  
20 what's going on with it.

21 I know the people that are involved with it.  
22 I can ask them, and I can probably get some very  
23 straight answers, but I don't know how it's doing at  
24 the moment because we really haven't been faced with a  
25 lot of loss or switches to sucralose.

1           I do know this, you know, just to give you a  
2 perspective of the world, and I think I've said this  
3 before. If you take up all the high intensity  
4 sweeteners used in the world -- all of them -- and  
5 figure out what their sugar equivalency is, I mean,  
6 how many times sweeter each are than sugar, and then  
7 multiply all of that out, do you know that saccharin  
8 is more widely used in more quantity than all other  
9 high intensity sweeteners combined? That's a fact.

10           It's just we don't pay attention a lot of  
11 times to the newcomers until we think the newcomers  
12 can do something for us. If they blend with our  
13 product, if they can be synergistic with our product  
14 then we pay attention, but we haven't been approached  
15 by anybody from sucralose yet about blending with  
16 saccharin.

17           We used to be approached all the time about  
18 blending with saccharin, but when we had that warning  
19 label on there everybody would come and they would  
20 talk about it, but then when are you going to get rid  
21 of the warning label was the next question, and we're  
22 not going to really introduce anything unless you get  
23 rid of the warning label.

24           Well, obviously that conversation has  
25 increased lately because the warning label is gone,



1 but sucrose is not one of those ones that we've  
2 included yet.

3 COMMISSIONER MILLER: Okay.

4 MR. MCCULLOUGH: We would prefer to go back  
5 to saccharin and cyclamate.

6 COMMISSIONER MILLER: Okay. All right.  
7 Apropos the warning label, you made a reference  
8 earlier to the California proposition, and I just  
9 wanted to make sure I understood that.

10 How long was that proposition in place, and  
11 when again was it lifted?

12 MR. MCCULLOUGH: It went into place in 1989,  
13 and it was lifted on January 17, 2003.

14 COMMISSIONER MILLER: So very recently?

15 MR. MCCULLOUGH: Very recently.

16 COMMISSIONER MILLER: I see.

17 MR. MCCULLOUGH: It takes a long time to get  
18 these things done.

19 COMMISSIONER MILLER: Yes. Is California  
20 the only state that had any specific state prohibition  
21 on the product? And this was just on the sodium? Is  
22 that what you said?

23 MR. MCCULLOUGH: Right.

24 COMMISSIONER MILLER: Okay. But it impacted  
25 the market across because of California's size?

1 MR. MCCULLOUGH: Right.

2 COMMISSIONER MILLER: Interesting.

3 MR. MCCULLOUGH: Yes. I don't know if any  
4 other state had that. California was the only one we  
5 paid attention to because everybody else followed  
6 California. Massachusetts might have had something,  
7 but --

8 MR. REINWALD: There wasn't really any other  
9 restrictions from another state, though.

10 MR. MCCULLOUGH: Okay.

11 MR. REINWALD: I mean, it was more that that  
12 was followed as a national ban on saccharin

13 COMMISSIONER MILLER: And it was a ban, not  
14 just a labeling requirement?

15 MR. REINWALD: It was both on sodium.

16 MR. MCCULLOUGH: California was a labeling  
17 requirement.

18 MR. REINWALD: Yes.

19 MR. MCCULLOUGH: Just as the federal.

20 COMMISSIONER MILLER: Okay. Mr. Hartquist,  
21 I, frankly, wasn't aware of the California issue  
22 before today, so for purposes of the post-hearing  
23 submission if you could just make sure we understand  
24 exactly what the rule was and whatever comments you  
25 want to make about its effect and what that then means

1 for the future?

2 MR. HARTQUIST: As a grizzled veteran of  
3 Proc. 65 issues, I can tell you their statute is  
4 unique and we've had a lot of experience with it, so  
5 we'll be happy to comment on that in the brief.

6 COMMISSIONER MILLER: Okay. That would be  
7 excellent. Great.

8 I wanted to ask one question about the price  
9 issue, and it's really, Mr. Hudgens, probably for you.  
10 It's a question about the AUVs and their relevance  
11 because I sort of see something different in the AUVs  
12 than I do in the pricing data, the AUVs for domestic  
13 shipments.

14 You can address it here if you want to, but  
15 I don't know how indicative they are. If you could  
16 address that, you're welcome to do it in a post-  
17 hearing submission.

18 MR. HUDGENS: Okay. We'll do it in a post-  
19 hearing.

20 COMMISSIONER MILLER: Just what I see from  
21 the AUVs as opposed to the pricing data.

22 MR. HUDGENS: Okay. We'll answer that in a  
23 post-hearing brief.

24 COMMISSIONER MILLER: All right. With that,  
25 I don't believe I have any further questions unless I

1 think of one before my colleagues finish up. I  
2 appreciate all of your answers. Thank you very much.

3 CHAIRMAN OKUN: Commissioner Koplan?

4 COMMISSIONER KOPLAN: Thank you, Madam  
5 Chairman. I have three questions left plus the answer  
6 that I'm looking forward to from you, Mr. Hartquist,  
7 to my last question in the last round, the first  
8 round.

9 If you want, I can repeat the question, but  
10 if that's not necessary you could just go right to the  
11 answer.

12 MR. HARTQUIST: I took some notes, and I'll  
13 be happy to try to --

14 COMMISSIONER KOPLAN: I thought you did.

15 MR. HARTQUIST: Try to address it.

16 COMMISSIONER KOPLAN: Thank you.

17 MR. HARTQUIST: Would you like me to go  
18 ahead with that now?

19 COMMISSIONER KOPLAN: Yes.

20 MR. HARTQUIST: You referred to pages 10 and  
21 11 of the Chinese producers' brief, and here I will  
22 attempt an answer and call on my colleagues,  
23 particularly Brad Hudgens and Mary Staley, if they  
24 would like to elaborate, or others.

25 You know, this statement in the brief

1 reminds me of the old story about the child who killed  
2 his parents and then pled for mercy as an orphan  
3 because essentially what the Chinese are arguing here  
4 is that their imports were necessary because domestic  
5 production of the sole U.S. producer of saccharin  
6 decreased. Well, of course it did because of the  
7 price competition from the Chinese producers. It had  
8 a significant effect, and that's what we're arguing  
9 about today is the material injury.

10 Several points here. First of all, I think  
11 from Mr. Reinwald's testimony and Mr. McCullough's  
12 testimony it's pretty clear that PMC has been  
13 competing against the Chinese head to head on major  
14 segments of their business, and that competition has  
15 had an effect on their capacity utilization and on  
16 their actual production during the period of  
17 investigation.

18 They also argue in their brief that, this is  
19 on page 11, part of the down time was due to labor  
20 problems that has not been admitted to by the  
21 Petitioners.

22 COMMISSIONER KOPLAN: I did mention on the  
23 first go round that I know you refer to that on page  
24 21 of your brief, but it's bracketed.

25 MR. HARTQUIST: Yes.

1 COMMISSIONER KOPLAN: Right.

2 MR. HARTQUIST: Right. The specifics are  
3 bracketed, but the point that we've made in open  
4 testimony here is really the following. One, that the  
5 work stoppage did not cause an interruption in  
6 production. It affected the volume of production, but  
7 shipments continued.

8 As far as PMC is aware, customer needs were  
9 satisfied during that period. They had also built  
10 some inventories in anticipation of potential problems  
11 which were drawn down during that period, so we're not  
12 aware that the work stoppage had an effect, and we  
13 have distinguished the down time related to imports  
14 from the effect of the work stoppage during that  
15 period of time.

16 With that, I would call upon anyone else who  
17 would like to contribute to this. Brad?

18 MR. HUDGENS: I'll just make one comment.  
19 On page 10 of that brief the Respondents describe the  
20 fact that the Chinese product is sold more to  
21 distributors, as opposed to end users.

22 COMMISSIONER KOPLAN: Yes.

23 MR. HUDGENS: I would just note that that is  
24 a function of the import. There's not a separate  
25 channel. The saccharin is sold to the same end users.

1 The U.S. product is sold to the same end users as the  
2 Chinese product, and the fact that the imports use a  
3 distribution system is a function of the fact that  
4 they were imported and not anything indicative of the  
5 market itself.

6 COMMISSIONER KOPLAN: Thank you for that  
7 addition.

8 Ms. Staley? Was there anything you wanted  
9 to add? No? Thank you very much.

10 I'll turn to my next question, and I'll come  
11 to you, Mr. McCullough, for this one. At the staff  
12 conference on August 1, 2002, Mr. Perry, counsel for  
13 the Chinese Respondents, made an allegation that I'd  
14 like you to respond to in as much detail as you can in  
15 this public session.

16 Mr. Perry stated, and I quote, "Suzhou and  
17 Shanghai Fortune and the people here were a little  
18 surprised by this case. Two months ago, PMC was  
19 involved in joint venture negotiations with Suzhou.  
20 Last year, they made three trips to Suzhou's factory  
21 in China. We now know that, of course, these were  
22 simply sham negotiations. They were attempts to get  
23 data to file a dumping case.

24 "Now, I understand the idea that all is fair  
25 in love, war and trade cases, but I think it's also

1 important for the ITC to realize that that's what  
2 happened. PMC basically deceived Suzhou into thinking  
3 that they were really interested in the joint venture  
4 when what they were really interested was filing  
5 another dumping case."

6 I know that at a later point in the staff  
7 conference Ms. Joan Ni, who we'll be hearing from this  
8 afternoon, went into some detail about this but did  
9 not characterize it as a sham, but did mention a  
10 purchase by PMC of 10 tons of insoluble saccharin from  
11 Suzhou in November of 2001. However, Mr. Perry  
12 followed that by again repeating his allegation.

13 Could you comment on that, Mr. McCullough?

14 MR. MCCULLOUGH: Yes.

15 COMMISSIONER KOPLAN: I thought you might.

16 MR. MCCULLOUGH: Yes. I was involved  
17 personally in this action, and our intent in going to  
18 propose a joint venture with Suzhou was real, was  
19 intentional and was not a subterfuge or a sham in any  
20 way.

21 I also knew that we had in the back of our  
22 minds and we had the ammunition and the facts to file  
23 a dump case. I knew that also. I did not bring up  
24 dump cases to the Chinese because I was more  
25 interested in making a world joint venture, a world



1 marketing joint venture with Suzhou.

2 That was around February, I think, of 2001  
3 or March maybe. I don't know, but somewhere in early  
4 spring. Eventually after speaking with our Dr. Martin  
5 Vasoman, who is the president of PMC, and Phil  
6 Cammons, who owns PMC, they decided that they didn't  
7 want to have a joint venture, and Mr. Shu of Suzhou  
8 decided he kind of didn't want a joint venture, and he  
9 convinced our people that a joint venture would be  
10 impractical.

11 At that time, which was about late May or  
12 early June of 2002, is when I was given the go ahead  
13 to file a dump suit, and we then filed it July 1 or  
14 July 11. One and the other were not connected. It's  
15 just the dump suit was something I wanted to do, but I  
16 would rather have had a joint venture, you know.  
17 Eventually we saw that a dump suit was the only way to  
18 go, in our opinion.

19 COMMISSIONER KOPLAN: Thank you. Mr.  
20 Reinwald?

21 MR. REINWALD: I would just add to that that  
22 even though I was not involved in the direct  
23 discussions with Suzhou, the dump suit really has been  
24 a last resort. During the POI, we were losing market  
25 share because we were losing customer business due to

1 price, and so we started looking for what alternatives  
2 we did have. If we couldn't beat them on price from  
3 our plant, then maybe what we had to look at was the  
4 possibility of forming some kind of a joint  
5 relationship with one of the Chinese producers.

6 When that became clear that that wasn't  
7 possible or desirable by either party, then we went to  
8 that last resort.

9 COMMISSIONER KOPLAN: Thank you. My last  
10 question is to both you, Mr. Reinwald, and Mr.  
11 McCullough. You actually touched on this in your  
12 direct testimony. I wanted to follow up on it.

13 Also, Chairman Okun has also gotten into  
14 this particular line of questioning as well, and that  
15 is Respondents claim at pages 11 and 12 of their brief  
16 that Procter & Gamble, Colgate Palmolive and Dupont  
17 are now depending through open bids that saccharin  
18 producers supply not only their U.S. operations, but  
19 their worldwide production plants, and that by  
20 purchasing massive quantities these multinationals  
21 demand large quantity discounts, and they get them.  
22 They argue that PMC is simply not a player in the  
23 global marketplace.

24 Could you respond to that? Mr. McCullough?

25 MR. MCCULLOUGH: We can play. We are

1 capable of playing in the global marketplace. We do  
2 business all around the world. We even sell saccharin  
3 to China. I don't understand where they get this kind  
4 of information from.

5           There's a lot of times where we don't know  
6 the people outside the United States as well as we  
7 know the people inside the United States that work for  
8 those companies. In fact, Procter & Gamble does have  
9 their purchasing in Guangzhou, China. Their  
10 purchasing agent who buys saccharin is in Guangzhou.  
11 I correspond with her on the e-mail once a week, twice  
12 a week, once every two weeks. It varies during the  
13 time of the year, but we correspond a lot.

14           I don't see there's any big, special license  
15 that one can have to deal in a global atmosphere to  
16 not be able to supply Colgate in U.K., Colgate in  
17 Jeffersonville, Indiana, Colgate in Pakistan. It  
18 doesn't make any difference to us. If they don't want  
19 to because they've got lower prices over in Pakistan,  
20 that's fine with us. Let them have the business.  
21 Price has always been the main thing overseas or in  
22 the United States for those companies.

23           COMMISSIONER KOPLAN: Thank you.

24           MR. REINWALD: As far as I'm aware, none of  
25 the customers that we're calling multinational

1 corporations here have as a requirement for their U.S.  
2 business that you have to participate in their global  
3 business.

4 We've lost contracts for global business  
5 because of prices, but we've never been told that  
6 since you can't supply our operations in South America  
7 or Europe that you can't have the U.S. business.

8 COMMISSIONER KOPLAN: Thank you.

9 MR. MCCULLOUGH: Could I add one more thing?

10 COMMISSIONER KOPLAN: If the Chair will  
11 indulge me.

12 CHAIRMAN OKUN: Yes. Please.

13 MR. MCCULLOUGH: Okay. I just wanted to  
14 bring out one more thing.

15 PMC is part of the Calorie Control Council.  
16 We're a founding member of the Calorie Control  
17 Council. In 1977, when saccharin was almost banned --  
18 it wasn't quite banned, but the Saccharin Warning  
19 Labeling Act went into effect -- from that day forth,  
20 you know, there's been a lot of regulations put on  
21 saccharin that turned out to be in the end  
22 unnecessary, but someone had to prove it, and it's the  
23 Calorie Control Council, a group of companies that  
24 formed to do all that, and basically Colgate and  
25 Procter & Gamble were not part of that group.

1           There was a lot of expense, a lot of time  
2 put in by a lot of people to prove that saccharin did  
3 not cause cancer, and eventually it was proven so that  
4 now, you know, the Sweetest Act was signed  
5 December 21, 2000.

6           Just the fact that PMC was involved with  
7 that I think, you know, adds credence to the fact that  
8 we would like to be in the market and that we are a  
9 serious player in the market. Actually, the Chinese  
10 producers added absolutely nothing to that effort.  
11 Neither did the Koreans or the Japanese either.

12           We feel kind of proud that we've taken  
13 saccharin through all this period of time. We've  
14 gotten rid of the warning label, and now we want to  
15 get rid of the image of saccharin causing cancer so  
16 that we can make, you know, regular saccharin sales,  
17 or I would call it more regular saccharin sales, and  
18 not have to explain the warning label. Every time  
19 somebody buys some saccharin, we have to show them how  
20 to write a warning label. It was too much.

21           We're happy to have the national  
22 toxicological program recommend to the FDA that all  
23 the restrictions be removed on saccharin and that  
24 saccharin was in fact safe to use in humans.

25           COMMISSIONER KOPLAN: Thank you.

1 MR. MCCULLOUGH: We're glad that's over.

2 COMMISSIONER KOPLAN: I thank you for that  
3 response. I want to thank the Chair for letting that  
4 go on. I appreciate it. I have no further questions.

5 If you have any additional documentation  
6 that you want to add post-hearing on this last  
7 question, I'd appreciate that as well. Thank you very  
8 much, and thank you, Madam Chairman.

9 CHAIRMAN OKUN: Thank you. I do not have  
10 further questions for this panel, but I want to thank  
11 you very much for your participation.

12 Let me turn to Vice Chairman Hillman.

13 VICE CHAIRMAN HILLMAN: I have I hope just  
14 two quick follow ups.

15 One, in response to Chairman Okun on this  
16 issue of the other foreign suppliers to the U.S.  
17 market, the Koreans and the Japanese, you had  
18 mentioned, Mr. McCullough, that the Koreans are  
19 largely supplying to the soft drink company and the  
20 Japanese to the tabletop market.

21 I just want to make sure I understand. Are  
22 those sales that you feel you've lost, or are you  
23 currently or were you at any point doing business with  
24 the soft drink company or the tabletop company that  
25 you have now lost to the Koreans or the Japanese?

1 MR. MCCULLOUGH: I don't say --

2 VICE CHAIRMAN HILLMAN: I'm sorry. You need  
3 your microphone for the court reporter.

4 MR. MCCULLOUGH: Yes. I don't say we've  
5 lost them. We share in the business.

6 VICE CHAIRMAN HILLMAN: But you are  
7 currently supplying the same soft drink producer that  
8 the Koreans are?

9 MR. MCCULLOUGH: Yes. We supply the same  
10 two companies --

11 VICE CHAIRMAN HILLMAN: Okay.

12 MR. MCCULLOUGH: -- in competition, but we  
13 do not have the majority share. We do not.

14 VICE CHAIRMAN HILLMAN: Okay. And have  
15 those shares changed significantly over the most  
16 recent period of investigation?

17 MR. MCCULLOUGH: One has, and one has not.

18 VICE CHAIRMAN HILLMAN: Okay. If there's  
19 anything again you want to put in the post-hearing on  
20 this just to understand the nature of the competition  
21 with these non-subject imports, that would be helpful.

22 My only other follow up, and again this  
23 probably is better in a post-hearing, but if you want  
24 to say it now. I just want to make sure, you know, we  
25 have the facts on the record on this issue of the

1 labor, the labor problems if you will.

2           You spoke about it, Mr. Hudgens, but if you  
3 can just again either here or in the post-hearing is  
4 probably better tell us kind of the nature of the  
5 labor problems, exactly how long they lasted, how they  
6 were resolved, whether and to what extent sales were  
7 affected, deliveries were affected or production  
8 volumes were affected just so the facts are out there  
9 in terms of, you know, the dates, you know, the  
10 amounts, the length of time just so the record is very  
11 clear on this issue. I think that would be helpful.

12           MR. HARTQUIST: We'll be pleased to do that.

13           VICE CHAIRMAN HILLMAN: Okay. With that, I  
14 have no further questions, and I would like to join  
15 the Chairman in thanking you very much. We appreciate  
16 your time and all of the answers to our questions.  
17 Thank you.

18           CHAIRMAN OKUN: Commissioner Miller?

19           COMMISSIONER MILLER: I have no further  
20 questions. Thank you very much.

21           CHAIRMAN OKUN: Commissioner Koplan? You've  
22 forgotten one?

23           COMMISSIONER KOPLAN: Just a quick one.

24           CHAIRMAN OKUN: You can use my time.

25           COMMISSIONER KOPLAN: Thanks. This is a



1 quick one. I hope that it can be answered yes or no.

2 Between 1977 and the year 2000, were there  
3 warning label requirements in countries outside the  
4 United States for saccharin?

5 MR. MCCULLOUGH: None that we know of.

6 COMMISSIONER KOPLAN: Then I have no follow  
7 up.

8 CHAIRMAN OKUN: Thank you, Commissioner  
9 Koplan.

10 Let me turn to staff to see if staff has  
11 questions of this panel.

12 MS. NOREEN: Bonnie Noreen with the Office  
13 of Investigations. We have one question.

14 For the liquid, you're going to be finding  
15 out whether or not you had included that in your data,  
16 and you're going to be letting us know in the post-  
17 hearing brief. I would appreciate it if you would let  
18 staff know earlier whether or not the data are  
19 included, and if they're not then I would appreciate  
20 the revision to your questionnaire as soon as  
21 possible.

22 For the record, in the preliminary  
23 conference you stated that your sales of a liquid were  
24 included in the data that you reported in the  
25 preliminary questionnaire and that they were reported

1 on a dry basis. Presumably it's the same, but if it's  
2 not please let staff know immediately, and for the  
3 record please make sure that it's in the post-hearing  
4 brief as well.

5 Thank you.

6 MR. HUDGENS: May I respond?

7 CHAIRMAN OKUN: Yes, Mr. Hudgens.

8 MR. HUDGENS: We're almost certain that the  
9 liquid product is included in this questionnaire  
10 response, but we'll know by this afternoon, so we'll  
11 be able to tell you before the hearing is over.

12 MS. NOREEN: Thank you.

13 CHAIRMAN OKUN: Let me turn to counsel for  
14 Respondents to see if they have questions for this  
15 panel?

16 MR. AITKEN: No questions.

17 MR. PERRY: No questions here.

18 CHAIRMAN OKUN: Okay. Mr. Perry? Okay.

19 For the record, Mr. Perry has no questions.

20 Looking at the clock and realizing we have a  
21 full panel this afternoon and after conferring with my  
22 colleagues, we will take a lunch break at this point  
23 until 1:30.

24 I will remind parties that the room is not  
25 secure. Therefore, they should take with them any

1 confidential business information.

2 With that, we are adjourned until 1:30.

3 (Whereupon, at 11:43 a.m. the hearing in the  
4 above-entitled matter was recessed, to reconvene at  
5 1:30 p.m. this same day, Thursday, May 15, 2003.)

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1                   In this first portion of the Respondents'  
2 presentation, we're going to hear from Chris Torske of  
3 HELM. He is going to address conditions of  
4 competition, specifically, some comment on different  
5 types of saccharin; second, address the issue of  
6 competition for saccharin from alternative sweeteners;  
7 and, third, the impact of global sourcing strategy  
8 from some of the major manufacturing end users.

9                   Wayne Ritell of Rit-Chem also will address  
10 conditions of competition but focusing more on the  
11 importance of quality in the marketplace; second,  
12 PMC's quality problems; and, third, PMC's delivery  
13 problems.

14                   As I said, Drew Wechsler will provide the  
15 economic analysis for the U.S. Sweetener Users  
16 Coalition.

17                   Before they begin, I would like to make an  
18 observation. We heard with amazement PMC's comments  
19 on quality, to the effect that it didn't exist, the  
20 quality problem, that it was subjective, and even  
21 implying that this was cooked up by Respondents. It's  
22 just amazing to me the disconnect between that  
23 attitude, as articulated this morning, and the record  
24 in this case.

25                   They indicated that this was a new issue, if

1 an issue at all, but, in fact, it's nearly 10 years'  
2 old. And I cite the Commission to its own report in  
3 the decision, 1994. At page I-12 and II-14, the  
4 Commission cited the importance in this industry of  
5 quality over price and other factors, and at page II-  
6 16, in a paragraph which basically described the lack  
7 of quality of Chinese saccharin at that time, it  
8 reported that four purchasers compared the domestic  
9 PMC product with the Chinese product, saying they were  
10 comparable and that two companies said the PMC product  
11 was inferior to the Chinese.

12 This is not a new issue. The quality issue  
13 has been out there for a decade. In the September  
14 2002 Commission preliminary investigation decision, at  
15 page nine, the Commission says that there is evidence  
16 in the record that the domestic industry has quality  
17 problems. But most importantly, and I cannot speak  
18 specifically about this because it's under APO, I  
19 invite the Commission to see whether or not there is a  
20 fundamental similarity or parallelism in the  
21 questionnaire comments of the two big manufacturing  
22 end users and whether they commented on PMC and the  
23 quality of its products.

24 These two companies compete aggressively  
25 with each other. Except when they are litigating,

1 they don't talk to each other. They have different  
2 law firms. They didn't cook this up. They responded  
3 as they saw the truth to be. They could buy from  
4 anyone. They are third-party end users, and I invite  
5 the Commission to look at their comments. The record  
6 speaks of PMC quality problems. They can't just deny  
7 it. I think they are in deniability [sic].

8           Also, Commissioner Miller, you asked about  
9 the beverage industry article -- I think it was 2000  
10 or 2001 -- about whether or not there is competition  
11 for saccharin from sucrose and whether there is  
12 anything more current. In fact, Mr. Wechsler will be  
13 commenting on this 2003 report, which is from the  
14 Business Communications Company. It's a report on  
15 sugar and sweeteners trends, and in Table 63 of that  
16 report, it predicts that over the next four years  
17 sucrose will increase 5.9 percent, and saccharin  
18 will go down 5.6 percent. Drew can talk about the  
19 other conclusions.

20           The bottom line is that saccharin is not the  
21 sweetener of choice, and that's the fundamental  
22 premise of this case.

23           Now, at this point, I'm going to turn to  
24 Chris and ask him to provide his comments. Thank you  
25 very much.

1                   MR. TORSKE: Good afternoon. My name is  
2 Chris Torske, and I'm the president of HELM-New York.  
3 Our company has been importing sodium and calcium  
4 saccharin for about 13 years, with our primary focus  
5 on the calcium saccharin during the last few years.  
6 We have participated in successfully defending the  
7 last attempt by PMC to have an antidumping duty  
8 imposed on Asian saccharin in 1993.

9                   Before addressing my feelings about this  
10 case, I would like to describe the saccharin market in  
11 general. There are three types of saccharin that are  
12 at issue in this case: sodium saccharin, calcium  
13 saccharin, and insoluble saccharin. Sodium saccharin  
14 is used as a sweetener in the electroplating industry.  
15 Calcium saccharin has been used by Cumberland in their  
16 "Sweet and Low" product.

17                   The reason that Cumberland turned to calcium  
18 saccharin rather than sodium saccharin was the warning  
19 label. In the 1970's, Cumberland believed that  
20 saccharin's cancer problem had something to do with  
21 the sodium, not the calcium, saccharin.

22                   CHAIRMAN OKUN: Mr. Torske, I hate to  
23 interrupt, but can you just move your microphone a  
24 little closer so we can hear you better?

25                   MR. TORSKE: Sure.



1                   CHAIRMAN OKUN: Thank you.

2                   MR. TORSKE: Okay. Sure. As a result,  
3 Cumberland turned to the calcium saccharin.

4                   In contrast to sodium and calcium saccharin,  
5 insoluble saccharin is a different category that is  
6 primarily used as a herbicide and also for  
7 electroplating. To the best of our knowledge,  
8 insoluble saccharin is not used as a sweetener.

9                   In my opinion, this new petition by PMC has  
10 more to do with trying to save a business operation  
11 that has failed to be competitive in the global  
12 business environment than to do with Chinese  
13 manufacturers supposedly selling at less than fair  
14 market value. The competition in the worldwide,  
15 artificial-sweetener market has become even fiercer  
16 since 1993, with the introduction of new products  
17 competing for the same market segments, such as  
18 sucrolose, tagatose, and ace sulfane, potassium, and  
19 others.

20                   Back in the 1993-94 investigation, we talked  
21 about the tremendous competition that saccharin was  
22 facing because of aspartame. This pressure has become  
23 even more intense as prices for all artificial  
24 sweeteners have fallen. Aspartame, for example, has  
25 reached a price level of less than 10 pounds today,

1 down from over 30 pounds in 1993.

2 As prices for other sweeteners have fallen,  
3 there is even more competition in the sweetener  
4 market. Although PMC now argues that the warning  
5 label has been lifted from saccharin, in fact, in the  
6 marketplace we have seen there is no change. Many  
7 customers still perceive that saccharin is unsafe and,  
8 therefore, wish to use alternative sweeteners.

9 Although in the petition, PMC states that  
10 saccharin is growing, HELM does see the market as  
11 fairly stable, with little growth potential. We  
12 estimate the U.S. market size to be around 4,000  
13 metric tons today, which has not changed much, even  
14 after the removal of the warning label in 2001.

15 Import price levels, which are the CIF  
16 prices from China to the U.S. importers, since 1993  
17 have fluctuated between U.S. \$3.05 per kilo in 1993 to  
18 over \$4 in '95, '96, and then back to the 1993 level  
19 today. In other words, the Chinese manufacturers were  
20 able to increase prices at times and still capture  
21 additional market share.

22 Another comment on prices. HELM sells  
23 Chinese product from Suzhou to Cumberland. Customers  
24 told us that saccharin is only five percent of the  
25 cost in "Sweet and Low," and they really like our

1 product. The price for them, in this case, is not so  
2 important at all.

3 In my opinion, the recent increases in  
4 Chinese saccharin imports are less a factor of price  
5 but a change in the needs of large, global customers.  
6 HELM estimates that 80 percent of the U.S. saccharin  
7 demand is consumed by less than 20 companies, amongst  
8 them, globally operating companies, such as Colgate-  
9 Palmolive, P&G, Coca-Cola, and Unilever, to name a  
10 few.

11 I see a general trend amongst these  
12 companies to cut back on regional suppliers for  
13 commodities and work with only one or two partners  
14 that can supply their global demand. In my opinion, a  
15 company such as PMC, with limited saccharin capacity  
16 of only about 4,000 MT per year, is not in a position  
17 to service the global needs of such large customers,  
18 neither quantity-wise nor logistically. Also, they  
19 are not able to get a competitive cost position  
20 compared to a producer that has a capacity of 10,000  
21 MT.

22 There is a global market and a global demand  
23 for this product. It is very competitive in price all  
24 over the world. Therefore, every price negotiation  
25 reflects that. This seems to be the real reason that

1       PMC is losing ground to the Chinese manufacturer, not  
2       unfair prices.

3               We note, and this is very important, that in  
4       terms of calcium saccharin, at least, PMC seems to be  
5       easily able to compete, and we have even lost market  
6       share in 2002 to PMC, who has sold below our price.

7               Concretely, according to our customer, we  
8       were enjoying even a slightly higher price at this  
9       particular account than PMC.

10              Despite the Commerce Department's  
11       determination, looking at the dumping accusation from  
12       a practical point of view, meaning that the Chinese  
13       manufacturers are exporting material below their  
14       production costs, I do not believe that this is  
15       accurate in the case of Suzhou Fine Chemicals,  
16       considering that about 90 percent of the production is  
17       exported to main markets, such as Europe, South  
18       America, Southeast Asia, India, and the United States,  
19       at more or less the same prices. It is rather  
20       impossible that this company could have stayed in  
21       business for decades losing money on these  
22       transactions.

23              We have to carefully differentiate import  
24       values from China into the U.S. and actual sales  
25       prices of this product to the U.S. consumers.

1       Considering that there already is a 6.5 percent import  
2       duty on Chinese saccharin plus handling costs, such as  
3       THC and freight and warehousing and so forth, the  
4       head-to-head competition with PMC is not at the import  
5       level but at the distribution level. The significant  
6       value is the actual delivered sales price from the  
7       U.S. distributor to the U.S. customers.

8               As a conclusion, I believe that imposing an  
9       antidumping duty on Chinese saccharin would not  
10      benefit PMC, since the Japanese and/or Korean producer  
11      could easily pick up the Chinese market share. The  
12      reason why PMC is losing ground is not a price factor  
13      but mainly a change in the purchasing philosophy of  
14      multinational customers to a global purchasing system,  
15      a factor that PMC seems to have ignored over the last  
16      few years. Thank you.

17             MR. AITKEN: Now, Mr. Ritell from Rit-Chem,  
18      please.

19             MR. RITELL: Good afternoon. How are you?  
20      My name is Wayne Ritell. I am vice president of sales  
21      for Rit-Chem Company, Inc., in Westchester County, New  
22      York. We have been an active importer and distributor  
23      of saccharin since 1984. Our sales staff actively  
24      offers, markets, and visits with U.S.A. companies that  
25      purchase the various grades of saccharin.

1           As I stated in my previous testimony, in the  
2 global marketplace, for the last 20 years or so,  
3 saccharin manufactured in Korea has been looked upon  
4 as superior in quality to all of the other globally  
5 manufactured saccharin, including PMC's. To this day,  
6 saccharin buyers will tell you that product quality  
7 supersedes any lower priced offerings. They even  
8 profess, quality is not negotiable.

9           Well, of the three Korean saccharin  
10 producers back in the 1980's, there is only one left,  
11 and their quality is still very high. Since then, the  
12 Chinese producers have not only filled the global  
13 production-demand gap, but they have considerably  
14 raised the bar to reach Korean saccharin benchmark  
15 quality.

16           Currently, with the DOC's preliminary duty  
17 tariffs issued upon imported Chinese material,  
18 December 18, 2002, the Korean saccharin manufacturer  
19 has already taken direct advantage of this. First-  
20 quarter 2003, Korean saccharin import statistics are  
21 illustrating a tripling of their saccharin volume  
22 value versus first-quarter 2002.

23           The reason I am prefacing with the quality  
24 is twofold. First, the Chinese saccharin producers  
25 have filled the U.S.A. saccharin demand void with

1 high-quality saccharin per the other two Korean  
2 saccharin producers' combined volume falling out. And  
3 I may say, for their noncompliance to new Korean  
4 pollution restrictions, not from the Chinese producers  
5 pricing them out.

6 Second, over the years, from our U.S.A.  
7 market field sales calls reports, many of our  
8 customers, right from their inception of their  
9 willingness to do business with Rit-Chem have  
10 complained about PMC's quality and inconsistent  
11 deliveries with a higher saccharin price that PMC was  
12 asking and invoicing. As saccharin purchasing agents  
13 would say, we are not getting the quality that we pay  
14 for.

15 With this, it may be best to focus in on  
16 Rit-Chem's saccharin market field feedback. The one  
17 market comment at the forefront in the past three  
18 years from a major Fortune 500 company has been that  
19 PMC's sodium saccharin has a great odor to it that  
20 their quality-control departments will not accept for  
21 approval as an ingredient in the manufacture of their  
22 toothpaste. Hence, it was not the Chinese price that  
23 Rit-Chem offered to have this company test and  
24 eventually use the Chinese saccharin but the superior  
25 quality.

1                   It is our understanding that PMC also  
2 manufactures anthranilic acid and methylantranilate  
3 in their saccharin plant that are used as grape-  
4 flavoring agents.

5                   Commissioners, we please ask you to review  
6 Rit-Chem's previous submission of our Procter & Gamble  
7 core reports that were dated three years ago that cite  
8 PMC's rejected sodium saccharin based on inherent  
9 grape odor, which is in the period of the POI. This  
10 submitted data directly conflicts with Mr.  
11 McCullough's statements that the grape odor problem  
12 was only recent. By Rit-Chem bringing high-quality,  
13 Chinese saccharin to P&G, they realized what superior  
14 quality really is with no odor.

15                   There have been numerous comments from our  
16 U.S.A. customer base that PMC's material was, and  
17 still is being, delivered with hard, boil-like clumps  
18 instead of as a uniform, free-flowing granule. A  
19 chemist at one of our customers stated that PMC's  
20 materials seem to be more hygroscopic in nature, which  
21 means it tends to take on moisture more readily and,  
22 therefore, end up more clumpier. Again, it's not the  
23 Chinese price that led Rit-Chem gaining these  
24 customers' saccharin business but better Chinese  
25 quality.



1           The other issue that to a production plant  
2 is far more serious is late deliveries. With Rit-  
3 Chem's timely triggering of import orders, smooth  
4 customs clearance through many different U.S.A. ports,  
5 and then either arranging direct container deliveries  
6 to our customers' receiving departments or  
7 distributing and shipping out of our numerous U.S.A.  
8 warehouses, the PMC customers have had a hard time  
9 understanding why PMC has erratic saccharin deliveries  
10 when it is manufactured right here in the U.S.A., and  
11 our material comes all the way in from China. Are  
12 Rit-Chem import timetables and the Chinese production  
13 and shipping channels that good, or is PMC that bad in  
14 production planning and delivery inefficiencies?

15           Our belief is that for the 21st century, due  
16 to decreased worldwide saccharin producers, with the  
17 resultant less choices for U.S.A. saccharin buyers,  
18 together with PMC's inconsistent quality and delivery  
19 problems, that the Chinese saccharin entering the  
20 U.S.A. is not injurious to PMC but a real benefit, so  
21 that a company like Rit-Chem has the opportunity to  
22 deliver quality saccharin on time, thus keeping PMC  
23 out of the wrath of the saccharin customers rather  
24 than keeping the Chinese saccharin out of the U.S.A.  
25 Thank you.

1 MR. AITKEN: Thank you. Mr. Wechsler?

2 MR. WECHSLER: Good morning. For the  
3 record, my name is Andrew Wechsler. I am the managing  
4 director and a professional economist at LECG. I will  
5 provide my resume with the post-hearing brief. I have  
6 been asked to cover quite a bit of ground this  
7 morning, and I'll try to do it in as succinct and  
8 informative manner as I can.

9 The key analytical points of my testimony  
10 are sixfold in nature. First, the price of saccharin  
11 is determined in a much broader market for all  
12 sweeteners, nutritive and non-nutritive. Second,  
13 sweetener market developments are adverse to PMC,  
14 regardless of Chinese imports. Saccharin is a mature  
15 product whose demand has peaked and is expected to  
16 decline steadily over the coming years.

17 Third, PMC, the sole domestic producer, is  
18 injured due to nonimport factors. Fourth, with many  
19 nonsubject saccharin sources and an array of  
20 nonsaccharin sweeteners, subject Chinese imports  
21 simply do not determine market prices. Five, rather  
22 than provide any relief to PMC, an antidumping order  
23 would likely shift key customers away from saccharin  
24 entirely. And, sixth, there is simply no compelling  
25 evidence of material injury or threat due to the

1 subject imports in this case.

2 Let's start with the first. Saccharin has  
3 unattractive baggage in a very competitive sweetener  
4 market. It's really yesterday's story trying to hold  
5 on. The health-warning scare; though the warning is  
6 over, it has durably altered public perceptions, and  
7 the idea that many consumers are going to go back to  
8 something also used for electroplating and other uses  
9 like that in a food product is just not a viable plan  
10 for the future.

11 Saccharin has distinct after-taste compared  
12 with other sweeteners and limited functionality. The  
13 many alternatives do not have this baggage. They are  
14 the nutritive or caloric sweeteners, sugar, the  
15 various sugar alcohols -- multitol, mannitol,  
16 erythritol, xylitol, sorbitol, and isoamyl -- and  
17 high-fructose corn syrup. And then there is an array,  
18 an increasing array, of very attractive, non-  
19 nutritive, high-intensity sweeteners.

20 Sweetener demand is moving away from  
21 saccharin. For instance, aspartame; its price is  
22 falling. It doesn't have saccharin's health-warning  
23 baggage. It has no after-taste and has better  
24 functionality, and it is a huge share of the market.  
25 Then, relatively new, but making major advances, is

1 ace sulfane, or Ace-K, and sucrolose.

2 Blends are also moving towards heavier  
3 reliance on second-generation, high-intensity  
4 sweeteners, not saccharin. For instance, Ace-K,  
5 blended with aspartame or sucrolose, is making  
6 significant progress in capturing market share.

7 The Business Communications Company 2003  
8 Report, something outside this litigation, on sugar  
9 and sweeteners, clearly states, and I quote:  
10 "Aspartame still holds much of the high-intensity  
11 sweetener production in the U.S., making up almost  
12 half of the total production and consumption. It will  
13 soon see strong competition as new HIS neotame,  
14 approved by the FDA in June of 2002, begins production  
15 in 2003. Sucrolose and Ace-K continue to compete for  
16 the remaining HIS --" that's high-intensity sweetener  
17 "-- market as longtime sweetener, saccharin, continues  
18 to decline."

19 Well, what about some numbers here? That  
20 same report, the Business Communications Company, in  
21 2003, estimated the annual average growth rate for  
22 high-intensity sweeteners from 2002 out through 2007,  
23 the next four years -- this is the average annual  
24 growth rate -- I'll round off for simplicity's sake in  
25 the oral testimony -- saccharin, minus six percent a

1 year; aspartame, plus three percent a year; Ace-K,  
2 plus one percent a year; sucralose, plus six percent a  
3 year; neotame, a newcomer, so it has in excess of 100  
4 percent-a-year growth rate.

5 What does it all come out to in a weighted  
6 average? High-intensity sweeteners are expected to  
7 grow two percent a year. Sugar, by the way, has grown  
8 a lot. In the past decade, U.S. consumption per  
9 capita has increased nine pounds per person. So  
10 that's the background, and saccharin stands out with a  
11 predicted decline in consumption of six percent  
12 annually.

13 The domestic industry is not injured by  
14 reason of subject imports. PMC is the domestic  
15 saccharin industry. The parent company of the group  
16 before you today is PMC, Inc. It is facing massive  
17 problems unrelated to saccharin. According to Dunn &  
18 Bradstreet, PMC, Inc., and it owns the sub before you  
19 today lock, stock, and barrel, PMC, Inc.'s net worth  
20 declined from \$25 million in 1999 to negative \$11  
21 million in 2001, the last year that was available.  
22 Compare this to PMC's decline in saccharin sales over  
23 the POI. Saccharin simply does not explain the  
24 collapse of the parent company's financial condition.

25 PMC, Inc., has slow payments on two-thirds

1 of its purchases. It experienced a large spill in  
2 1999 of a noxious chemical from its New Jersey plant  
3 that sent more than a dozen people to the hospital.  
4 D&B does not even mention saccharin in describing  
5 parent, PMC's, business activities.

6 This disastrous, parent-company performance  
7 has relevance. It means that, regardless of the  
8 subsidiary's performance, nothing would have been  
9 available for investment in saccharin. PMC has simply  
10 not been able to adjust to a major market change in  
11 which globalized, multinational, end users prefer bids  
12 for global supply -- not little bits of supply in  
13 various countries, as Mr. McCullough this morning  
14 assumed that meant. They mean global supply. PMC  
15 can't meet this with its current capacity, even were  
16 its quality and reliability acceptable, which they are  
17 not. And in addition, there was a recently disruptive  
18 strike, and you can look at some of your  
19 questionnaires to see what the impact of that was on  
20 PMC's reliability.

21 PMC's saccharin troubles, specifically, are  
22 unrelated to Chinese imports also. PMC uses the  
23 maumee process for saccharin production. It's a fine  
24 process. It involves continuous production, not  
25 batches. Unfortunately, when you're facing a spotty

1 market, when you're losing customers due to quality,  
2 when you have production problems induced by labor  
3 problems, et cetera, it becomes more costly because  
4 it's designed for continuous production, and it's more  
5 costly for serving a chronically weakening market.

6           According to industry sources, PMC's  
7 saccharin has quality problems. Grape order. Let me  
8 be clear: That's not "great odor" but "grape odor" as  
9 in Gilbert Grape. Grape toothpaste, anyone? I don't  
10 think so. It also has a lack of product consistency  
11 in terms of clumping and size of granules, as you've  
12 heard.

13           PMC has reliability problems that are  
14 detailed in several questionnaires. It appears to  
15 have serious labor problems and questionable financial  
16 viability.

17           Chinese imports are perceived to have a  
18 higher quality and no odor problem. In choosing a  
19 supplier, price is subordinate to quality and  
20 reliability, and some major end users, because of the  
21 problems they have had with PMC, stated to us that  
22 they will never buy from PMC again due to these  
23 problems. They will seek overseas alternatives for  
24 saccharin or nonsaccharin alternatives.

25           Nonsubject sweeteners constrain the market

1 price. Domestic saccharin sales take place in a  
2 highly competitive, broad, sweetener market.  
3 Nonsubject saccharin imports are significant, Korea  
4 and Japan, principally, but the official import data  
5 of the United States also show imports coming from  
6 Spain, Canada, Italy, Hong Kong, Switzerland, Germany,  
7 and the United Kingdom.

8 At current relative prices, many alternative  
9 sweeteners and blends are already viable and making  
10 advances, despite their much higher price, because of  
11 their inherent functionality and quality superiority  
12 to saccharin. Coca-Cola has moved heavily toward  
13 aspartame in its diet colas, and other major users  
14 have moved toward alternatives. There are none, no  
15 examples, to my knowledge, and anyone I've asked in  
16 this industry, of anyone switching back to saccharin.

17 Chinese imports can have little impact on  
18 U.S. prices and demand. The market includes all  
19 sweeteners, not just artificial sweeteners. See your  
20 purchaser questionnaires. It's confirmed by both of  
21 the available recent proprietary studies, the Business  
22 Communications Company study called "Sugars and  
23 Sweeteners," published this year, 2003; and the  
24 Fradonia Group's "Artificial Sweeteners and Fat  
25 Replacers," published in 2000.



1                   I'll read you a short quote from the  
2                   Fradonia Group's study, in the overview: "Artificial  
3                   sweeteners compete with sugar, high-fructose corn  
4                   syrup, polyols, and other sweeteners which they are  
5                   designed to replace. Competition is typically based  
6                   on the perceived dietary benefits of artificial  
7                   sweeteners, although considerations of cost, taste,  
8                   texture, performance, and product safety are also  
9                   important."

10                   The Chinese do not dominate the overall  
11                   market for sweeteners. Saccharin prices are  
12                   constrained by prevailing trends toward other  
13                   sweeteners at current relative prices, and pricing is  
14                   weak across the entire market. World sugar prices are  
15                   very low. Aspartame prices are falling. No one is  
16                   switching to saccharin, and many are switching away  
17                   from a mature product with a bad rep, largely  
18                   undeserved, but it still has a bad reputation. New  
19                   products, such as HK and sucrolose, offer better taste  
20                   and increased functionality, and their prices, too,  
21                   are expected to fall.

22                   Now, there is a multinational issue in this  
23                   picture. Multinational customers further limit the  
24                   ability to raise U.S. prices. Key end users are  
25                   large, multinational companies like Unilever, Coca-

1 Cola, Colgate-Palmolive, and Proctor & Gamble. They  
2 produce identical products in many countries,  
3 including Mexico and Canada. If U.S. pricing of  
4 inputs like saccharin becomes noncompetitive, and they  
5 do not wish to switch to alternative sweeteners or to  
6 nonsubject imports, they may rather easily increase  
7 their offshore production and import the finished good  
8 as well. This would diminish downstream production  
9 costs, defeat any antidumping order, and weaken U.S.  
10 industrial employment.

11 Now, let's consider certain issues raised  
12 this morning in a little further detail. First, on  
13 lost sales, on pricing, Commissioner Koplan got it  
14 right: PMC's testimony was, at best, misleading.  
15 Lost sales; PMC -- I'm going to be very general here  
16 because I want to respect the APO confidentiality.  
17 But things you will find in various companies'  
18 discussions of the lost sales in the report are things  
19 like PMC cannot provide proper granulation, so they  
20 finally switched to another supplier; PMC repeatedly  
21 had quality nonconformance; they didn't buy from the  
22 person they were accused of buying from, or they  
23 bought from PMC and others at higher prices than PMC  
24 alleged. The lost-sales picture provided in the  
25 report, in terms of confirmations, is a relatively

1 weak one in a very large market.

2 Now, nonsubject imports. Contrary to the ad  
3 hoc analysis of Mr. Hudgens this morning, the Koreans,  
4 in 2003, are already taking advantage of the current  
5 situation. They have increased their shipments more  
6 than 10 percent in the first quarter over what they  
7 were on a quarterly average previous year, and more  
8 growth is underway.

9 I, quite frankly, found Mr. McCullough's  
10 testimony on saccharin demand and the market  
11 troubling. Facts: Saccharin's share of the high-  
12 intensity-sweetener market is falling. Saccharin's  
13 share of all sweeteners is falling. Saccharin's  
14 demand, in terms of consumption, is certainly  
15 stagnant, and in terms of the warnings and the report  
16 about the data and the inventories, et cetera, most  
17 likely falling.

18 His testimony reveals that PMC is not  
19 focused on any growth opportunities in what is a  
20 growing sweetener market. Now, if they are just  
21 producing saccharin, there may not be any growth  
22 opportunities, but they have to take account of what  
23 they are competing against, and it's not just the  
24 Chinese imports.

25 PMC is in total denial, not just before the

1 Commission, but even more importantly, with its  
2 customers in dealings. They dismiss the serious odor  
3 problem in a food product. They dismiss clumping and  
4 granularity. They dismiss the needs and preferences  
5 of their largest multinational customers for global  
6 supply. They dismiss supply-interruption issues. Is  
7 it any wonder why they are not doing well? The  
8 Chinese aren't a factor in any of those.

9           The bottom line is that PMC is out of touch  
10 with the market as a whole and key large customers, in  
11 particular. It is those key customers to whom the  
12 bulk of the Chinese sales are made. PMC has largely  
13 abandoned this segment of the market through  
14 inadequate plant skill, which it hasn't been able to  
15 find the funds from the parent company to expand; poor  
16 quality; persistent problems with odor; and  
17 reliability of its deliveries. These are an  
18 unbeatable combination of self-imposed issues, and an  
19 antidumping order won't fix them.

20           Before I conclude, I would like to offer my  
21 quotation of the day from the Frodonia study: "To a  
22 large extent, opportunities for artificial sweeteners  
23 depend on gaining market share from other sweetening  
24 products, such as sugar and high-fructose corn syrup,  
25 with caloric and noncaloric sweeteners competing

1 against and amongst one another. Newer artificial  
2 sweeteners and blends, offering improved functionality  
3 and superior tasted profiles, are expected to expand  
4 the market for high-intensity sweeteners into new  
5 applications."

6 Now, my conclusions. The domestic industry,  
7 that is, PMC, is suffering, but the poor performance  
8 is due to nonimport factors: significant quality and  
9 reliability issues, PMC's permanent loss of key  
10 disappointed customers, a failing parent company, and  
11 PMC's inability to serve the global demand of  
12 multinational end users. Stagnant or declining  
13 overall saccharin demand places an extremely high  
14 premium on these problems.

15 Chinese saccharin imports can have little  
16 effect on long-term market prices because the  
17 sweetener market is simply much broader than their  
18 position in saccharin. Rather than durably raising  
19 prices, a saccharin antidumping order would likely  
20 hasten substitution already underway from saccharin to  
21 sweeteners with better taste and higher functionality  
22 and to sources with better reliability than that  
23 offered by PMC. Chinese import customers are unlikely  
24 to switch to PMC's saccharin in the face of such an  
25 order because of PMC's past problems and a conclusion

1 on the part of companies that once burned, twice shy.

2 An antidumping order on saccharin finally,  
3 would drive customers to nonsubject saccharin, induce  
4 switching to other sweeteners and drive multinational  
5 production, to some extent, offshore. The domestic  
6 industry would not benefit in any material way, while  
7 U.S. customers and downstream U.S. workers would be  
8 disadvantaged. Thank you very much.

9 MR. AITKEN: Mr. Perry?

10 MR. PERRY: My name is William Perry of the  
11 law firm, Garvey, Schubert, and Barer. I'm here  
12 representing the three Chinese Respondent companies in  
13 the case.

14 I would just like to make one quick point  
15 before asking my witnesses to testify. Regarding this  
16 meeting between Suzhou and PMC, Suzhou never indicated  
17 to PMC that they were not indicated in the joint  
18 venture. Understand that the meeting took place, the  
19 last one, in April 2002, two months before the  
20 petition was filed. That's why we've called it a  
21 sham. That's why Suzhou stated at the preliminary  
22 conference they were shocked. By the way, it did have  
23 an effect. It had an effect over at Commerce, where  
24 basically the Commerce Department said no critical  
25 circumstances, but, in part, I think that was because

1 of these sham, joint-venture negotiations between  
2 Suzhou and PMC.

3 Now, I would like to ask George Chan to  
4 testify.

5 MR. CHAN: My name is George Chan, and I'm  
6 co-owner of Shanghai Fortune Chemical Company, which  
7 is a saccharin producer in China.

8 We sell saccharin on a global basis. There  
9 is no government involvement in our corporation. We  
10 do not sell sodium saccharin in the U.S. market. Our  
11 business is a high-margin business that requires very  
12 high-quality material. We, therefore, only sell  
13 calcium and insoluble saccharin in this market.

14 For Shanghai Fortune, the United States is a  
15 very special market that requires high-quality  
16 saccharin. We firmly believe that we are not injuring  
17 anyone.

18 There are many differences between sodium  
19 saccharin, calcium saccharin, and, in particular,  
20 insoluble saccharin. Sodium saccharin is a basic  
21 commodity product which is at the lower end of the  
22 saccharin market. Sodium can be sold in crystal and  
23 powder, but calcium saccharin can only be sold as  
24 powder. In contrast to sodium saccharin, purchasers  
25 of calcium saccharin are more conscious of quality,

1 and, therefore, the product is higher priced.

2 Purchasers of sodium saccharin are usually  
3 located in the food industry, where people are more  
4 interested in the sweetening aspect of saccharin.  
5 Sodium saccharin is often further processed in the  
6 food industry. In contrast to sodium saccharin,  
7 calcium saccharin is often sold as a table-top  
8 sweetener with no further processing.

9 In contrast to both sodium and calcium  
10 saccharin, insoluble saccharin is not sold as a  
11 sweetener but as a chemical intermediate. Insoluble  
12 saccharin, for example, is used to produce pesticides  
13 by such companies as DuPont and other agriculture  
14 companies. Insoluble saccharin is also used as a  
15 feedstock of other chemical products.

16 The Chinese are simply replacing imported  
17 saccharin from other countries, such as Korea and  
18 Japan. Because of the various conditions, including  
19 regulation control and higher raw material and labor  
20 costs, China has been able to replace market share  
21 from Korea and Japan.

22 As with my colleague, since the preliminary  
23 determination, I have seen increased activities from  
24 Korean and Japanese manufacturers, who will simply  
25 replace the Chinese in the U.S. market.



1 Chinese sector imports do not threaten  
2 injury to the U.S. industry. Like Suzhou, we export  
3 saccharin around the world. In China, many saccharin  
4 producers have already shut down. Saccharin  
5 production, in fact, is becoming concentrated in only  
6 a few companies, and most of them operate at higher  
7 capacity-utilization rates. Further, PMC is co-  
8 related to rashic, which is one of the larger uses of  
9 saccharin for electroplating. PMC, therefore, should  
10 not be injured in this market.

11 Like Suzhou, Shanghai Fortune is overbooked  
12 and has simply replaced customers in the United States  
13 with customers in other countries. Thank you.

14 MR. AITKEN: Joan Ni?

15 MS. NI: My name is Joan Ni, and I'm the  
16 president of Suzhou Chem USA, a subsidiary of Suzhou  
17 Fine Chemicals Group, the largest producer of  
18 saccharin in China and the world. Besides the points  
19 my friends have made, I just want to point out the  
20 following.

21 First, Korean saccharin and saccharin from  
22 other sources will replace Chinese saccharin in the  
23 U.S. market if Chinese saccharin is stopped. For  
24 example, after the preliminary determination, Korean  
25 saccharin producers have started sending saccharin

1 samples to United States end users that I know.  
2 Although it takes time for the end users to evaluate  
3 the samples, they will soon start importing more  
4 saccharin from Korea and other sources, which will  
5 simply replace the Chinese market share.

6 Second, I wish to point out that Chinese  
7 exports of saccharin do not threaten material injury  
8 to the U.S. saccharin industry. In the past, Suzhou  
9 increased its capacity as other saccharin producers in  
10 China closed down. Suzhou has no end used capacity.  
11 In the last two years, Suzhou was operating around 95  
12 percent of the capacity. Suzhou saccharin sales to  
13 the United States represent only about 10 percent of  
14 total sales and about 10 percent of total export  
15 sales.

16 In 2003, Suzhou's capacity is already booked  
17 through June by purchasers from throughout the world,  
18 not in the United States, without exporting one kilo  
19 to the United States. As a result of the department's  
20 preliminary determination, Suzhou has already been  
21 able to sell that supply to other markets. Moreover,  
22 the factories' average selling price has increased  
23 more than eight percent from January to April 2003,  
24 but to other markets, not to the United States.  
25 Again, as I stated in the preliminary testimony

1 before, the United States is not our major market.

2           Despite the Commerce Department  
3 determination, saccharin is one of the most profitable  
4 products at Suzhou Fine Chemicals' factory. Thank  
5 you.

6           MR. AITKEN: Members of the Commission, I  
7 would like to summarize what has been presented by  
8 this panel today.

9           Mr. Wechsler made several points: First,  
10 that the price of saccharin is determined in a broader  
11 market context, including competition from  
12 alternatives; second, saccharin demand has peaked and  
13 is declining; third, PMC, of course, is the sole  
14 domestic producer, but its financial difficulties,  
15 that of its parent, are due to nonimport factors, and,  
16 indeed, there is evidence to suggest that only a third  
17 of the employees of the parent company are in  
18 saccharin, so there are other issues for PMC, Inc.;  
19 fourth, PRC imports do not determine market prices;  
20 fifth, an antidumping order likely would benefit the  
21 Koreans; and, finally, there is no compelling evidence  
22 of material injury or threat thereof.

23           Mr. Torske of HELM provided some anecdotal  
24 information that may support these points, first,  
25 describing differences in the characteristics and

1 customer base for calcium, sodium, and insoluble  
2 saccharin. Secondly, he also cited increasing  
3 competition in the sweetener market from alternatives  
4 such as aspartame. Third, he addressed the global  
5 sourcing needs of the major manufacturing end users, a  
6 number of whom are part of our coalition. And,  
7 fourth, he pointed out that evidence suggests that  
8 Korea would be the likely beneficiary of antidumping  
9 duties if they are imposed.

10 Mr. Ritell of Rit-Chem made the point that  
11 quality is essential. I think the questionnaire  
12 responses and, indeed, the Commission's staff reports,  
13 make that clear. It's a top priority for many, many  
14 companies. Think about it. The manufacturing end  
15 users that we represent make products that are put in  
16 people's mouths. Of course, quality is important.

17 PMC has quality problems, and Mr. Ritell  
18 cited to the fact that one of his clients, Procter &  
19 Gamble, reduced its purchases from PMC three years ago  
20 because of that, and, finally, he cited late  
21 deliveries.

22 That concludes our presentation. We would  
23 be happy to answer any questions, and, if possible, if  
24 we have any time remaining, we would like to save it  
25 for rebuttal. Thank you very much.

1                   CHAIRMAN OKUN: Thank you, and before we  
2 begin our questioning this afternoon, let me thank all  
3 of the witnesses for being here today, for your  
4 testimony, and, in particular, to the witnesses who  
5 have traveled from China, we appreciate you taking the  
6 time and traveling here to participate as well. With  
7 that, Vice Chairman Hillman will begin our questioning  
8 this afternoon.

9                   VICE CHAIRMAN HILLMAN: Thank you, and I  
10 would join Chairman Okun in welcoming you and thanking  
11 you for your presentations.

12                   I guess, first, Mr. Wechsler, just a quick  
13 housekeeping matter. This Business Communications  
14 Company study; has that entire study been placed on  
15 the record, and, if not, can you do so?

16                   MR. WECHSLER: I will do so. What I would  
17 like to do is review the license under which it was  
18 purchased with the staff to make sure that it's okay  
19 for me to give the copy to you.

20                   VICE CHAIRMAN HILLMAN: I would appreciate  
21 it if you could do that and make it available. And  
22 then, similarly, the Frodonia artificial sweeteners  
23 study that you mentioned.

24                   MR. WECHSLER: The same story with both. We  
25 will present copies to the Commission, if we are

1 allowed to.

2 VICE CHAIRMAN HILLMAN: Okay.

3 MR. WECHSLER: I'll go over it with staff.

4 VICE CHAIRMAN HILLMAN: Thank you very much.  
5 Let me start perhaps, Mr. Torske, with you and Mr.  
6 Ritell, and help me understand, from your perspective,  
7 the same sort of issues I was exploring with the PMC  
8 witnesses this morning. Where do you think the  
9 Chinese have had the most impact in the U.S. market in  
10 terms of end-use segments? Where do you see the  
11 greatest amount of Chinese gaining share? I'm trying  
12 to understand whether it's in the table market. Is it  
13 in the beverage market? Is it in the electroplating?  
14 Of the various end uses, where do you think the  
15 Chinese have made the biggest inroads and why there?  
16 Mr. Torske?

17 MR. RITELL: From my business --

18 VICE CHAIRMAN HILLMAN: I'm sorry. Go  
19 ahead, Mr. Ritell.

20 MR. RITELL: We do run two different  
21 businesses, so just from my business perspective, I  
22 would say, basically, the dental care in regard to  
23 toothpaste and wanting quality for that particular  
24 industry, and also in table top.

25 VICE CHAIRMAN HILLMAN: Table top.

1 MR. RITELL: Yes, like sweeteners, yes.

2 VICE CHAIRMAN HILLMAN: Okay.

3 MR. RITELL: And there is some, for our  
4 business, at least, electroplating also. We have  
5 about two dozen other chemicals that we sell to the  
6 electroplating industry, so that's just one of them.

7 VICE CHAIRMAN HILLMAN: All right. Okay.  
8 Mr. Torske?

9 MR. TORSKE: HELM's main business is  
10 actually the table top, and our main customer, if not  
11 only customer really, is Cumberland, and at that  
12 account we have maintained our quantity level pretty  
13 much stable over the last few years, so there hasn't  
14 been too much of a change from our side.

15 VICE CHAIRMAN HILLMAN: You've stayed at a  
16 steady level of shipments.

17 MR. TORSKE: Pretty much, yes.

18 VICE CHAIRMAN HILLMAN: Where are you  
19 sourcing your product?

20 MR. TORSKE: We are sourcing our product --  
21 we represent Suzhou Fine Chemicals for Cumberland or  
22 at Cumberland.

23 VICE CHAIRMAN HILLMAN: Okay. So a hundred  
24 percent of your sourcing comes from Suzhou.

25 MR. TORSKE: Yes.

1 VICE CHAIRMAN HILLMAN: Okay. Mr. Ritell,  
2 how about your sourcing of product?

3 MR. RITELL: In the last three years,  
4 probably about 85 percent from Suzhou and 15 percent  
5 from Shanghai.

6 VICE CHAIRMAN HILLMAN: Okay. But neither  
7 of you do any business with the Korean or the Japanese  
8 producers, sourcing from either of those places.

9 MR. RITELL: At this time, you mean, or  
10 before --

11 VICE CHAIRMAN HILLMAN: During the POI.

12 MR. RITELL: There was a little bit but not  
13 much because at the time we were stressing a little  
14 bit more of the Chinese because their quality got  
15 better.

16 VICE CHAIRMAN HILLMAN: And had you been  
17 sourcing from PMC?

18 MR. RITELL: No.

19 VICE CHAIRMAN HILLMAN: Okay. Mr. Torske?

20 MR. TORSKE: We have not been sourcing from  
21 PMC, and we have not bought any quantities from Korea  
22 either.

23 MR. PERRY: Commissioner Hillman, I've asked  
24 Wayne to make one point. In the last investigation,  
25 Mr. Ritell didn't testify at the final, and the reason



1 is I read a letter into the record that he was going  
2 to substitute all of the Chinese with the Korean  
3 material. Recently, the Chinese material has been  
4 here from Rit-Chem, but I believe you can go back to  
5 Korea. Right?

6 MR. RITELL: Yes, we could. We could go  
7 back to Korea, if we would like, but since, you know,  
8 the term of the POI, it's mostly been Chinese, to  
9 answer your question.

10 VICE CHAIRMAN HILLMAN: Okay. I appreciate  
11 those answer.

12 I realize that you're in a little bit more  
13 of specialized areas in terms of just the table top,  
14 but going back again, stepping back and looking at the  
15 U.S. market, if you can, more broadly -- we were  
16 discussing with PMC this morning a little bit of  
17 trying to just understand the sort of relative size of  
18 the soft-drink market versus the table-top market  
19 versus the dental-care market versus electroplating,  
20 adhesives, tobacco -- from your perspective, again, if  
21 you could give sort of ball-park percentages, how do  
22 you think the market shakes out in terms of demand for  
23 saccharin?

24 MR. RITELL: Well, there's four grades, so,  
25 you know, if you want to take it in the total

1 percentages of all of the four grades, I think what  
2 was previously said, about 20 percent in diet  
3 beverages; 20 percent in table top; 20 percent, dental  
4 care; 15 percent, electroplating; and, you know, five  
5 percents in various other industries, which would  
6 equal about 100, would be accurate at this time.

7 VICE CHAIRMAN HILLMAN: Okay. I appreciate  
8 that.

9 I guess, if I can go, obviously, to the  
10 issue that I think is -- one of the ones that I'm  
11 trying to get a better sense of is this issue of  
12 price. A number of you have all talked about the  
13 quality of the Chinese product, and, obviously,  
14 generally, when people say that they have got a higher  
15 quality product, there is a notion that at some level  
16 that carries some degree of price premium, and yet  
17 when we look at the data here, it's obvious that the  
18 Chinese product is consistently, persistently, and by  
19 relatively significant margins, underselling the U.S.  
20 product.

21 So if the Chinese product is so much better,  
22 why isn't it commanding anything resembling a price  
23 premium? Why is the Chinese product so low priced if  
24 it is, in fact, a higher quality product?

25 MR. PERRY: Let me just try to summarize,

1 and I'm going to ask Wayne or Chris to add in  
2 something. But I think that one of the points to be  
3 made here is that I believe that Suzhou came in,  
4 Suzhou and Shanghai Fortune, really came in with the  
5 quality issue first, and then it was followed by the  
6 price.

7           The issue is that in many of these instances  
8 saccharin is a small percentage of the total price.  
9 For instance, I think, in Cumberland, we were talking  
10 at lunch that it represents literally only five  
11 percent of their cost is the saccharin. Now, I may be  
12 wrong here, but I would like Wayne to follow up.

13           So that's the point, is that it's lower  
14 priced, there has always been competition in China --  
15 that's it -- and it's also, frankly, they are selling  
16 at a world market. This is a world market going on  
17 here. The issue is whether we have a spike in the  
18 United States or we're selling all around the world,  
19 and that's the other thing.

20           MR. RITELL: I think, in the case of, like,  
21 P&G, who would be, you know, one of the largest  
22 customers in the world, they, point blank, told us  
23 from the get-go that they didn't want to buy from PMC  
24 anymore because of this mysterious grape odor, and  
25 they even offered to go to PMC's plant and to figure

1 out the problem with them. And they told our company  
2 that it isn't all price, that it's quality, and that  
3 the way that we run our business and things like that,  
4 there's added-value things that they wanted. A couple  
5 of those things are the bulk bags that they wanted,  
6 the particular bulk bags; the service, the  
7 warehousing, and those kinds of things.

8 So in that case, I have to tell you, very  
9 honestly, that P&G's price was not driven down that  
10 far. It wasn't that bad. It was a decent meeting  
11 price.

12 I think the other thing is that, in regard  
13 to the chemical industry's business cycle, I have to  
14 say and I have previously stated in my preliminary  
15 testimony that the business cycle of the chemical  
16 industry in the past three years of 2002, 2001, and  
17 2002, a good three years, 90 percent of all our  
18 chemicals came down in price. So this was the  
19 business trend, that prices were coming down.  
20 Globalization had taken effect in many industries,  
21 including ours.

22 So yeah, there was some price erosion.  
23 We're not going to disagree with that. But at the  
24 same time it was happening even with the Korean  
25 material coming down. PMC had to adjust down in

1 price. All the other sweeteners came down in price.  
2 The aspartame, the Acephane K. The next surprise for  
3 PMC is going to be that Sucalose, the first patent by  
4 McNeil has already expired in March of 2003. There's  
5 one more coming that will come off, and the price of  
6 Sucalose will dive soon.

7 The other thing that's just interesting  
8 about this case, and if you can run a parallel, there  
9 is a Chinese company we know of that is gearing up  
10 right now to manufacture Sucalose. So the sweetener  
11 industry in general will experience another pricing  
12 decrease in regard to that sweetener which is gaining  
13 in terms of market share. The market share of Sucalose  
14 is gaining at least in the NAFTA region, the USA  
15 region. So we see that now coming too which will  
16 affect all the other sweeteners.

17 MR. WECHSLER: Directly to your question?

18 VICE CHAIRMAN HILLMAN: Given that the red  
19 light is on this obviously, Mr. Wechsler is going to  
20 be a big issue so we will no doubt come back to it.

21 Thank you.

22 CHAIRMAN OKUN: Commissioner Miller?

23 COMMISSIONER MILLER: Thank you, Madame  
24 Chairman, and thank you to all the witnesses for being  
25 here today.

1           Mr. Wechsler, I'll let you go ahead and  
2           respond if you'd like to the Vice Chairman's question.

3           MR. WECHSLER: To some extent there are  
4           apples and oranges issues in those price comparisons.  
5           Specifically while they have better quality they don't  
6           have some of the same services as the staff report  
7           points out, so the Chinese can't provide the same  
8           services here that a local company can.

9           Secondly, if you look at the customers of  
10          the Chinese versus the customers of PMC you'll find  
11          that the customers of the Chinese product are probably  
12          much larger in average size, their annual contracts.  
13          What that means is there are volume discounts gotten  
14          from worldwide purchasing by the multinationals and  
15          that's one of the reasons they're trying to go global.  
16          Both of those would cause the Chinese prices to be  
17          lower.

18          MR. PERRY: Commissioner Miller, could I add  
19          one point?

20          COMMISSIONER MILLER: If you could do so  
21          quickly, Mr. Perry. I want to go on to some other  
22          questions.

23          MR. PERRY: Very quickly.

24          In the 1993-1994 case one of the points we  
25          made was the alternative sweetener industry including

1 aspartame.

2 The Commissioners rejected the argument at  
3 that point because it was \$30 a pound. Now the price  
4 of aspartame is below \$10 a pound. We have a  
5 tremendous change in the sweetener market from the  
6 last case to this one.

7 COMMISSIONER MILLER: It wasn't going to be  
8 my first question but since it was going to linger  
9 there anyway I might as well ask.

10 I hear what you're saying about alternative  
11 sweeteners, but all of these other sweeteners are  
12 still much more highly priced than saccharin, are they  
13 not? So I don't really understand from a price  
14 perspective how they create downward pressure on  
15 saccharin because when they're so much higher priced  
16 as an alternative.

17 I do want to talk about just the market  
18 dynamics a little bit, but the price issue -- Your  
19 point, Mr. Perry, \$10 a pound, that's a whole lot more  
20 than we're looking at in this case.

21 MR. RITELL: Can I try to address that?

22 COMMISSIONER MILLER: Sure, Mr. Ritell.

23 MR. RITELL: I think it goes to a few of the  
24 other comments that we mentioned. The saccharin  
25 usage, or the perception out there by the consumer

1 market is fairly old now. It's like passe'. We don't  
2 see it as a growth market at all. There are other  
3 sweeteners that are more dynamic.

4 In the case, if I can select Sucalose again,  
5 if you don't mind, that particular one, yeah it's  
6 higher priced, but it's 600 times sweeter than sugar  
7 which is even more than saccharin now. Then there are  
8 some other ones that have been introduced to the  
9 market, Alatame and Tagatose and some other ones. So  
10 you have to take it in context to how much they're  
11 going to put in the packet or the diet beverage in  
12 terms of the percentage of times how much sweeter it  
13 is than sugar.

14 COMMISSIONER MILLER: In fact, in response  
15 to my question this morning, Mr. McCullough had said  
16 to me that, and I ask you whether you disagree with  
17 this characterization, that saccharin, as I understood  
18 his point it was on a sweetener basis was still over  
19 50 percent of the market, or is over 50 percent of the  
20 market. If you look at it not on a poundage but on  
21 whatever this sweeter equivalent is.

22 MR. RITELL: In the particular categories  
23 that we talked about, really the two largest of the  
24 six are tabletop and dental care toothpaste. So if  
25 you take the toothpaste market, I would agree that



1 that's probably one of the more used sweeteners in  
2 that particular market because the saccharin has  
3 become a commodity.

4 So again, going back to the business cycle,  
5 certain chemicals started specialties. The Ace K or  
6 the aspartame. aspartame will soon become a commodity  
7 because you can see the prices coming down. Saccharin  
8 is truly a commodity. It's been out in the  
9 marketplace now for 30 years. So it's used in some of  
10 the lower priced type of consumer items where the big  
11 retailers such as Wal-Mart and others want these price  
12 rollbacks and things like that. So it's a true  
13 commodity.

14 Now where you go with the specialties in the  
15 consumer market, if I can give an example again of  
16 Sugalose, for the first time last weekend at a  
17 restaurant I saw Splenda packets in on the table along  
18 with the Sweet 'n' Low and the Equal for the first  
19 time ever. I was pretty surprised by it, frankly,  
20 that this has made it now onto tabletops. Which means  
21 this is now pushing some of the market share away from  
22 the Sweet 'n' Low which is a saccharin product.

23 So these other new, more dynamic ones are  
24 making more of an input into the industry now. So  
25 there's a cycle.

1 COMMISSIONER MILLER: Mr. Torske?

2 MR. TORSKE: Thank you.

3 I'd like to compare maybe the sweetener  
4 situation with the car market. For example, saccharin  
5 I would compare with a Chevrolet and Acesulphane K and  
6 the Sugalose maybe as a Cadillac. So if the price --  
7 if the car market is weak, all car prices are coming  
8 down, not only the Cadillac, but also the Chevrolet,  
9 the Oldsmobiles, and so on. So everything is  
10 depressed in a low market. And if it's the other way  
11 around then all cars will be more expensive. So maybe  
12 that gives you a little --

13 COMMISSIONER MILLER: And yet this is an  
14 input. This product is an input. Other than the  
15 tabletop market, but still, that's what did we say, 20  
16 percent at most? It seems like everything's 20  
17 percent. Otherwise it's an input to everything.

18 The price pressures in inputs are a little  
19 different than they are in a consumer situation. It  
20 doesn't matter what Wal-Mart, their price pressures  
21 are on, I assume on Coke and Pepsi and whatever more  
22 than they are on the saccharin producer. It's an  
23 input.

24 MR. WECHSLER: If I could comment on that, I  
25 know what you're saying, but at the same time it's a

1 domino effect. So that then the Pepsi or Coke  
2 producers, they in turn can put pressure back on the  
3 supplier, so it kind of works that way too.

4 MR. WECHSLER: It's not just a question of  
5 fashion. It's basic economics and they've been  
6 changing between the sweeteners. There has been a  
7 secular steady change to the disadvantage of  
8 saccharin. It has to do with the functionality.

9 aspartame when it came on the market, and it  
10 now has a very large share, one of the problems in  
11 using it, it was a better sweetener, it didn't have  
12 the health issue, blah, blah, blah, but one of the  
13 problems in using it was it didn't have as stable a  
14 shelf life as saccharin so you had to use it much more  
15 close to the time you purchased it. That's now  
16 significantly expanded, meaning it's been put in the  
17 reach of a much more flexible set of uses and  
18 production.

19 You have Coca Cola which is almost totally  
20 in its diet colas in aspartame. Aspartame is more  
21 expensive per sweetening unit than saccharin is.

22 The issue is mooted because both of them  
23 cost such a low percentage of the final cost of the  
24 product, and one will get a consumer to not buy the  
25 product at all -- not all consumers, but some, enough,

1 and the other doesn't have the prejudice.

2           So they're looking for new ones. The basis  
3 of looking for the new ones is to get better  
4 functionality first, and then to the extent they can  
5 to get the price cheaper, and they're all aware,  
6 consumers are aware, that as you use an alternative  
7 sweetener over time, even when it's still on patent  
8 which aspartame no longer is but Sucalose and Ace K  
9 are. Even when it's on patent, the price drops  
10 rapidly.

11           So in going to the switch for a major  
12 customer is actually investing in a lower price later  
13 on for the new alternative as well.

14           COMMISSIONER MILLER: In your initial  
15 testimony and here repeatedly you've talked about  
16 saccharin's share being down. Does the study that you  
17 have referenced today have specific numbers on the  
18 market share of the different sweeteners on a  
19 comparable basis?

20           I've learned enough today to know I'm not  
21 sure the dollars per pound value really mean that  
22 much.

23           MR. WECHSLER: I think what you'd want is on  
24 a sweetening adjusted basis, all sweeteners.

25           I looked through there, I mean one of these

1 studies is huge and I've only had it a week so I never  
2 found quite that. Probably with some creative  
3 calculation you could get to that, but I haven't  
4 achieved that yet.

5 MR. AITKEN: Commissioner Miller, the report  
6 that Mr. Wechsler cited, the Business Communications  
7 Report of earlier this year, has the market for  
8 alternative sweeteners and saccharin by quantity and  
9 value each year. I think the record is quite clear in  
10 showing the sweetener concentration of saccharin and  
11 now a higher number close to saccharin for aspartame  
12 so you can. It doesn't take creative genius to do the  
13 calculation you're talking about.

14 Thank you.

15 COMMISSIONER MILLER: I have other  
16 questions, but I'll get back to them. Thank you.

17 CHAIRMAN OKUN: Commissioner Koplan?

18 COMMISSIONER KOPLAN: Thank you, Madame  
19 Chairman.

20 I too want to thank the witnesses.

21 Mr. Ritell if I could start with you.  
22 Respondents have repeatedly argued that the Koreans  
23 and Japanese could easily fill the demand for  
24 saccharin in the United States if an antidumping order  
25 is put in place against Chinese subject imports. You

1 testified I believe this afternoon that there were  
2 three Korean producers but today there's only one  
3 left.

4           Could you first identify for me for the  
5 record the three Korean producers you were referring  
6 to, and what type of saccharin they were producing  
7 when the two went out of business, and who's left?

8           MR. RITELL: Okay.

9           The first was Choheung La Sa; second was  
10 Kumyang; and the current one who's still in business  
11 is Shing Wan Jeil Moolsan.

12           COMMISSIONER KOPLAN: I'm actually following  
13 that, Mr. Wechsler.

14           (Laughter)

15           COMMISSIONER KOPLAN: Go ahead.

16           MR. RITELL: Basically the first one to go  
17 out was Choheung La Sa.

18           COMMISSIONER KOPLAN: When was that?

19           MR. RITELL: Probably approximately seven  
20 years ago.

21           COMMISSIONER KOPLAN: So they weren't  
22 producing during the period of this investigation?

23           COMMISSIONER KOPLAN: No. And I testified  
24 that two went out.

25           The other one, Kumyang, they went out of

1 saccharin approximately three or four years ago, about  
2 three years ago of that.

3 COMMISSIONER KOPLAN: Were they producing in  
4 2000?

5 MR. RITELL: If they were it might have been  
6 for the Asian Rim but we weren't buying from them. If  
7 we were it was very little and it was going to go out  
8 and it was gone and it was over.

9 COMMISSIONER KOPLAN: So for all intents and  
10 purposes they weren't around in the period of  
11 investigation.

12 MR. RITELL: That would be correct, yeah.

13 COMMISSIONER KOPLAN: That leaves Moolsan?

14 MR. RITELL: Jan Moolsan.

15 COMMISSIONER KOPLAN: Talk to me about their  
16 capacity and how much they were producing. And what  
17 kind of saccharin. We've got five different grades  
18 we're looking at.

19 MR. RITELL: Yeah. To my knowledge they  
20 produce all the grades we've talked about.

21 COMMISSIONER KOPLAN: All five.

22 MR. RITELL: I think it's four. Insolubles,  
23 sodium, calcium and spray dried. Do you have another  
24 one there? I have four.

25 COMMISSIONER KOPLAN: I've got five. I've

1 got sodium granular with 10-17 percent water; sodium  
2 powder with 3-6 percent water; I've got acid or  
3 insoluble, spray-dried which you just mentioned;  
4 calcium saccharin, granular spray-dried; and sodium  
5 saccharin, granular sized or unsized non-food grade.

6 MR. RITELL: Okay, the reason why it's  
7 probably five is because it's really the same, it's  
8 just that there's a technical grade thrown on there.

9 COMMISSIONER KOPLAN: Okay.

10 MR. RITELL: In regards to Jeil Moolsan,  
11 they've been in the business for a very long time,  
12 probably as long as I've been selling saccharin so at  
13 least 20 years. Their main market when we got in the  
14 business was diet beverage and they were the benchmark  
15 for that industry. And frankly, I still think they  
16 have some of the best material on the world market.

17 COMMISSIONER KOPLAN: When is the last time  
18 you visited that facility?

19 MR. RITELL: October of 2002.

20 COMMISSIONER KOPLAN: What I'm trying to  
21 understand is if prior to the period of investigation  
22 we had three Korean producers and now we're down to  
23 one, did the one producer acquire the plants of the  
24 other two?

25 COMMISSIONER KOPLAN: No. Choheung La Sa



1 basically had a fire awhile back and they decided that  
2 they were not going to rebuild. They made other  
3 things, too. They didn't just make saccharin. They  
4 made a whole family of products called sulfonamides.  
5 The way that they make saccharin is through the  
6 sulfonamide process. So they made things from the  
7 toluene and the chlorasulfonic acid route and they  
8 made things like rice herbicides, plasticizers, and by  
9 taking the OTSA or the orthaltine sulfonamide, then  
10 they would go and make saccharin from that.

11 They're basically out and they're not coming  
12 back.

13 The other firm --

14 COMMISSIONER KOPLAN: Excuse me, do you  
15 consider their product superior or inferior to the  
16 Chinese?

17 MR. RITELL: At the time?

18 COMMISSIONER KOPLAN: Now.

19 MR. RITELL: Choheung La Sa, they don't make  
20 it any more.

21 COMMISSIONER KOPLAN: I'm talking about --

22 MR. RITELL: Jeil Moolsan?

23 COMMISSIONER KOPLAN: Yeah, they're the only  
24 one left, right?

25 MR. RITELL: Yeah. I would by far say that

1 it's better. In fact not to in any way disrespect my  
2 colleagues here, but it's probably even a little  
3 better than the Chinese.

4 COMMISSIONER KOPLAN: But you prefer to  
5 purchase right now from the Chinese, right?

6 MR. RITELL: Yeah.

7 COMMISSIONER KOPLAN: That wouldn't be  
8 because the Chinese product is cheaper, would it be  
9 any chance?

10 MR. RITELL: Let me answer that. The Jeil  
11 Moolsan corporation has their own specific  
12 distributors, not us. So I really can't buy from  
13 them.

14 COMMISSIONER KOPLAN: Oh, okay.

15 MR. RITELL: So it doesn't have to do with  
16 price, it has to do with agreements.

17 COMMISSIONER KOPLAN: It's not available to  
18 you.

19 MR. RITELL: Right.

20 I wanted to get to the third one if you want  
21 me to, the third producer that went out.

22 COMMISSIONER KOPLAN: Let me stay with the  
23 one that's still on the market. I'm not as interested  
24 in the ones now that are gone.

25 If we're down to one plant that's producing,

1       how would we expect that if an order is put in place  
2       against China they're suddenly going to be able to  
3       step in with this one plant and take over what the  
4       Chinese have been supplying to this market?

5                   I note that this morning we heard that the  
6       Japanese only supply one customer segment of our  
7       market.

8                   So I'm trying to understand how the Koreans  
9       are suddenly going to meet our domestic demand. Do  
10      you see my problem?

11                  MR. RITELL: Yeah, and I think I can answer  
12      that.

13                  I think firstly the Korean producer can step  
14      up production.

15                  COMMISSIONER KOPLAN: Do you know what their  
16      capacity is?

17                  MR. RITELL: I believe it's at least 2000  
18      metric tons a year.

19                  COMMISSIONER KOPLAN: Okay, and what is your  
20      basis for that? Just out of curiosity.

21                  MR. RITELL: Out of some reports that we've  
22      gotten, that we've talked to them about.

23                  COMMISSIONER KOPLAN: Can you supply that  
24      information for the record?

25                  MR. RITELL: Yeah, I'll tell Bill to supply

1 it, no problem.

2 COMMISSIONER KOPLAN: For the record you're  
3 talking about your counsel

4 MR. RITELL: Yeah. And the only reason why  
5 I just want to explain the other producer, and I know  
6 that you said they're not producing, but the thing is  
7 that they maintain the process still that they make  
8 the other sulfonamides, so they could go back into it  
9 if they want. So that's why I wanted to mention that  
10 about the other one that went out.

11 COMMISSIONER KOPLAN: I hear what you're  
12 saying. But they're not in the market, they're not  
13 doing it now.

14 MR. RITELL: Not right now.

15 MR. PERRY: Could I add one thing,  
16 Commissioner Koplan? I was involved in the Chinese  
17 case originally, but I was also talking to the lawyer  
18 who represented the Koreans in the past case and this  
19 was back -- It was a very unusual process the Koreans  
20 have. I looked at the production process, it was much  
21 more complicated than the Chinese, because the  
22 saccharin was a byproduct. That allowed them to  
23 regulate their production process.

24 So I think what's going on here is the  
25 company went out but it could come back in by just

1 adjusting their production process.

2 COMMISSIONER KOPLAN: I know, but my point  
3 is it hasn't been in in the three years we're looking  
4 at. That's what I'm trying to understand. They  
5 exited before the period of investigation that we're  
6 looking at.

7 Let me if I could come to Mr. Torske for a  
8 minute.

9 You were mentioning Cumberland I believe in  
10 your direct testimony.

11 MR. TORSKE: Yes.

12 COMMISSIONER KOPLAN: Selling to Cumberland.  
13 And you talked about their switching to calcium  
14 saccharin.

15 MR. TORSKE: A long time ago they switched  
16 to Calcium.

17 COMMISSIONER KOPLAN: Actually that was in  
18 the 1970s, wasn't it?

19 MR. TORSKE: Yes.

20 COMMISSIONER KOPLAN: That was because of  
21 the warning label?

22 MR. TORSKE: Correct.

23 COMMISSIONER KOPLAN: And that was Mr.  
24 Kohler's testimony at the staff conference.

25 MR. TORSKE: That's correct, too.

1 COMMISSIONER KOPLAN: Okay.

2 Now the warning label has come off. There  
3 is no longer a requirement for that. Why wouldn't  
4 Cumberland possibly switch back now to sodium  
5 saccharin from calcium?

6 MR. TORSKE: As far as I know they are  
7 contemplating this step.

8 COMMISSIONER KOPLAN: Oh, they are  
9 contemplating that.

10 Okay, I see my yellow light is on and rather  
11 than go to another question I'll save it.

12 Thank you very much for your responses.

13 CHAIRMAN OKUN: Thank you. And again, thank  
14 you for being here and the answers you've provided so  
15 far.

16 Let me follow up on a couple of things  
17 related to the discussion you just had with  
18 Commissioner Koplan and some of the Vice Chairman's  
19 questions about the end use and where you're selling  
20 and where you're buying from in these cases.

21 I just want to make sure that the testimony  
22 I hear whether it's representative of the case, just  
23 so what I'm hearing is accurate, which is if I  
24 understood what you, Mr. Torske and you, Mr. Ritell,  
25 were saying about where the Chinese are in the market,

1 it is in the same place where, consistent with what  
2 the Petitioners testified to this morning as tabletop  
3 and dental being the bigger parts. There's  
4 electrosteel in there as well. But that none of you  
5 really seem to be in the diet soda market. Is that  
6 accurate or not? I just want to make sure that i'm --

7 MR. TORSKE: For Helm it's not.

8 CHAIRMAN OKUN: Okay.

9 MR. RITELL: We're in the diet soda market  
10 but we don't have a lot that's being sold of  
11 saccharin.

12 CHAIRMAN OKUN: And Mr. Wechsler, do you  
13 have anything contrary in terms of, again, I'm trying  
14 to figure out if the Chinese, based on what I hear it  
15 sounds like the Chinese product and the U.S. product  
16 are in the same end use market, competing in the same  
17 end use markets.

18 MR. WECHSLER: To the best of my knowledge  
19 they are. There's different reliance on contracts and  
20 spot sales between the two.

21 CHAIRMAN OKUN: The breakdown -- Your  
22 argument about --

23 MR. WECHSLER: The staff report has that.

24 CHAIRMAN OKUN: Okay

25 MR. AITKEN: Commissioner Okun, if I may.

1 We are happy to consult with the other companies that  
2 are in our coalition and see if we can get a response  
3 to your question for the post-hearing.

4 CHAIRMAN OKUN: That's fine. Just to make  
5 sure we have an accurate presentation of the record.

6 Vice Chairman Hillman had asked you to  
7 respond on the point of if the quality is better or if  
8 PMC has had problems why have the Chinese been able to  
9 increase their market share? Well, I guess her  
10 question was why no price premium when you're saying  
11 that the quality is better, and I followed your answer  
12 to that.

13 I guess my question also goes to the market  
14 share and the issue about the non-subjects having, as  
15 I just heard testimony from Mr. Ritell, about having,  
16 Koreans having very good quality.

17 If I look at the record of the case before  
18 us, I guess my question is if the quality is better  
19 both for the non-subjects and for the Chinese why is  
20 it that we see such a big shift in the Chinese market  
21 share relative to the non-subjects? Why wouldn't they  
22 have picked up in the non-subject area as opposed to -  
23 - PMC's going to lose sales because they can't supply  
24 the quality and they don't have good delivery and the  
25 whole myriad of problems you went through. What is it



1 about the Chinese product that has made it fill in at  
2 the rate it has?

3 It might be an economics question, but I'd  
4 also be interested in the industry's --

5 MR. TORSKE: In Helm's case, as I said  
6 before, we are predominantly selling to Cumberland and  
7 at times we were cheaper and at other times we were  
8 actually more expensive in the bidding process and  
9 even the actual sales and deliveries. I believe it was  
10 in 2002 when we accomplished a contract which had a  
11 higher price than PMC did and that was the feedback we  
12 received from the end user.

13 In this case it's the other way around. And  
14 I can only talk for Helm and Cumberland because we  
15 don't service any other accounts.

16 CHAIRMAN OKUN: Right. I understand that.

17 Mr. Ritell and Mr. Wechsler, you can comment  
18 on it as well.

19 MR. RITELL: I would say in general the  
20 customer base in general does want more than one  
21 source. I think that's an issue we really didn't talk  
22 about a lot today. I think that, in general, whether  
23 they're buying from just me, they might want PMC too.  
24 And if they're just buying from PMC, they might want  
25 some Chinese. These are very, very large companies

1 that buy massive volumes of saccharin. For them to  
2 just rely on PMC and if they have a labor strike they  
3 need another source.

4 So I think it's just good business. It  
5 doesn't always have to do with money. Sometimes it  
6 does. Sometimes it doesn't.

7 There's a lot of different industries that  
8 buy it. We mentioned tabletop. I think the adhesive  
9 industry buys some insoluble saccharin here and there.  
10 The agricultural industry buys it for feed so that the  
11 pigs and other types of livestock are attracted to the  
12 feed, to eat it. The electroplating industry, yes,  
13 some is used there. We both share a business. One of  
14 their companies that they're adjoined with is called  
15 Rachi which is in electroplating. So we're not going  
16 to get all that business. They use it and they have a  
17 portion of that business already.

18 The tobacco industry I guess a little bit's  
19 used there. It's not real big so they may have more  
20 than we have.

21 The dental care/toothpaste business. I  
22 think out of all the categories that we've talked  
23 about I think that's the one where we've seen the most  
24 of the quality issue and wanting to do business with  
25 the Chinese material.

1 MR. AITKEN: Chairman Okun, if I may.

2 Mr. Ritell just cited the notion that the  
3 very large manufacturing end users with massive orders  
4 do not want to rely on simply one source of supply. I  
5 simply invite you to look at the questionnaire  
6 responses of the large manufacturing end users. I'm  
7 confident you'll find the answer to your question  
8 there.

9 MR. WECHSLER: In short, from an economic  
10 point of view, the answer is with only one U.S.  
11 supplier they have been desirous of finding second  
12 sources of supply. The major customers were propelled  
13 away from PMC by its problems, and like Everest, when  
14 asked why climb it? Because it's there. The Chinese  
15 are there. They're not just there for the U.S.. A  
16 significant but minority share of Chinese exports come  
17 to the United States. I think it's about ten percent  
18 of Chinese exports come to the U.S.. So they're  
19 available as a large second source and they have  
20 facilitated something that the multinationals never  
21 before were in a position to try which is global  
22 contracting which has enabled them to force the costs  
23 down further. It's not the Chinese propelling the  
24 costs down. These are large customers who offering  
25 very large contracts in a situation where they have

1       been displeased with their prior suppliers, and now  
2       are able to get a better deal by offering more to  
3       potentially global suppliers.

4               CHAIRMAN OKUN:  Have you participated in or  
5       have any view of whether Internet auctions are  
6       relevant in this market?

7               MR. TORSKE:  We have participated in  
8       Internet auctions in the food market but not for  
9       saccharin.  That's for Helm.

10              CHAIRMAN OKUN:  Mr. Ritell?

11              MR. RITELL:  We've seen them out there.  
12       Very little for saccharin that we've seen.  And I  
13       think the way most companies are going into them now  
14       because they see the damage that they inflict upon the  
15       manufacturers, is that they have a price set before  
16       they go onto the Internet, and basically as this thing  
17       is moving, because it's a number, then they keep  
18       tumbling down in many cases.  We have our number, we  
19       put the number in.  If it goes under it, too bad,  
20       we're not going to participate any more.  That's the  
21       way it's going to be.

22              In the global marketplace with the Internet  
23       auctions, what happens is that there can be materials  
24       that are old like shelf life material that could be  
25       parked in another country some place.  It could be

1 PMC, it could be China, it could be Korea, it could be  
2 anybody's. Anybody can go on those internets. It's  
3 basically, they're unidentified parties that are  
4 participating.

5 So if a multinational does it, they know the  
6 risks that they're taking. I think that indeed if it  
7 came down to some ungodly low price, that they would  
8 seriously have to justify why that price is that and  
9 where that material is and why it's priced at that.

10 So I think that's another extreme that could  
11 happen, but we care not to participate in that type of  
12 thing.

13 CHAIRMAN OKUN: Okay. You haven't seen much  
14 of it.

15 All right. I see my red light is about to  
16 come on so I'll turn to Vice Chairman Hillman.

17 VICE CHAIRMAN HILLMAN: Thank you.

18 Mr. Chan if I could turn back to you. Do  
19 you produce saccharin only in Shanghai or do you have  
20 plants located in other parts of the world?

21 MR. CHAN: Only in Shanghai.

22 VICE CHAIRMAN HILLMAN: Again, I'm trying to  
23 understand this issue of becoming this sort of global  
24 supplier. I'm trying to understand how you see it  
25 differently. You talked about the business becoming

1 much more global and yet arguably you're supplying  
2 large companies out of one facility in Shanghai,  
3 arguably in the same way that PMC is supplying lots of  
4 people out of one facility in Cincinnati. I'm trying  
5 to understand what's so different about the way in  
6 which you supply a global customer that would be  
7 different from the way in which PMC would supply a  
8 customer.

9 MR. CHAN: I can only tell about what my  
10 comment, my feeling is. I don't know how PMC works.

11 But with some of the global customers we do  
12 the deliveries, we try to get everything done for  
13 them. We accomplish the delivery priced.

14 So I don't know why I can do it and they  
15 didn't or they haven't do it but it's a terms of how  
16 you service it.

17 VICE CHAIRMAN HILLMAN: When you say you're  
18 a global supplier what you really mean is you're  
19 shipping product out of Shanghai to --

20 MR. CHAN: To other countries all over the  
21 world.

22 VICE CHAIRMAN HILLMAN: -- wherever these  
23 large multinationals might want it.

24 MR. CHAN: Yes.

25 VICE CHAIRMAN HILLMAN: And when they're

1 bidding for the business they're bidding for you to  
2 supply them throughout the world in a large volume.

3 MR. CHAN: With some volume, yes.

4 VICE CHAIRMAN HILLMAN: Ms. Ni, I wondered  
5 if you could tell me a little bit about Suzhou's  
6 operation here in the U.S.. Is saccharin the only  
7 product that you market in the United States?

8 MS. NI: No.

9 VICE CHAIRMAN HILLMAN: Can you tell me what  
10 other products?

11 MS. NI: First, saccharin, all the grades of  
12 saccharin. Then we have aspartame and Vitamin C.  
13 Three products.

14 VICE CHAIRMAN HILLMAN: So two sweeteners  
15 and then Vitamin C.

16 MS. NI: Yes.

17 VICE CHAIRMAN HILLMAN: I wondered if you  
18 could tell us a little bit, both you and Mr. Chan to  
19 the extent that you know it, a little bit about this  
20 issue of the world market price, if there is one if  
21 you will for saccharin, and where you think the prices  
22 in the U.S. market are in comparison to prices in  
23 other third country markets.

24 Mr. Chan, presumably you're selling into  
25 other markets in Asia, Europe, elsewhere. How would

1 you describe U.S. prices as compared to prices in some  
2 of the Asian markets that you might be selling to or  
3 into Europe?

4 MR. CHAN: I think that is a little  
5 difficult there. In my testimony I am within the POI  
6 or even in the previous sales, we are in the calcium  
7 part and the insoluble part. And in the other in USA  
8 is mostly sodium. So I don't want to compare apples  
9 and oranges.

10 VICE CHAIRMAN HILLMAN: But within say  
11 calcium saccharin that you're selling, are you selling  
12 that in the Asian markets or the European markets?

13 MR. CHAN: No. Actually Calcium is main, I  
14 think 90 percent is used in USA. I think.

15 VICE CHAIRMAN HILLMAN: So you don't have  
16 any comparative prices.

17 MR. CHAN: I really don't.

18 VICE CHAIRMAN HILLMAN: How about the  
19 insolubles?

20 MR. CHAN: Insoluble I sell to Japan, but it  
21 also is high margin of prices.

22 VICE CHAIRMAN HILLMAN: How would you  
23 compare the prices in Japan versus the U.S.?

24 MR. CHAN: I think almost similar.

25 VICE CHAIRMAN HILLMAN: Ms. Ni, do you sell,



1 Does Suzhou do you know of sales outside of the United  
2 States, do you market your product from the U.S. into  
3 Canada, Mexico, Europe, anywhere else? Or is all of  
4 that done from China?

5 MS. NI: From China or from the U.S.?

6 VICE CHAIRMAN HILLMAN: From the U.S..

7 MS. NI: To Canada, which is Colgate-  
8 Palmolive. They have a facility there.

9 VICE CHAIRMAN HILLMAN: Do you do those  
10 sales to other places or do you sell only in the U.S.?

11 MS. NI: Only the U.S. and Canada. North  
12 America. No Mexico.

13 VICE CHAIRMAN HILLMAN: Do you know what  
14 prices are relative in Europe or the other Asian  
15 markets?

16 MS. NI: I have a feeling always like U.S.  
17 price is higher than we sell to, they say the average  
18 price we sell to the U.S. is higher than the average  
19 price we sell to Europe or Asia or South America.  
20 Like Colgate-Palmolive and P&G, I believe they, Europe  
21 and South America they use our material for years.  
22 Before the U.S. part buy from Suzhou too.

23 VICE CHAIRMAN HILLMAN: Mr. Ritell, do you  
24 export product out of the United States?

25 MR. RITELL: For the most part, no. It's

1 mostly here.

2 VICE CHAIRMAN HILLMAN: I guess if I can get  
3 back a little bit to this issue of the price  
4 competition, because I'm again trying to make sure I  
5 understand. I heard the responses to the last  
6 question I asked in terms of why do you think the  
7 Chinese price has stayed fairly consistently  
8 significantly below the U.S. price. I guess if I can  
9 go, Mr. Ritell to you or Mr. Torske. I heard the  
10 answers. I'm just trying to get your sense of again  
11 if in fact the Chinese product is this higher quality  
12 product, why aren't you charging more for it? Why does  
13 it stay so far below the U.S. price?

14 MR. RITELL: There are several issues with  
15 that. Firstly, when a customer is buying domestic  
16 material a lot of times as our sales and marketing  
17 department will tell you, the buyer will say when you  
18 make a sales call, well give me the reasons why we  
19 should do business with you. They usually say look,  
20 in the global market right now we think of two things,  
21 quality and price.

22 So you do have to be a little bit more  
23 competitive than the incumbent sometimes. You do.  
24 Because you have to give them a little incentive if  
25 they're satisfied with the quality that they already

1 have from PMC.

2 If they're not satisfied with the quality  
3 then obviously they'd pay the same or whatever.

4 Each customer that we have is a little  
5 different than the other one. There are businesses in  
6 the United States, especially during the period of  
7 your POI which is the period of recession in the  
8 United States, where some companies will tell you  
9 look, we have to get better prices on all our products  
10 or we're going to be out of business.

11 So you get into this whole conundrum of  
12 well, who are we saving here? I'm going to have a  
13 warehouse load of saccharin that I can't sell if I  
14 don't be at least competitive, and I won't have a  
15 warehouse full if I'm a little bit more competitive.

16 Now companies like say GM and Daimler-  
17 Chrysler and Ford, sometimes you get these letters  
18 from them, or my customers get them that are in  
19 plating. They'll say across the board we want 10  
20 percent lower prices on all the products we buy from  
21 you. You'll get this dictatum from these large auto  
22 makers. A lot of it again goes back like almost in a  
23 domino effect and it goes back to the suppliers of  
24 everything to the car and auto industry and so we'll  
25 get a letter from the customer that says look, we need

1 a little price rollback. In order for us to consider  
2 a second source, because we want two sources because  
3 we're global give us a few incentives.

4 So it's a little bit force fed but at the  
5 same time we try to negotiate the best prices we can  
6 with our suppliers and we try to negotiate the best  
7 prices we can with our --

8 VICE CHAIRMAN HILLMAN: Would you say that  
9 the prices for saccharin in electroplating translate  
10 into prices in toothpaste or tabletop? Are those  
11 customers aware of what everybody else is paying for  
12 saccharin?

13 MR. RITELL: Under the Robinson-Patman Act  
14 basically you are allowed to charge different  
15 industries different prices. Basically in the same  
16 industry there's got to be a general median price.

17 In general in terms of the electroplating  
18 industry, they don't buy anywhere near the volumes  
19 that the dental care or diet beverage does. Plus the  
20 fact that they're not really global companies.  
21 They're more small, mid-sized companies.

22 There are different prices for different  
23 industries which is allowed under law. I think the  
24 way that we're trying to address it is to negotiate  
25 the prices for the customer where we can, negotiate

1       them the best we can. That's what we do. That's what  
2       we're supposed to do. Otherwise we wouldn't sell  
3       anything.

4                   VICE CHAIRMAN HILLMAN: Okay. I appreciate  
5       those answers, thank you.

6                   CHAIRMAN OKUN: Commissioner Miller?

7                   COMMISSIONER MILLER: Thank you.

8                   Just a couple of things actually.

9                   One is, I wanted to ask Mr. Aitken or Ms.  
10       Coffield, you're representing the Pro-Trade Group's  
11       Sweetener Users Coalition. I think you said, Mr.  
12       Aitken, that there are eight companies that are part?  
13       Who are the members of the coalition?

14                   MR. AITKEN: The Pro-Trade Group is an open  
15       trade coalition. It was founded in 1986. It's  
16       chaired by Ed Black, President of the Computer  
17       Communications Industry Association. He and they  
18       therefore are the first group.

19                   Then Consumers for World Trade which is a  
20       20-30 year old consumer-oriented trade group is part  
21       of this as well.

22                   The eight companies that are in the industry  
23       are Aceto Associated Brands, which is a manufacturer;  
24       Cokum Associates; Colgate-Palmolive, another  
25       manufacturer; Cumberland Packing, another

1 manufacturer; DazTech International; Helm New York;  
2 and Rit-Chem. So three end user manufacturers are in  
3 this group.

4 I would also add that although they're not a  
5 member of this coalition, it's a matter of public  
6 record that Procter and Gamble entered an appearance  
7 in the Department of Commerce investigation with a  
8 position opposite to that of PMC.

9 COMMISSIONER MILLER: In your pre-hearing  
10 submission you had said you were going to discuss  
11 further the issue of like product. Is it still your  
12 position that the Commission should -- What is your  
13 position on like product?

14 MR. AITKEN: We're not quarreling old  
15 battles. That issue, Commissioner Miller, was  
16 discussed in 1994 and again in the preliminary  
17 investigation here.

18 What we're trying to point out is that in  
19 the context of conditions of competition there are  
20 differences in saccharin. Mr. Torske addressed that  
21 in his chief presentation today in terms of the three  
22 different saccharin types, the different end users.

23 He cited for example, the fact that  
24 Cumberland switched from one type to another because  
25 of the saccharin scare, which I might add still has a

1 hangover.

2 I was interested to hear this morning that  
3 Mr. McDonough said he's looking forward to trying to  
4 dispel the bad image of saccharin.

5 I think that speaks volumes. That  
6 particular product still have a consumer hangover. So  
7 there are differences in saccharin, but no, we're not  
8 arguing like product per se.

9 COMMISSIONER MILLER: I just wanted to make  
10 sure for purposes of the record then you're not taking  
11 the position that we should find two like products.  
12 Separate like products. At least for purposes of this  
13 record.

14 All right. I have no further questions. I  
15 appreciate all the testimony today. Thank you very  
16 much.

17 CHAIRMAN OKUN: Commissioner Koplan?

18 COMMISSIONER KOPLAN: Thank you, Madame  
19 Chairman, and I want to thank Mr. Wechsler for this  
20 because he pointed out that the reporter would  
21 probably have a bit of a problem following the names  
22 of the three Korean companies that we were talking  
23 about, so let me do this for the record. If anybody  
24 has a quarrel with the spelling that I'm going to put  
25 into the record, correct me.

1           One of them, Mr. Ritell, Choheung Chemical,  
2 I don't know if I'm pronouncing it right, but I would  
3 spell it C-H-O-H-E-U-N-G Chemical Company.

4           They're no longer producing and haven't been  
5 producing during the period of investigation.

6           The second one that's no longer producing,  
7 K-U-M-Y-A-N-G Company.

8           MR. RITELL: Both correct.

9           CHAIRMAN OKUN: And the one that has been  
10 producing during the period of investigation, and I  
11 don't know if I'm spelling this right. Jeil Moolsan  
12 Company, that's J-E-I-L M-O-O-L-S-A-N Company.

13           MR. RITELL: They're all correct.

14           COMMISSIONER KOPLAN: Thank you.

15           I'm curious. Let me run through this with  
16 you and let you respond.

17           Mr. Aitken, I'm curious, and let me run  
18 through this and let you respond. I'm curious as to  
19 what's the shelf life of aspartame? I note that when  
20 I pick up a bottle of Diet Pepsi it lists aspartame as  
21 an ingredient and contains the following warning:

22 "Drink by date on bottle for best taste."

23           I'd like for you to explain to me what  
24 possible effects are incurred by drinking that bottle  
25 past what I would term its expiration date. How does



1 the shelf life of aspartame compare to that of  
2 saccharin?

3 I note that the staff report at Chapter 1 at  
4 page 5 makes the following observation: "Because of  
5 the limited shelf life of aspartame the large package  
6 soft drink manufacturers continue to use saccharin in  
7 their products for use in beverage dispensing  
8 equipment."

9 I also note that PMC stated that roughly 20  
10 percent of its total sales of saccharin is used in  
11 products that contain blends. You drew my attention  
12 to this by only partially citing on page two of your  
13 pre-hearing brief information that appeared in the  
14 first paragraph at Chapter 1, page 5 of the staff  
15 report.

16 Can you help me out on this?

17 MR. AITKEN: Point here is that the quality  
18 of aspartame both in terms of stability and shelf life  
19 as we understand it has improved. Not being a chemist  
20 I'm somewhat at odds to give you a more detailed  
21 answer. I'd be happy to consult with the companies  
22 that we represent and try to address that in the post-  
23 hearing submission.

24 COMMISSIONER KOPLAN: Let me ask this. Ms.  
25 Ni, when you testified a moment ago you said that you

1 all produce both aspartame and saccharin.

2 MS. NI: We don't produce aspartame. We  
3 don't produce aspartame. But U.S. office sells  
4 aspartame.

5 COMMISSIONER KOPLAN: You sell aspartame. Do  
6 you know what the shelf life of aspartame is?

7 MS. NI: The factory sometimes says two  
8 years, sometimes says three years. So I think between  
9 two to three years, aspartame.

10 COMMISSIONER KOPLAN: And saccharin?

11 MS. NI: Saccharin usually we say five  
12 years. Sometimes say four years. So four to five  
13 years.

14 COMMISSIONER KOPLAN: Thank you.

15 Anything you can add to that in the post-  
16 hearing, Mr. Aitken, I'd appreciate it. Thank you.

17 Mr. Ritell. At page 10 of its pre-hearing  
18 brief Petitioner states, "Respondents argue that  
19 imports from China have simply replaced imports from  
20 Japan and Korea and therefore have not negatively  
21 affected PMC's shipments."

22 They cite Respondent's post-conference brief  
23 and the staff conference.

24 They then point out what I would term the  
25 vast difference between the market share gained by

1 those two non-subject countries and the market share  
2 lost by PMC during the POI.

3 They then cite your testimony, at page 79 of  
4 the staff conference regarding the growth of imports  
5 from China, and I quote, "If anything, it's  
6 displacement of suppliers. Meaning that going out and  
7 doing your job and trying to get sales and displacing  
8 either the Korean, the Japanese or PMC at least  
9 nationally."

10 That was you at the staff conference.

11 It appears to me that you were acknowledging  
12 that subject imports successfully competed directly  
13 with PMC during the period of investigation.

14 When I couple that with the fact that prices  
15 of saccharin from China were consistently lower than  
16 PMC's prices to end users in all five product  
17 categories by margins that range between 9.4 percent  
18 and 59.6 percent, I would say at least as far as I'm  
19 concerned you're a bit between a rock and a hard place  
20 with me.

21 Could you take this opportunity to change my  
22 mind?

23 MR. RITELL: First of all, the displacement  
24 has to do again with some of the quality issues. I  
25 know that you probably looked at the particular

1 statistics on the pricing coming in.

2 As I was --

3 COMMISSIONER KOPLAN: Excuse me, but your  
4 statement was going out, doing your job, trying to get  
5 sales, and displacing -- That sounds like you're just  
6 going out and trying to sell your product, right?  
7 What does that mean?

8 MR. RITELL: There's a marketing plan. It  
9 sounds like from that statement there's no plan?  
10 There is a plan. The plan is to go in and ask a  
11 customer how happy they are with the current  
12 incumbent.

13 So we're getting the comments from them.  
14 I'm not some white knight coming in there and all of a  
15 sudden displacing their business. They have to have a  
16 reason to do business with me. So there are reasons  
17 they want to do business with me. I'm not giving them  
18 -- They're going to ask me what their needs are and  
19 I'm going to answer what I can top perhaps get the  
20 business. So it's a two-way street I guess is what  
21 I'm saying.

22 COMMISSIONER KOPLAN: Is the marketing plan  
23 in writing? Do you sit down and work up a marketing  
24 plan before you go out and work your sales?

25 MR. RITELL: Basically you make a sales call

1 and you have a product line and then you sit there and  
2 you ask the customer what products would you be  
3 interested in having other sources for.

4 In the cases perhaps of saccharin there's  
5 been well, this particular product we've had a quality  
6 problem, and we'd like to have another source.

7 Just because Korean and Japanese material  
8 was coming into the country, that doesn't mean that  
9 that company in particular was buying from them.

10 COMMISSIONER KOPLAN: Can you document for  
11 me instances where you've been told that we have a  
12 quality problem and we're looking for another source?  
13 How much detail can you provide for me as to who,  
14 what, where, when and which of our five products we're  
15 talking about.

16 MR. RITELL: In the post-conference brief  
17 under a business proprietary I posted on the top right  
18 of a call report for, now it's not proprietary any  
19 more, so under, I supplied you with Procter & Gamble's  
20 call reports that we made, and it clearly has on there  
21 that there was a grape odor. For the last three  
22 years. That's why we got the business.

23 We didn't cut the price to get the business.  
24 That's why we got the business, period. Because they  
25 had a grape odor.

1                   COMMISSIONER KOPLAN: That's one example.  
2                   Is that the one example you've got over the three year  
3                   period?

4                   MR. RITELL: No. I was just on our account  
5                   in the Midwest three weeks ago --

6                   COMMISSIONER KOPLAN: I mean during our  
7                   three year period. Do you have--

8                   MR. RITELL: Yeah, that's what I'm saying  
9                   now. I was just there again and I was explaining it  
10                  to this customer why I'm going to Washington and he  
11                  says, "Oh, PMC's material? There's something about  
12                  it. It clumps up. That's why we do business with  
13                  you, Wayne Ritell."

14                  COMMISSIONER KOPLAN: Can you provide  
15                  something that documents that for the post-hearing  
16                  submission?

17                  MR. RITELL: Yeah. Do you want me to keep  
18                  going?

19                  COMMISSIONER KOPLAN: Sure. I asked you the  
20                  question.

21                  MR. RITELL: In certain other instances  
22                  there are companies that have one source. It was PMC.  
23                  They want another source. They don't want one source.  
24                  They want two. At least two because there can be  
25                  something catastrophic happen, there can be a strike,

1 there could be a quality problem, there could be  
2 anything.

3 COMMISSIONER KOPLAN: But dual sourcing  
4 doesn't necessarily relate to quality at all. That's  
5 just covering yourself, isn't it?

6 MR. RITELL: It could be a number of reasons  
7 which I said. It could be they just want another  
8 source. It doesn't mean that the quality that they're  
9 getting is bad. They want another source.

10 COMMISSIONER KOPLAN: Mr. Torske, I see  
11 you're trying to get in. You've got your hand up.

12 MR. TORSKE: May I?

13 I'm totally confused about the big price  
14 differences which you quoted before and I'm wondering  
15 whether we are comparing here both delivered prices,  
16 in other words Rit-Chem's and Helm's prices to the end  
17 user, or whether we are comparing FOB China prices  
18 versus delivered prices from PMC.

19 COMMISSIONER KOPLAN: Let me explain to you  
20 because I see my light's about to go off.

21 I would get into the details on that for you  
22 if I could but it's business proprietary. But let me  
23 give you at least a broad picture.

24 What I have are tables, separate tables for  
25 each of the product lines that we're talking about on

1 a quarterly basis. And that's as far as I can go  
2 here, but both counsel and Mr. Wechsler know exactly  
3 what I'm referring to, and you're at a disadvantage on  
4 that because it's business proprietary. But it's very  
5 specific.

6 Thank you. My time has expired. We can  
7 come back.

8 MR. AITKEN: Chairman Okun, I wonder if I  
9 could comment on Commissioner Koplan's question?

10 CHAIRMAN OKUN: You can actually, switch it  
11 to my time and you can go ahead and comment on my  
12 time.

13 MR. AITKEN: Thanks.

14 Commissioner Koplan, you asked I think a  
15 very important question to Mr. Ritell about specific  
16 instances of companies that he's aware of who because  
17 of quality problems discontinued from PMC and he cited  
18 Procter & Gamble.

19 I'd simply urge you again and again to look  
20 at the issue of whether or not the questionnaire  
21 responses of the major manufacturing end users tell a  
22 similar story.

23 The answer to your question is there, and I  
24 promise you we will address this in the post-hearing  
25 submission.



1                   COMMISSIONER KOPLAN: I'm familiar with the  
2 one he cited. Any additional detail you can provide  
3 post-hearing would be very helpful.

4                   MR. AITKEN: Yes, sir.

5                   COMMISSIONER KOPLAN: Thank you.

6                   Thank you, Madame Chairman.

7                   CHAIRMAN OKUN: I just have a couple of  
8 things, and on one question if you've already  
9 responded you can point that out.

10                   With regard to demand over the period of  
11 investigation, and I heard the early testimony and  
12 your description of saccharin and that it would differ  
13 from what you believe is the Petitioner's kind of rosy  
14 description of the market.

15                   But I'm curious of the response on just  
16 again looking at the record, and this might be best  
17 for you, Mr. Wechsler, in terms of what we see in the  
18 record about apparent consumption.

19                   I understand your argument has been with  
20 regard to inventories, but I'm just looking through  
21 the staff report and what purchasers and importers  
22 said and again, I don't know what saccharin's long  
23 term future is but I'm just trying to understand  
24 during the period of investigation what the argument  
25 is because I would think it's still, whatever is

1       happening in the market I still see an increase in  
2       there. And I'm not sure what contradicts that.

3               MR. WECHSLER: Ignoring the unknowns of the  
4       inventory adjustments, you see an increase but you  
5       also see basically it's a curve that tops off in the  
6       current year. The increase is smaller in 2003 than it  
7       was in 2002 than it was in 2001. So when I  
8       characterized it I said either it's reached a peak or  
9       it's declining. My sources, the industry reports I  
10      looked at and customer perception.

11             CHAIRMAN OKUN: I understand what, and I'd  
12      be interested to see the reports and to get whatever  
13      we can in the record to the kind of forward-looking  
14      demand. I'm just trying to understand the POI in  
15      terms of the business cycle or what the conditions  
16      were in the POI. The argument there is really  
17      just that the inventories might impact that and  
18      therefore --

19             MR. WECHSLER: Another key thing is the  
20      implications of even the Commission's numbers are,  
21      given the expansion of sweetener usage in general,  
22      that the share held by saccharin is declining even if  
23      the quantity hasn't declined.

24             CHAIRMAN OKUN: I'll just turn back, Ms. Ni  
25      or Mr. Chan, do you have any comments? When you're

1 looking at the U.S. market with regard to saccharin,  
2 what do you see? Ms. Ni, you testified you're in  
3 aspartame as well. But do you see it as a growth  
4 market, a mature market?

5 MS. NI: Could you say it one more time?

6 CHAIRMAN OKUN: When you're looking at the  
7 U.S. market, what kind of market you see, potential  
8 for sales. With the removal of the warning and  
9 otherwise. Do you see there's potential or have you  
10 heard from people that they are -- We heard this  
11 morning that maybe some companies were testing new  
12 products that might be using saccharin. Is that  
13 something that you were aware of?

14 MS. NI: I don't know anybody try to use  
15 saccharin like a new customer, no.

16 I did have people call me if I have Sucrose  
17 and I did find a factory in China makes Sucrose, but  
18 not big, they are developing still. I think the lab,  
19 how to say, is in the lab, not industrial. But I know  
20 there is a patent issue. But people do ask Sucrose.

21 CHAIRMAN OKUN: Mr. Chan, anything further  
22 on that?

23 MR. CHAN: Well as for my response, because  
24 I am really concentrating the insoluble and the  
25 calcium, and the calcium is really developed in the

1 sense of a colleague of a Japanese manufacturer who is  
2 coming, maybe coming back. So I think we are looking  
3 at this market as a stable market. As we know, not so  
4 much comment on how aggressive or how we do it.

5 CHAIRMAN OKUN: Okay. I just wanted to make  
6 sure I'd heard your comments on that.

7 When the phenylalanine, whatever it is that  
8 appears on aspartame. Will that be the last warning?  
9 Will it be the only thing left now in terms of what's  
10 left on the artificial sweeteners? Will any of them  
11 carry a warning? If saccharin's warning is gone and  
12 this is the warning that I see, just what you see as a  
13 consumer. I'm just curious if you have any knowledge  
14 of that.

15 MR. RITELL: It's hard to answer that  
16 question and I'll tell you why.

17 There's a case right now where the German  
18 manufacturer of the Acephane K, in order to ward off  
19 the Chinese is coming up with a specification on their  
20 own stating to the FDA that the chloride content of  
21 the Chinese Acephane K is maybe too high versus  
22 theirs.

23 So the way that the market works is to come  
24 up with something, whether it's true or not, to try  
25 and ward off competition.

1           So sometimes these things are a bit of a  
2 fallacy because if you think about it the original  
3 warning for saccharin shouldn't have been there. You  
4 know, so some of these warnings are put there by  
5 sometimes just ways and means that we don't  
6 understand. So it's hard to answer your question  
7 because something could be put on there but it doesn't  
8 actually mean that it's as bad as they say it is.

9           CHAIRMAN OKUN: But right now, I mean, just  
10 in terms of the current without that happening right  
11 now, that the phenylalanine --

12           Phenylalanine is a raw material that's used  
13 to manufacture the aspartame, so there's probably some  
14 residual in there. And in some FDA book or criterion,  
15 there's a maximum limit that should be on there and  
16 vis-a-vis because of that maximum limit, they put that  
17 on there for the safety of the consumer.

18           CHAIRMAN OKUN: Do they get out of that, if  
19 they blend it, if that's the level? I don't need to  
20 this for the case; I'm sorry. If you're blending it,  
21 do you get out of putting that label on there?

22           MR. RITELL: I don't think so, because it's  
23 probably residual that's in the aspartame. So, if you  
24 blend it, if you're still using aspartame, it's  
25 probably still on there.

1                   If I can conclude with that, the Diet Rite  
2 Corporation has stopped making their diet soda with  
3 the aspartame. It is now using Acephane K and  
4 sucolose in their Diet Rite soda and that's the way  
5 their getting around not putting that warning on their  
6 diet soda bottles.

7                   MR. WECHSLER: On this labeling thing, one  
8 thing, I think there was some misleading information  
9 this morning. I believe someone said that there was  
10 no warning required on saccharin in Canada. That's  
11 technically true, because the best information we have  
12 is that any use of saccharin is banned in Canada.  
13 It's simply not in food products. You don't find  
14 saccharin in Canadian produced drinks. So, they don't  
15 need a warning label, because they can't use any  
16 saccharin at all in the beverages.

17                   CHAIRMAN OKUN: Okay. Let me see if my  
18 colleagues have other questions. Vice Chairman  
19 Hillman?

20                   VICE CHAIRMAN HILLMAN: Well, actually, Mr.  
21 Wechsler just -- I have one question to Ms. Ni. You  
22 had testified earlier that you sell saccharin to  
23 Canada; is that correct?

24                   MS. NI: Right.

25                   VICE CHAIRMAN HILLMAN: Okay. So, I'm just

1 trying to understand. Mr. Wechsler just said that  
2 saccharin is banned in Canada. But, if you're selling  
3 --

4 MS. NI: Banned in food, but sell to  
5 toothpaste company. We sell to Colgate.

6 VICE CHAIRMAN HILLMAN: Okay.

7 MS. NI: Yes. It's only banned in food.

8 VICE CHAIRMAN HILLMAN: I appreciate that.  
9 And I guess, Ms. Ni, maybe to you, because you're both  
10 selling aspartame and saccharin, or Mr. Ritell, I was  
11 just trying to understand, for those that blend, that  
12 use some sort of a blend, if they want to switch their  
13 blend to using more saccharin, more aspartame, less  
14 something, you know, some other blend, how long does  
15 it typically take a food company that wants to switch  
16 its formula or a soft drink company?

17 Presumably, this is not something they can  
18 do quickly. I mean, they have to do a lot of taste  
19 testing and reconfiguring of their formula. Give me a  
20 sense of how long it takes and how readily you see  
21 these switches occurring and people switching from  
22 using one sweetener -- or one percentage of one  
23 sweetener to another?

24 MR. RITELL: I'm going to answer that, try  
25 to stay general, and say two years. My wife is a test

1 taster for Kraft Corporation, so it really goes from  
2 inception, to consumer taste, and usually to one  
3 product first. And then if that product is good and  
4 it's accepted, then they may generally switch it over.  
5 So, that two-year period could be for just one product  
6 and then it can take maybe another few years to then  
7 go and switch other products. But, there is a trend  
8 to do that; you're right.

9 MR. WECHSLER: There's a footnote to the  
10 time period, which is, I don't disagree with that  
11 information; but major companies, like Colgate-  
12 Palmolive, and P&G, and Unilever, and whatnot, are  
13 always testing the new products, even if there isn't  
14 an intention to do a long-term switch. So, they  
15 really have shortened the process somewhat, because  
16 they're developing, as they go along, information on  
17 the alternatives.

18 VICE CHAIRMAN HILLMAN: And, Ms. Ni, from  
19 your perspective, are you seeing customers of yours  
20 switch between aspartame and saccharin, or vice versa?

21 MS. NI: I am not aware of that switch.

22 VICE CHAIRMAN HILLMAN: Okay. All right. I  
23 think that's all the questions that I have. I thank  
24 you all, very much, for your answers. And, again, we  
25 appreciate your taking the time to be here. Thank



1 you.

2 CHAIRMAN OKUN: Commissioner Koplan?

3 COMMISSIONER KOPLAN: I have a couple of  
4 short ones. First, Mr. Aitken, in your brief, at page  
5 nine, you say that, "whether due to dual use of the  
6 machinery or equipment failures, because of poor  
7 upkeep, et cetera," and then you go into the quality  
8 issue. This morning, I heard from the domestic  
9 industry that they do not have dual use of their  
10 machinery, that they keep that completely separate.  
11 Were they lying?

12 MR. AITKEN: Well, I can't answer that,  
13 Commissioner Koplan. I think it's certainly an issue  
14 that the staff ought to verify. Our information was  
15 contrary to what they said and I can't comment on  
16 that. I haven't seen their plant. I think the staff  
17 ought to investigate that.

18 COMMISSIONER KOPLAN: Can you provide me for  
19 the record with your information that --

20 MR. AITKEN: Yes, sir.

21 COMMISSIONER KOPLAN: -- you got, the dual  
22 use of their machinery?

23 MR. AITKEN: Yes, sir. We will try to get a  
24 statement from the company that gave us that  
25 information.

1                   COMMISSIONER KOPLAN: Thank you. And I'd  
2 like to know, in terms of when -- you know, who,  
3 where, and when, those questions.

4                   MR. AITKEN: Sure.

5                   COMMISSIONER KOPLAN: So, we place it within  
6 the period of investigation.

7                   MR. AITKEN: And, Commissioner Koplan, one  
8 other comment, if I may, as to some of the questions  
9 you and others asked about price. I think it's  
10 important to stress that some of the questionnaire  
11 responses, I can't comment on them, but let's simply  
12 say that in the industry among the major manufacturing  
13 end users, obviously, quality is important. I think  
14 the staff report speaks for itself on that, both in  
15 the old case and in the preliminary and in the current  
16 investigation. But to the extent that price was a  
17 factor, it's total delivered cost more than unit price  
18 that these large companies focus on, first of all,  
19 because of transportation. Some sources cost more  
20 than others and that helps PMC.

21                   But on the other hand, the cost of  
22 remediation, in terms of curing a problem of quality,  
23 that's part of total delivered cost, too. And I think  
24 the record speaks to that. I feel it's important to  
25 point that out, because the witnesses didn't.

1                   COMMISSIONER KOPLAN: Let me just say to  
2 you, I believe that for the post-hearing, you are able  
3 to comment on them; right?

4                   MR. AITKEN: Yes, sir.

5                   COMMISSIONER KOPLAN: So, I'd like the  
6 specifics and as much documentation as you have on  
7 that. You're not precluded from commenting on them.

8                   MR. AITKEN: Thank you.

9                   COMMISSIONER KOPLAN: Okay. And then my  
10 last point, I've gone back and looked at Colgate, with  
11 regard to the allegation that there was a quality  
12 problem with the product. And I would direct counsel,  
13 both Mr. Perry and Mr. Aitken and I guess, Mr.  
14 Wechsler, as well, to the staff report, at II-5, there  
15 is a discussion there that goes over, I guess, to the  
16 next page. But let me just say, I don't find -- I am  
17 unable to find anything with regard to Colgate,  
18 itself, experiencing a quality problem with this  
19 product; Colgate, itself.

20                   Now, Colgate was going to be a witness here  
21 today and I know at the last minute, that wasn't  
22 possible. But, I don't find it in the record, okay.  
23 So, if you have evidence of that, I'd appreciate that  
24 post-hearing.

25                   MR. AITKEN: Yes, sir, you'll get it.

1                   COMMISSIONER KOPLAN: Thank you. Mr. Perry,  
2 I'm asking you, as well.

3                   MR. PERRY: Absolutely.

4                   COMMISSIONER KOPLAN: Thank you. I have  
5 nothing further. Thank you all, very much. Thank  
6 you, Madam Chairman.

7                   CHAIRMAN OKUN: No other questions from my  
8 colleagues. Let me ask staff, does staff have  
9 questions for this panel?

10                  MS. NOREEN: Bonnie Noreen with the Office  
11 of Investigations. Staff has no questions.

12                  COMMISSIONER KOPLAN: Mr. Hartquist, do you  
13 have questions for this panel?

14                  MR. HARTQUIST: No questions.

15                  CHAIRMAN OKUN: Before we go to closing, let  
16 me just notify parties that the Petitioners have 33  
17 minutes remaining, including five for closing.  
18 Respondents have 16 minutes, including five for  
19 closing. So, we will turn to those next. But before  
20 I do, I want to thank this panel, very much, for your  
21 testimony, for your willingness to answer questions,  
22 and for the information you'll be providing post-  
23 hearing. And you can go ahead and get up from your  
24 front row here.

25                  MR. AITKEN: Thank you.

1                   CHAIRMAN OKUN: We'll let Mr. Hartquist come  
2 up for his closing and rebuttal.

3                   (Pause.)

4                   CHAIRMAN OKUN: Okay, you may proceed.

5                   MR. HARTQUIST: Thank you, Chairman Okun. I  
6 read, I think, this morning in the newspaper that for  
7 men 55 and over, 90 percent of us will develop high  
8 blood pressure in the next 20 years. I'm older than  
9 55 and I think mine went up about 20 points during the  
10 course of the day today. And, hopefully, it's going  
11 to come back down when I finish with my closing and  
12 rebuttal. There are a lot of points that need to be  
13 addressed. I'm certainly not going to use the 33  
14 minutes, but I will use about 10 minutes probably of  
15 my time.

16                   Let's start with Mr. Wechsler's comment  
17 about PMC's problems as a company. He cited a DNB  
18 report. By the way, the company is privately held.  
19 It's not a public company. What that DNB report shows  
20 is that parent company, which owns many businesses, is  
21 very healthy, with a net worth of over \$100 million.  
22 What it, also, shows is that PMC Specialty, the  
23 saccharin producer at issue today, is losing money.  
24 And, of course, that's on the record in the  
25 questionnaire data. That's our point. That's why

1 we're here.

2 On the issue of growth opportunities in the  
3 market, we're going to provide, I think, some very  
4 interesting and very confidential information to the  
5 Commission in the brief on new opportunities to market  
6 saccharin. I can't blame Mr. Wechsler for being  
7 ignorant of these opportunities, because they're  
8 closely held. They're discussed by customers or  
9 potential customers with saccharin suppliers. And in  
10 a number of cases, as we will advise you, there are  
11 companies that are working on applications for which  
12 we think there are significant markets, but where the  
13 customers don't tell PMC what the applications are.  
14 You know, it's like Coke and the secret formula that  
15 make Coca Cola. But, I think you'll be interested in  
16 what we provide.

17 Now to some numbers. Mr. Aitken commented  
18 that Proctor & Gamble stopped buying from PMC three  
19 years ago, because of quality problems. Proctor &  
20 Gamble's applications, as you heard in the testimony,  
21 are generally for things like toothpaste, mouthwash,  
22 dental products, the kind of consumer products that  
23 you see on the shelves in the drugstores and grocery  
24 stores. Far from stopping purchasing from PMC three  
25 years ago because of quality problems, they've been a

1 very significant customer.

2           And let me read you some numbers. These are  
3 numbers that have been provided to me by PMC. I'm  
4 going to give you simply the number of pounds  
5 purchased by Proctor & Gamble during the period of  
6 investigation and since that time, and I think you'll  
7 find them to be very interesting. In the year 2000,  
8 478,000 pounds of saccharin; in the year 2001, 245,000  
9 pounds of saccharin; 2002, 175,000 pounds of  
10 saccharin. And here's another interesting one, for  
11 the first months of 2003, January through April,  
12 208,000 pounds of saccharin, which if you annualize,  
13 comes to over 600,000 pounds.

14           What happened during that time? Chinese  
15 imports came in. They cut the prices. Proctor &  
16 Gamble cut their purchases from PMC. And then we had  
17 a preliminary decision in January and, boy, those  
18 orders went right back up, and they're expected to be  
19 very substantial this year.

20           Commissioner Hillman, just one comment on  
21 your question about whether liquid saccharin was  
22 included in the questionnaire data. We did check that  
23 and advised Mr. Na that, yes, that data is included in  
24 the questionnaire.

25           To the much discussed quality problem, you

1 know, it's interesting that in so many of these  
2 hearings we get into quality issues, and usually, the  
3 stronger the injury case is, the more you here  
4 quality, because there's not much else to talk about.  
5 PMC is clearly injured and so, we look at other  
6 issues. I will simply state that to PMC's knowledge,  
7 they have never lost a single customer because of  
8 quality. They've never lost a single customer because  
9 of quality.

10 The issue of price, of course, absolutely.

11 The issue of the grape odor, it's a red  
12 herring or a grape herring, perhaps. And the reason I  
13 say that is because in working with this one  
14 particular customer, it's really never been  
15 established as to whether there is a grape odor or  
16 isn't. It has never been success in trying to measure  
17 it or quantify it. And in some cases, it's sort of a  
18 matter of opinion between Mr. Jones and Mr. Smith, as  
19 to whether they can smell the grape odor.

20 But, here's the important point. Whether  
21 there's a grape odor in the product or not has no  
22 effect on the end use, because during the processing  
23 of the saccharin, it loses whatever odor it may have  
24 and it does not come through in the end product. And  
25 that is something that the customer has told PMC is



1 the case. When they use it, there's no effect in the  
2 end to this mysterious issue of whether there's a  
3 grape odor or not. Frankly, I just don't think  
4 there's much to the issue.

5 The argument about global purchasing, you've  
6 got to be able to supply the big multinationals with  
7 their global needs of saccharin. It's an appealing  
8 argument, because a lot of companies, as you know, in  
9 many hearings you've had before the Commission, do  
10 purchase globally. They're looking for one supplier,  
11 the best price and one supplier. Maybe in some cases,  
12 they want to have a backup or an alternative supplier,  
13 as Commissioner Koplan has indicated.

14 But, I was frankly fascinated by Ms. Ni's  
15 statement that with her company, which is obviously a  
16 very big force in the saccharin market worldwide, she  
17 sells to the U.S. market and she's selling to those  
18 big multinationals against which PMC is competing.  
19 But, she's selling for their U.S. needs. Why aren't  
20 they going to her company and saying, I want a global  
21 contract for all my requirements worldwide. It just  
22 doesn't seem to work that way. Purchasers seem to be  
23 primarily on a regional basis.

24 Commissioner Koplan, you asked about the  
25 shelf life of aspartame. This is very interesting.

1 You know, saccharin is such a fascinating product from  
2 a lot of points of view. We will put some information  
3 in the brief from a sales presentation that PMC has  
4 put together on saccharin versus aspartame, in which  
5 some technical testing was done on the products. And  
6 what you'll see from this data is that saccharin lasts  
7 many times longer than aspartame. In this particular  
8 test, the way it was done, aspartame loses its potency  
9 as a sweetener in roughly 500 to 1,800 hours. The  
10 test only went out to 3,600 hours in this particular  
11 event and saccharin was going strong at 3,600 hours.  
12 This is a survivor, in terms of its ability to retain  
13 its potency for a lengthy period of time, probably a  
14 lot longer than you'd want that Coke to be on the  
15 shelf, in any event.

16 The dual use issue. There's not need for  
17 the staff to take any further action on that, because  
18 Mr. Na visited the facility and looked at it and he  
19 knows very well that no dual use for the equipment.  
20 So, again, that's simply not an issue.

21 With respect to other sweeteners being a  
22 cause of injury, I will state publicly, although,  
23 again, PMC is a private company, that since the  
24 preliminary determination went into effect, PMC sales  
25 have increased by 90 percent over where they had been.

1 And, certainly, PMC sees a very direct cause and  
2 effect between this case and the initial announcement  
3 of the preliminary margins and the performance in the  
4 marketplace, in terms of demand for their product.  
5 And I think with the new margins that came out from  
6 the Commerce Department of about 300 percent, that  
7 really pretty well locks it in and they're going to be  
8 in a very good position to compete.

9           You heard testimony about the nature of the  
10 market. It is unfortunate, I think, that one of the  
11 major customers was unable to be here, because that  
12 company would have had -- does have much more of a  
13 global view of the saccharin market than the folks,  
14 who were testifying today. With all due respect to  
15 Mr. Ritell and the witness from HELM, those companies  
16 participate in a pretty small slice -- different  
17 slices of the market, and they really don't have a  
18 broad view of what's happening to saccharin, based  
19 upon their business experience in these very limited  
20 areas.

21           The study that Mr. Wechsler cited about the  
22 future use of the product, obviously, their estimates  
23 of the future use, we believe, PMC believes, and I  
24 think other producers, also, believe that the keys  
25 here to the future of saccharin are: one, as we said,

1 the Prop 65 warning no longer being required; the NTP  
2 ruling; and the very low cost, great cost advantage  
3 that saccharin has over these alternative products --  
4 one-tenth in some cases; 1/30th in other cases. It's  
5 a very cheap product to use. It's very durable. It's  
6 a good quality product.

7           And we -- and can return to reasonable  
8 pricing in the industry, based upon this case, and  
9 continue to market the product, as they have done  
10 through the Calory Control Counsel's work that Mr.  
11 McCullough referred to, which has helped to dispel  
12 some of the myths about the product. So, it has a  
13 very bright future.

14           We appreciate, very much, your questions and  
15 your hearing us out today. We thank you, very much.

16           CHAIRMAN OKUN: Thank you. Counsel for the  
17 Respondents, are you ready to proceed?

18           MR. PERRY: Commissioner, at the Berlin  
19 conference, I made a statement that this was deja vu  
20 all over again. I was involved in a 1993-1994  
21 saccharin case and I find myself back at the final, at  
22 the ITC, with the same problems. David Hartquist said  
23 there are differences, but there are, also, many  
24 similarities.

25           One of the most interesting similarities is

1 dumping margin is very high. It was very high in the  
2 1993-1994 case. But, I have to address something  
3 here, because from the questions, I got the feeling,  
4 asking why was Suzhou selling at such a low price.  
5 Remember something here: dumping margins in Chinese  
6 dumping cases have nothing to do with cost. To get a  
7 big dumping margin, all you do is take a surrogate  
8 value out of India that's 10 times higher than the  
9 actual cost in China, use that for a couple of  
10 imports, especially in the saccharin case, and you can  
11 create enormous margins. That's what happened in the  
12 last case. That's what happened in this case.

13 Why is that relevant? We will be giving you  
14 prices in the post-hearing brief, to show you that  
15 Suzhou's prices around the world are lower than the  
16 United States. That means they're selling in other  
17 countries, making a profit, making even a larger  
18 profit here in the United States. And I think that's  
19 important for you to take into your analysis.

20 About P&G, the plant is around Summit in  
21 North Carolina. P&G is buying from Suzhou because of  
22 a quality problem. We put evidence on the record in  
23 the post-conference brief. We'll try to put even more  
24 evidence in the post-hearing brief.

25 The other point is regarding Joan Ni. Her

1 office is selling. This is Suzhou USA. Her office is  
2 located in Wesley, Massachusetts. She runs that out  
3 of her townhouse. She's selling basically in the  
4 United States and Canada. But, Suzhou is selling to  
5 P&G and Colgate-Palmolive worldwide. Remember, the  
6 buyer for P&G worldwide is located in Quonjo and they  
7 are buying from Suzhou and they're buying from  
8 Shanghai Fortune worldwide.

9 Now, I'll ask Shirley to speak.

10 MR. COFFIELD: Thank you, Chairman Okun and  
11 Commissioners. I want to make just a few points, not  
12 to bore everyone, as we've gone over this before.  
13 But, let me just say that the major users have lost  
14 confidence in PMC, and I can say that fairly strongly.

15 PMC has not been able to meet the quality  
16 and delivery requirements. There's been talk here  
17 about quality, not as much about delivery. These are  
18 not contrived problems; they're real problems.  
19 They're not new problems; they're problems that go  
20 back many years. Major users cannot afford to rely on  
21 supply that might have an odor, which cannot be traced  
22 or eliminated, and no one quite knows where it came  
23 from, and might just be a few days late in their  
24 delivery of their product.

25 The current inventory practices of the major

1 users require confidence in both the quality and  
2 delivery of the product. If we don't have that, we  
3 have to look for other sources. If, in fact, PMC  
4 could meet the needs and requirements of the major  
5 users, then why haven't they done it, when they had  
6 the contracts and they had the orders. Why have we,  
7 as the major users, have the problems, if, in fact,  
8 PMC could do all of this and to meet our requirements.

9           They have had odor problems, which could not  
10 be explained away, and those are not just in the last  
11 few months. They have had delivery problems, and  
12 those are well documents, going back 10 years.

13           Second, saccharin demand is not growing, but  
14 is shrinking, as the most recent study show, despite  
15 all of the very understandable hopes and dreams of  
16 PMC, with respect to the saccharin industry and its  
17 growth. In fact, major users are switching away from  
18 saccharin. If aspartame, being so much more  
19 expensive, is such a terrible product, why did Coca  
20 Cola go to it and use it in its products? The fact  
21 that even expensive products are now supplanting and  
22 have been in the last 10 years, supplanting saccharin,  
23 I would be very surprised if Coca Cola goes back to  
24 saccharin because of price.

25           In fact, it is the characteristics of the

1 product that have made these higher-priced substitutes  
2 and alternates so desirable for the major users. And  
3 the major users are testing them right now for  
4 product, as consumer basic as toothpaste. So, we do  
5 have a lot of research going on. Saccharin, itself,  
6 as Mr. Wechsler said, a mature and declining -- it's a  
7 product that reached its peak quite some time ago.  
8 And the alternatives that have come in have been very  
9 successful. They've been successful, why? Because,  
10 they are created products that are more desirable to  
11 vast amount of consumer and other products in this  
12 country. So, I expect that saccharin will, in the  
13 future, be limited, to limited basically non-consumer  
14 products.

15           Consequently, because of these two factors,  
16 we see that the major users are not going to be put  
17 into a position of having one supplier. It's not  
18 something a major supplier is going to allow,  
19 basically.

20           The loss of access in the United States to  
21 the Chinese markets will result in one or two of three  
22 different scenarios: one, a shift to alternative  
23 sweeteners, which I think, frankly, is going on anyway  
24 over the long term; second, a shift to other offshore  
25 suppliers; and/or third, a shift in production out of



1 the United States. That's what's going to happen.  
2 And the fact that there may be an immediate blip  
3 helping PMC simply has to do with it takes time to  
4 make these changes. It takes time to change  
5 suppliers, a supplier that's already been approved,  
6 for example. And I think that you will see that  
7 that's what's going to happen.

8 In fact -- I'll just finish with my last one  
9 here. PMC's difficulties in the U.S. market have been  
10 self-inflicted. And I think that we will put in more  
11 information to rebut Mr. Hartquist's information on  
12 PMC, Inc., the primary owner of PMC Specialty. The  
13 fact is that the magnitude of the shift to Chinese  
14 imports are a result, not a cause, of PMC's problems.  
15 Thank you.

16 CHAIRMAN OKUN: Thank you. Post-hearing  
17 briefs, statements responsive to questions, and  
18 requests of the Commission, and corrections to the  
19 transcript must be filed by May 22, 2003. Closing of  
20 the record and final release of data to parties is  
21 June 6, 2003. And final comments are due June 10,  
22 2003. With not other business before the Commission,  
23 this hearing is adjourned.

24 (Whereupon, at 4:07 p.m., the hearing was  
25 adjourned.)

**CERTIFICATION OF TRANSCRIPTION**

**TITLE:** Saccharin From China  
**INVESTIGATION NO.:** 731-TA-1013 (Final)  
**HEARING DATE:** May 15, 2003  
**LOCATION:** Washington, D.C.  
**NATURE OF HEARING:** Hearing

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:** May 15, 2003

**SIGNED:** LaShonne Robinson  
Signature of the Contractor or the  
Authorized Contractor's Representative  
1220 L Street, N.W. - Suite 600  
Washington, D.C. 20005

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

**SIGNED:** Carlos Gamez  
Signature of Proofreader

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

**SIGNED:** Maria Hester  
Signature of Court Reporter