THE UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:            )
) Investigation No.: 731-TA-1039-1041 (Final)
CERTAIN WAX AND WAX/RESIN THERMAL TRANSFER RIBBONS FROM FRANCE, JAPAN, AND KOREA )
)  

Tuesday, March 9, 2004
Room 101
U.S. International Trade Commission
500 E Street, S.W.
Washington, D.C.

The hearing commenced, pursuant to notice, at 9:30 a.m., before the Commissioners of the United States International Trade Commission, the Honorable Deanna Tanner Okun, Chairman, presiding.

APPEARANCES:

On behalf of the International Trade Commission:

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Staff:

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WILLIAM BISHOP, Staff Assistant
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QUEENA FAN, Commodity Analyst
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The purpose of this investigation is to determine whether an industry in the United States is materially injured or threatened with material injury by reason of less than fair value imports of subject merchandise.

Schedules setting forth the presentation of this hearing and testimony of witnesses are available at the secretary's desk. I understand that parties are aware of the time allocations. Any questions regarding the time allocations should be directed to the secretary. As all written material will be entered in full into the record, it need not be read to us at this time.

All witnesses must be sworn in by the secretary before presenting testimony. Copies of the notice of institution, the tentative calendar, and transcript order forms are available at the

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secretary's desk. Transcript order forms also are located in the wall rack outside the secretary's office.

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

Madam Secretary, are there any preliminary matters?

MS. ABBOTT: Yes, Madam Chairman.

With your permission, we will add Phillip S. Dallosto, Associate General Counsel, Illinois Tool Works, Incorporated, to the calendar on page 3.

CHAIRMAN OKUN: Without objection.
Let us proceed with opening remarks.

MS. ABBOTT: Opening remarks on behalf of petitioners will be made by Richard O. Cunningham, Steptoe & Johnson.

CHAIRMAN OKUN: Good morning, Mr. Cunningham. Make sure your microphone is on, Mr. Cunningham.

MR. CUNNINGHAM: Good idea. Even with my voice, it's a good idea.

I am counsel to IIMAK, the petitioner in this proceeding, on all matters except as to Korea,
which will be handled by Mr. Leiman.

As many of you know, I have been doing these Title VII cases for 35 years. And my experience is that in many cases there is a single factor that once you clear away the extraneous arguments, the debris, that factor turns out to be dispositive, and that is certainly the case here.

What is dispositive in this case and what is indisputable on the record is a drastic decline in certain TTR prices throughout the period covered by this investigation, a decline that began, and here again the evidence is clear and there is no evidence to the contrary, with sharp underselling by the subject imports. No one disputes the degree of price deterioration. It's very large, 10 percent, 20 percent, 30 percent in some of the larger categories.

No one disputes that the price decline has taken place in a period of rising U.S. consumption, nor can the finger be pointed at excessive U.S. supply since U.S. firms' production is simply parallel to the rise in U.S. consumption.

What caused this price collapse is obvious from even the most cursory reading of the staff underselling analysis. Throughout 2001, and well into 2002, subject imports deeply and consistently
undersold U.S. producers in all the major product
categories. That's clear in the staff tables and no
respondent has presented any evidence to the contrary.

Then in late 2002 and 2003, the price gap
narrowed and in some cases the underselling almost
disappears. But this happened because the U.S.
companies were forced to lower their prices to be
competitive with the dumped imports. That's clear in
the tables.

That's not evidence that injurious dumping
disappeared late in the period as certain of the
respondents would have you believe, it's evidence that
the continued dumping produced an injurious decline in
U.S. firms' prices. That's the core of this case.
It's clear, it's not contradicted, and I am unaware of
any case in which this Commission, confronted with
such a large price decline clearly caused by import
underselling, has reached a negative conclusion.

And finally on this point, there is dramatic
evidence that at least one of these companies intends
to continue aggressive pricing in this market, and I
urge each of you to look at Exhibit 1 to petitioners'
prehearing brief.

Now, what on earth do respondents argue
then? Well, they throw a lot of mud at IIMAK, and we
are going to rebut that, and indeed, one of the shareholders of IIMAK was so incensed by that he has come to us and asked for time to make his own presentation on that issue. You will hear from Mr. Golub later.

But even if it was true that IIMAK were mismanaged, made bad decisions, it's irrelevant for two reasons.

First, whatever internal problems IIMAK might have had, it's clear that the import caused price collapse made IIMAK's condition work.

And second, the U.S. industry as a whole, not just IIMAK, has suffered from the import caused price decline.

The respondents also want you to include slit fax TTR in the like product. We will make clear to you today why it's not appropriate to do that. But even if you did include slit fax, it doesn't alter the central dispositive fact here that dumped import prices have caused a drastic price decline throughout the larger market for other types of certain TTR.

Finally, respondents would like you to simply ignore competition at the slit TTR level and focus only on the very limited competition that occurs, less significant but limited, at the jumbo

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roll level. Nice try, but as we will show you today, totally inconsistent with uniform Commission precedence and with the logic of this law.

Moreover, the Commerce Department has eliminated the basic premise of respondents' argument on that point by ruling that for antidumping law purposes slitting does not produce a substantial transformation.

In short, this case turns on a dramatic price decline undeniably caused by import underselling. You should reach an affirmative determination on that basis.

MS. ABBOTT: Opening remarks on behalf of the respondents will be made by David J. Levine, McDermott, Will & Emery.

CHAIRMAN OKUN: Good morning, Mr. Levine.

MR. LEVINE: Good morning.

My name is David Levine. I am with the law firm of McDermott, Will & Emery, representing Illinois Tool Works, Inc. and its Korean subsidiary, ITW Specialty Film Company, Limited.

The Illinois Tool Works group of companies, which we call ITW, includes divisions that produce TTR, namely, ITW Thermal Films, and ITW Coating Products. ITW thermal films is a U.S. importer and
ITW has built a global TTR business through a combination of acquisitions, highly efficient production, and equally efficient marketing policies based on its corporate-wide 80/20 philosophy. Its TTR business in Korea, Europe and the United States are all profitable in their own right, and their sales, pricing and practices are fair.

For this reason, ITW management were dismayed when IIMAK alleged that it was injured by unfair pricing if ITW and they vowed from the outset of this case to defend their interests vigorously.

ITW was been fully vindicated by the Commerce Department's preliminary negative determination, and we have every expectation that the Commerce Department will affirm that finding of sales at not less than fair value in its final determination on March 22nd, in which case this injury investigation will be terminated for Korea.

You might therefore ask what are we doing here. Well, ITW is here for two primary reasons.

First, notwithstanding our fair pricing in all market, ITW cannot be 100 percent assured how the
Commerce Department will make its determination.

And second, and more importantly for your purposes, regardless how Commerce rules the facts simply do not justify an affirmative injury determination. Moreover, ITW believes that an affirmative injury ruling in resulting dumping orders would be bad for the industry as a whole, probably even for IIMAK.

IIMAK obviously does not see it this way. With its poorer financial performance and saddled with what ITW believes to be huge debt, IIMAK desperately seeks relief from its troubles, and it has targeted imports as the cause.

IIMAK is wrong for a number of reasons, and we will address those in our presentations this afternoon.

In summary, we will show that whatever harm IIMAK might be suffering is unique to IIMAK. The industry as a whole is neither injured nor threatened with injury by reason of imports of TTR. This fact becomes even more pronounced when the Commission properly defines the domestic products to include slit fax TTR, and properly defines the domestic industry to include converters of TTR.

Thank you very much.
CHAIRMAN OKUN: Thank you. Madam Secretary, are we ready to seat the first panel?

MS. ABBOTT: Yes. Will the first panel in support of the imposition of antidumping duties please come forward? And Madam Chairman, the witnesses have been sworn.

(Witnesses sworn.)

(Pause.)

CHAIRMAN OKUN: Mr. Cunningham, it looks like all your witnesses are seated and ready to go.

Welcome to all of you.

MR. CUNNINGHAM: Thank you, Madam Chairman. My partner, Tom Trendl, will act as master of ceremonies for this rather extensive group of performers today. I want to make one introductory statement, however.

On the subject of critical circumstances we have reviewed the evidence now available to us and we do not continue to maintain that DNP is an appropriate subject for the critical circumstances.

MR. TRENDL: Good morning, Chairman Okun, Commissioners, and to staff. My name is Tom Trendl. I am with Steptoe & Johnson, and I am counsel to International Imaging Materials, Inc., IIMAK.

With me today and presenting testimony are

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Vince Dowell who is behind me. He is COO of IIMAK. He will describe the TTR production process, including that relating to jumbo rolls, slit TTR, and non-scope slit fax TTR.

With him are three of our factory workers, and Mr. Dowell will introduce them in due order.

Next to speak will be Richard Kingdon who is sitting in the front row. He is President of IIMAK and he will describe the sales process and competition in the TTR market.

The third speaker will be Dan Klett to my right of Capital Trade, who will address price, volume, market share, and the impact of dumped TTR in the domestic industry.

Dick Marshall, sitting in front of me in the first row, is CEO and Chairman of IIMAK. He will explain the effect of these imports on IIMAK, the company.

Following Dick Marshall, also in the front row, is David Golub who, as Mr. Cunningham said, requested to appear today. He is with Centre Partners, and he will address some of the issues related to IIMAK management process and processes.

Finally, but not least, Dick Cunningham and Tina Potuto Kimble, who his sitting behind me, who

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will address some of the legal issues.

Working the computer over there, and also available to answer questions is John Heimback, who is senior marketing analyst with IIMAK.

With those introductions, I will now turn it over to Vince Dowell.

MR. DOWELL: Thank you, Tom.

Good morning, everybody. My name is Vince Dowell. I am Chief Operations Officer for IIMAK. I have been with IIMAK for approximately 12 years, starting in July of 1992. I would like to take a few minutes to describe the process involved in the production of thermal transfer ribbons that we will refer to as TTR.

There are four basic steps in the manufacturing cycle, two of them major steps and two of them fairly minor steps. The four steps are ink making, coating, slitting, and packaging as described on our first slide.

All four of these processes are required for the completion of the manufacturing cycle. However, the first two, ink making and coating, they are in fact quite unique to the TTR industry. It's in these two processes that IIMAK puts to use its 20 years of experience and employs the vast majority of its
intellectual property and its more sophisticated and costly equipment.

In contract, while the slitting and packaging processes are important to the completion of the manufacturing cycle, they tend to use more generic equipment and generic technologies that are used in many other industries where rolled materials need to be cut to specific widths and lengths.

I would like to go back to the beginning of the process and describe in a bit more detail what happens in each of the four processes.

Starting at the top of the slide, the ink making process consists of several different operations: mixing, melting, dispersing and particle size reduction. Sophisticated equipment such as small media mills, Attritors, are used to accomplish this. During this process raw materials, such as waxes, resins, pigments and solvents are blended together to make a uniform mixture or solution that will later be applied to the polyester film.

The ink making process requires very detailed instruction and it's performed by skilled operators requiring a significant amount of training and experience.

These solutions are then applied to the
polyester film during what we call the coating process. This is done on very costly and complex -- put the first slide down. This is done on very costly and complex high-speed, multi-station coating machines. Raw polyester film is unwound and passed through multiple coating stations. A number of coating technologies are used to apply the ink to the polyester film. These technologies include direct gravure, offset gravure, slow tube and wire rods. Each of these processes employs the science of fluid dynamics to properly deliver extremely thin and uniform coatings to the base film.

Process design of solution pumping and delivery systems, cellular patterns on gravure cylinders, roller configurations, and many other elements are critical to producing a quality TTR product.

Again, these processes are extremely sophisticated and require technicians or operators that have significant amounts of training and experience. Both ink making and coating require the attention of our most senior production people.

The next step is the slitting process. This is the step that I referred to earlier as being less unique to the TTR industry, and somewhat generic in a
technology that it employs. While certainly necessary
to produce a slit product, this technology is used in
many different industries and is the process where we
take jumbo rolls and we convert them to specific
widths and lengths based on our customer specification
that will be used in the actual printing device.

Once the ribbon has been slit, they have to
be packaged, which is usually done by placing the slit
roll in a bag. IIMAK uses what we refer to as auto
bagging machines which also have a printer which then
prints the specific information based on our customer
specification on each individual bag.

Before I leave this slide, I would just like
to point out again it's step one and step two that are
the most critical in the process. In the ink making
and coating, it could be as much as eight to 12
million dollar investment to get started to be a true
TTR manufacturer and get started in the process.

And in contrast, the slitting process, No.
3, could be done for as little as 100 to 200 thousand
dollars, and essentially require very little
infrastructure. In fact, you could open up a slitting
operation in your garage. It requires no more
infrastructure than an electric range in a house.

We have got some slides that will help show
some of the different pieces of equipment that we talked about in the four processes, and the first one I will start with is our R&D laboratory.

IIMAK has proprietary formulations. We have got Ph.D. chemists on staff, and we have got a well equipped analytical wet lab, pilot lab, and print labs to help us develop ribbons. That is somewhere between to two to three million dollar investments.

The next picture down on the left, bottom left, is our small media mill. This is a piece of equipment that is used to make our back coats and solvent inks. As you can see from the picture, not overly clear here, but it requires a lot of infrastructure to support the mill, and it's very highly refined and controlled operating procedures. It also has extremely strict environmental controls, and the investment to get into solvent ink making is somewhere around $2 million.

The picture on the right is another piece of ink making equipment. It's a ball mill or a triter. It's used to make what we call hot melts or wax things which are more viscus. This is large vat system. It's been ergonomically engineered, and again a very significant investment, somewhere around a million dollars.
The next slide -- by the way, none of these pieces of equipment are required for slitting so far. The next slide is what we call our MSCs or multi-station coating machines. This is a state-of-the-art wide web high-speed machine that does slice-on-the-fly. It applies extremely thin and uniform coatings to both sides of the web, and has very sophisticated tensioning controls, and as you see, requires a lot of supportive infrastructure to set it up. Somewhere between three to five million dollar investment.

On the bottom right-hand corner is what we refer to as a thermal oxidizer. That takes the solvent emissions coming off the coater and burns them very efficiently in what's called a recuperative system. This again, another significant investment that's required only if you are a coater of TTR, not required in the slitting operation. This is somewhere around a million dollar investment.

So again, the developing your ink formulation, the ink making, coating, and thermal oxidizer could be as much as eight to 12 million dollar investment.

These are pictures of what we call our slitting machines. IIMAK uses manual, semi-automatic and fully automatic machines. They can range between
100 to 800 thousand dollars. Most of the industry uses semi-automatic pieces of equipment, which are 200 to 250 thousand dollars.

We size the master rolls to very specific widths and length, and require essentially very little infrastructure, supportive infrastructure in the factory to set up.

The last step is bagging. This is a picture of the auto bagging, the primary method that we package our bar code ribbons with. Basically the ribbons are dropped in the top of the bag and then heat sealed. Additionally, it prints the unique information based on our customer specifications on each ribbon.

The pictures on the right helps to show the difference between a standard bar code ribbon and a fax ribbon. I also have examples here if you would like to look at them.

IIMAK does produce fax ribbons as well. The ink making and coating processes of these ribbons are similar to the bar code ribbons, but the converting and packaging processes are actually quite a bit more complex. These products are much short lengths, requires small cores, take-up cores. In addition, a take-up core has to be put on, hubs and rotational

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mechanisms. Most of the fax products that we produce also require the additional assembly process of placing them in a proprietary cassette, as well as in some cases the addition of a silver stripe, or what's called an end mark which is applied in the slitting department.

Fax ribbons are also typically packaged in more costly multicolored packaging boxes due to the merchandising and distribution channels that they are sold through. All of these additional steps just make the converting and finishing of the fax ribbons quite a bit more complex and costly than a standard bar code ribbon.

I have got three more slides, and I will use these slides by way of introduction to three of IIMAK's very capable production operators. We will put them up one at a time, and let the individuals introduce themselves, and of course, they can be available for questions later.

MR. BOEHNKE: Good morning. My name is Lance Boehnke, and I have been with IIMAK for the past 12 and a half years. I began working as a slitter operator at wage grade 23 for the first seven years. I have since been promoted several times to my current position as an inkmaker 2, and my current wage grade
MR. BAEZ: Good morning. My name is Louis Comos-Baez. I am a multi-station coater operator, grade 28. I have been employed at IIMAK for nine and a half years. In total, I have 18 years experience in coating.

MS. WATKINS: Good morning. My name is Inell Watkins. I am a grade 25 slitter operator at IIMAK for nine years.

MR. CUNNINGHAM: That concludes the section on the manufacturing processes.

MR. KINGDON: Good morning. My name is Richard Kingdon. I am the President of IIMAK, and I am responsible for day-to-day commercial operations and decisions within the company. I would like to take a few minutes just to tell you how certain TTR is sold in the U.S. and to help you fully appreciate the vulnerability of the U.S. TTR industry to dumping.

The key question I would like to address is who is the customer, and in our business that is not quite as obvious as it might seem.

We provide consumables that are sold to support a system that provides an end user with a digital imaging system, and the end user, the bottom of my graphics here, has the goal of having a process...
that gives them sustainable performance at the lowest possible price.

To do that they invariably go to what we would call a reseller, an auto ID expert, who would give them some guidance as to what combination of hardware and software in consumables -- consumables being either TTR or the receiver to meet the specific end user application.

Essentially all TTR products reach the end user through these resellers. You can see that about 90 percent of the TTR is sold in slit form, in narrow ribbon maybe 110 millimeters wide that fit into industrial printers.

The remaining 10 percent is sold to converters. These are independent companies that slit the ribbon down into the same size and sell them downstream to the end user or to distributors.

You will notice that there is one OEM who does a little bit of converting.

For slit TTR, the resellers are primarily distributors. These are independent companies, five, 10, 15, 20 million dollars, some of them are bigger, but on average they are that sort of size. They operate regionally and they sell through one set distribution. They take orders from the end users,
they place those orders on IIMAK, one step of
distribution to the end users.

Some of them resell to small distributors so
there would be two-step distribution, and similarly,
some of them buy products through OEM, which is OEM-
branded products, essentially the same TTR but with an
OEM brand and seal of approval on, and sell it to the
end users.

With this structure, I would assert that TTR
is particularly susceptible to damage by dumped
imports for three reasons.

Firstly, the market, despite its apparent
size and diversity, all these different end users and
all these different industries using the product,
despite this, the market is relatively concentrated.

If you look at it in terms of stock keeping
units, SKU, greater than 80 percent of the volume sold
is actually sold in the form of 20 percent of
different stock keeping units, a classic 80/20.

Similarly, if you look at of all the
distributors that buy the products, by our
calculations and experiences, 80 percent of the volume
is sold to 20 percent of the distributors. In other
words, about 70 percent of certain of TTR is sold to a
finite number of distributors, and a finite series of
SKUs.

You will hear ITW talk again and again about its 80/20 focus. ITW fully understands this philosophy and how it can be exploited in the U.S. TTR market.

Secondly, you have to understand that within a certain TTR category the primary product is what we would call a wax product that has the widest application, and within the wax products the top suppliers have similar offerings, and these offerings are very fungible.

What this graphic shows is it depicts the performance of the lead wax TTR formulations of four different competitors that I have deliberately left anonymous.

Our print lab took the same printer for the same receiver and they substituted each of these four ribbons, and then they scored them on a one to five scale, which is typically how the industry looks at the gradings of print performance, and they picked attributes that the customer typically uses to select a ribbon: how dark is it, does it perform at 12 inches per second, how durable is it, how much energy does it take to print the image.

You can see that the purple pattern and the
blue pattern and the green pattern and even the yellow
pattern are essentially identical. There might be a
minor grade between the different products, but you
can see that on a technical basis they are equivalent,
they are interchangeable. We hate to use the term,
but they are essentially a commodity.

Thirdly, price is critical. You will recall
that in the ITC questionnaire the receivers of the
questionnaire were asked to rate the top three
purchase criteria. There were 19 first votes and 18
second votes for quality. Dan Klett will address
this. Quality is essentially a given in our industry.
And the next biggest vote getter was price. Ranked
first by three questionnaire respondents, second by
11, and eight respondents ranked it third.

Price is very important. And given the
consecutive years of price declines, the resellers
have learned that there is no value in entering a
long-term contract in this industry. Rather, the
resellers have learned that the most economically
advantageous approach is to split their TTR sourcing
between several suppliers.

So you will see that they have perhaps a
primary supplier, 60 - 70 percent of their needs, they
have a second supplier, and even a third supplier, and
they will be using these suppliers to support their various end users.

The resellers can then orchestrate iterative price negotiations by capitalizing on the desire of the TTR manufacturers to expand their position.

The new profit/price reports points are secured from one supplier that relayed back to the other suppliers, and the downward price spiral continues.

I would be happy to answer any particular questions. Otherwise, I would like to turn the podium over to Dan Klett of Capital Trades who will talk a little further about the price dynamics as secured by the ITC questionnaire responses.

MR. KLETT: Good morning. My name is Daniel Klett with Capital Trade. I am testifying on behalf of IIMAK.

Mr. Marshall will describe the effects of subject imports on IIMAK operations. I will address the overall issues of price effects, volume effects, and impact, as well as some issues raised by the respondents.

The market for subject TTR is highly competitive with price differentials between individual suppliers often within a hundredths of a
cent for MSI for the largest volume products sold to
distributors, reflecting the commodity nature of this
product.

As shown in this slide, purchasers generally
rank U.S. and subject import TTR comparable with
respect to quality. Given this market reality, I
would expect to see the following:

First, there should be no individual company
price leaders as all suppliers compete aggressively to
maintain their sales and product volumes. As noted in
the prehearing report, purchasers "reported large
number of different price leaders in each of the years
and some firms reported more than one price leader in
any particular year."

Second, when measured at the level the
competition occurs, that is, slit TTR, subject import
market share increased. Market share changes have
not, been even greater, because individual U.S.
suppliers have all followed the market price down to
avoid even greater volume losses.

For these reasons, adverse effects in this
investigation are primarily manifested through price
effects.

Although I cannot discuss specific quarterly
price trends, in general, prices for resin, wax, and
wax/resin products fell in all channels of distribution and by significant amounts. The average unit value sales to the U.S. market fell by 21 percent over the entire POI. My review of quarterly price data show a high degree of correlation between price changes of U.S. producers and subject imports.

Regarding underselling, also as shown on this slide, in 17 of 45 comparisons subject imports were categorized as lower priced by purchasers, and in only three instances were imports higher priced. In 25 instances, U.S. and subject import prices were rated as comparable, consistent with the commodity nature of this product.

The staff report also found significant margins of underselling based on the actual price data collected.

As you have heard previously, quality is an important purchasing factor. However, as shown in this slide, U.S. and subject imports were often, 83 percent of the time, rated as comparable with respect to meeting minimum quality standards.

Regarding import volume and market share, the nature of how subject TTR is imported and sold in the U.S. market must be considered when evaluating competitive effects. The following conditions mean

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that simply looking at U.S. shipments from importers' questionnaires does not capture when or where competition has occurred.

First, virtually all subject imports enter the United States in jumbo roll form. Second, a very large share of imports are transferred to affiliated U.S.-based converters, and consequently a large share of U.S. shipments reported in the importer questionnaires does not compete with U.S. producers at this level. And third, after conversion by their affiliated converter slitters, some slit TTR is exported and does not directly compete with U.S. coaters in the U.S. market.

Direct competition occurs in the United States between subject imported TTR and U.S.-produced TTR at the first arm length sales level. For those subject imports and U.S. coaters, this is primarily slit TTR sales which, for imports, are sales by related party converters. There are also some arms-length sales of jumbo rolls, but this is a small market.

The market share tables in Exhibit 9 of our prehearing brief are calculated on this basis.

All U.S. producers experience significant price declines over the POI, and the prices are
reflected in lower operating profit margins and declining cash flow for the industry as a whole.

While profitability declines may not be as dramatic as the Commission sees in other investigations, they nevertheless reflect material injury for the following reasons:

First, U.S. producers were able to prevent their profitability from deteriorating more sharply than actually appears by cutting employment, and making investments to increase their productivity and lower their costs.

Second, as shown in this slide, the operating profits for coaters were generally lower than those of converters, and coaters' profitability declined while the profitability of converters increased significantly. For APO reasons, I was able to use only public data in the staff report for certain TTR and slit fax TTR combined. However, the same general relationship exists for certain TTR alone.

Why the difference in cost between converters and coaters? The raw material for converters is subject jumbo rolls of TTR while for coaters it is the components to make jumbo rolls such as film. Unit raw material costs for converters,
dominated by those that relied on LTFV-imported jumbo rolls, declined more than the raw material cost declines for coaters.

As shown in this slide, had U.S. coaters' unit raw material costs declined at the same rate as converters relying on LTFV jumbo rolls, their operating profits also would have increased over the POI, rather than decline. These same general relationships hold for certain TTR only as shown in Exhibit 6 of our prehearing brief.

This has important implications for causation and threat. The relative raw material cost advantage of converters relying on lower cost LTFV jumbo rolls has increased over the POI relative to coaters. While coaters have managed over the last three years to offset this disadvantage by reducing labor costs and investing in automated slitting machines to reduce their unit operation costs, the remaining cost cutting strategies are limited.

Respondents have alleged that factors other than subject imports explain any adverse effects being experienced by the U.S. industry. In every investigation, factors other than imports affect the market in an industry. Here, however, these other factors can not fully or even largely explain the
significant price declines observed over the POI.

Much has been made of a December 2002 article with quotes from Mr. Oliverio who was later employed by Sony. I would like to make the following points to respond to the allegation that Sony is the price leader, and is accountable for price decreases over the POI.

First, as an economic matter, this market is highly competitive, and each participant in the market has an effect on price. No single dominant market participant exists, and there is no single price leader. Subject imports in the aggregate accounts for about a third of the U.S. market. I don't see how their competitive actions in the market could not have contributed to the declining prices over the POI, particularly in light of the pronounced and pervasive import underselling, which forced U.S. producers to lower their prices.

Second, Sony also sells TTR in the U.S. market from Japan for its jumbo rolls. Even if the Commission were to conclude that Sony is a company with a price leader at certain points of the POI, you made clear in DRAMs that you do not evaluate price effects on a company-specific basis, but on the basis of a weighted average U.S. price versus import price.
Price data from the producer and importer questionnaires are specific regarding country of origin from each supplier, and show widespread underselling.

Another allegation raised by ITW and Armor is that the quarterly price data --

MR. CUNNINGHAM: Dan, before you do that, let me just note for the Commission that Sony has also responded in its submission to the allegation that it's the price leader, and I would direct the Commission's attention to that.

MR. KLETT: Thank you, Dick.

Another allegation raised by ITW and Armor is that the quarterly price data reported in response to the Commission questionnaires are not reliable. ITW will assert that significant price variances among the product formulations within product one distort comparison, and it provided its own price comparison analysis, which we will comment on in our posthearing brief.

I have obtained from IIMAK the quarterly volume and value of sales for each ink formulation within the product one grouping for each channel of distribution. For IIMAK, the resin-enhanced products in this group that compete most directly with ITW's

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Depending on channel or customer, IIMAK sells each of these products at the same price. I have calculated IIMAK aggregate average price for these four formulations only. The difference from IIMAK average price for all product one products is essentially nil.

I substituted this subset of IIMAK product one formulations into the price data, and there is virtually no change in degree or underselling or price trends.

Finally, please look again at the first slide that I discuss, the apples to apples price comparisons reported by purchasers. Consistent with the commodity product, most purchasers reported U.S. and subject import prices to be comparable. However, when price differentials were reported, underselling outweighed overselling by a factor of five to one.

Thank you.

MR. MARSHALL: Good morning, Chairman Okun, Commissioners, and staff. My name is Dick Marshall and I am Chairman and CEO of IIMAK.

I thank you for the opportunity to talk with Heritage Reporting Corporation (202) 628-4888
you today and to have recently welcomed several of your staff to our facilities in Amhurst, New York.

I am proud to be here today with several of our co-workers representing all the hard-working men and women of IIMAK who have struggled in recent years in the face of unfairly traded imports to produce and sell our high-quality wax and wax/resin TTR in the United States.

During the preliminary phase of this investigation, I provided extensive background on the TTR industry, including how the respondents have positioned themselves to cause the material injury at issue today.

I am happy to address that again here if you would like, and I continue to think it is important. But as this information is in the record, today I thought I would focus instead on three main issues.

First, where IIMAK and the industry as a whole stands today; second, the impact of the unfairly traded imports on IIMAK; and third, the future of the U.S. TTR industry without application of our trade remedy laws.

Let me address the first issue, where IIMAK and the industry stands today. Unlike some of our competitors, IIMAK's principal business is the
production of TTR, and we are the largest producer in the United States with our primary operations and costs, including R&D, being in the United States.

Our future is fundamentally dependent on this product. The livelihood of hundreds of our employees depend on this TTR business and this investigation is extremely important to our company.

We are dedicated to produce TTR products our customers want, working with them to ensure they get what they want, when they want it, and at a fair price. To this end, we have invested in the best and most efficient equipment to produce TTR in a highly cost-effective manner. We have made these investments not only to compete today, but for many, many years into the future.

I don't think it can be disputed that IIMAK is a world class TTR producer. We are qualified to sell to every major purchaser and we are not afraid of competition. For years, we have competed for the sales in this market with each of the respondents. They know our products and we know theirs.

Other U.S. producers, and by this I mean coaters of TTR, include two companies with both import and -- which both import and produce TTR. Those are namely Sony and Dynic. While these two companies are

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somewhat shielded via their imports from respondents' unfair trade practices, I am confident that all of us who produce TTR and have realized these pricing reductions here in the United States have experienced the negative effects of this pricing.

One other company, Chemicraft, went out of business in the fall of 2001, no doubt in large part due to unfair import competition.

Although IIMAK holds the leading share of the U.S. market, it is one of the smallest companies to produce this product. The respondents, in contrast, include several multibillion dollar, multinational, highly diversified conglomerates that produce a wide array of products. The respondents' TTR production is thus only a small component of their total operations, giving them the ability to sustain years of underselling and unfairly low prices. They have demonstrated this ability quite remarkably during the period of investigation.

The second issue I would like to address is the impact of unfairly traded imports on IIMAK. In the last several years, the respondents, with more than ample production capacity, and their shrinking limited home market consumption, have increasingly focused on the United States as the most open and the
largest consumer of TTR. They have done so in a most damaging fashion by slashing prices, underselling and continually bidding for business at extremely low prices.

As quality amongst suppliers is generally equal, these competitors have marketed their U.S. position for the subject product on the primary dimension of price.

I don't see this as fair competition. It is more like a concerted effort to take over the U.S. market and eventually put IIMAK out of business. In our prehearing brief we detailed how companies like DNP have attacked the U.S. market, and I believe my colleague, David Golub, will describe ITW's methods.

The effects of respondents' tactics individually and collectively is readily apparent in our financial statements, our sales experience, and our production data. During the last three years I have had the painful experience of telling approximately 20 percent of my workforce that I could no longer employ them, and I note that the 2001 baseline level for the period of your investigation was down from the 2000 period you examined in the preliminary phase.

Any executive dreads this part of the job,
but I have to tell you it really hurts in Buffalo, New York, where we have a nearly eight percent unemployment rate, and there is little choice for those furloughed employees.

While some of the folks would have lost their jobs as we became more cost efficient, most of them would be working for us today if respondents had competed fairly.

Let me talk about production costs for a moment. IIMAK is cost competitive with other coaters, and we have made several deliberate and strategic decisions to be so. We have displaced older, less efficient production equipment and installed and run state-of-the-art machinery as you saw demonstrated by Vince Dowell.

It is important for the Commission to understand the capacity increases reported in our questionnaire reflect investment in highly efficient, multi-stage coaters which displace older coaters. We made these investments to reduce our variable cost more so than to increase our capacity.

At today's prices, the older coaters could not provide certain TTR profitably, and are therefore commercially obsolete.

Respondents' assertions that we hurt
ourselves by overexpanding in relation to demand, to

demand changes, is 180 degrees wrong. Without these

investments, our condition would be much worse.

IIMAK is a privately held company, and we do

not publish our financial statistics, so I cannot get

into the details here. However, we have included all

data on our questionnaire response, and this has been

verified recently by your staff. As you will see, the

results are unambiguously clear. Declining financial

performance in any major indicator you want to look at

I do not exaggerate when I say the injury we have

already suffered is far beyond material. I would also

challenge any manufacturer that realizes over 20

percent price reductions over three years to show

otherwise.

It also is clear that IIMAK is not alone in

this regard, as I can fully understand the staff's

findings in the public version of their report that

"per unit profitability decreased due mainly to

decrease in the average unit selling price despite

continuously decreased per unit total cost."

And it follows quite clearly why, as the

staff found, that the industry's operating income

decreased over the period of investigation. These

decreases were clearly tied by the staff to the
negative effects of decreased sales prices.

What is most frustrating to my company and its employees is that we are in peril despite our diligent efforts to meet the competition in every dimension. Our product performance fully meets or exceeds industry standards. Our customer service is the industry's high water mark. Our investments in plant and equipment are unequaled in the United States along with our employees' willingness, ability, and attitude to generate the productivity gains expected from these investments, and permit IIMAK to compete at a cost level with the world's best, yet our very existence is challenged by the actions of the respondents.

Finally, I want to take a minute to voice my anger with the respondent ITW. This is my first experience with the process of antidumping petitions. While I understood that respondents would take the gloves off, I was not prepared for a respondent like ITW to submit a brief that goes far behind the biasing of facts. I have thoroughly reviewed ITW's public briefing to this Commission, and it contains statements that are blatantly wrong.

In some cases, I believe they know certain statements are wrong, and in others, they have no

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access to information. Yet they draw conclusions about IIMAK management, and they paint a graphic picture of our incompetence based upon imagination and misrepresentation.

For example, ITW makes a point that IIMAK invested in two Italian manufactured coating machines for processing colored TTR. They contend these machines sit idle as the color market did not develop, and hence contribute to IIMAK's financial woes.

I showed ITW these machines during a due diligence process that was conducted during the fourth quarter of 1999. I explained their utility, their full functionability. In fact, these machines are running seven by 24, producing certain TTR virtually all the time. They are the machines described by Vince and operated by Louis.

I will not grace ITW's brief with further rebuttal, but let me say this. ITW tried very hard to purchase my company. It liked IIMAK's business, and was eager to add it to ITW's portfolio. IIMAK is and has been a deserving leader, and ITW knew this to be true. I am sure of this. I lead the sale of IIMAK.

Now, let me address issue number three, the future of the domestic TTR industry. The U.S. TTR industry is in a vulnerable state, and the near future
for TTR from today's vantage point is not good, to say the least. Bleak perhaps is a better word.

Given the past years of insidious pricing attacks, IIMAK's concentration in TTR business, IIMAK's relative size, and the need for it to operate with reasonable profit for its lenders and its investors, IIMAK is in peril. As the largest producer in the United States, this is also important for the industry as a whole. We are a great target.

We have had to curtail and cancel important long-term plans for additional strategic investments. We also have had difficulty in securing financing which has had other significant but confidential implications which are outlined on pages 57 through 59 of our brief.

Respondents, on the other hand, appear poised to pass on the U.S. market to an even more aggressive degree. Exports to the United States will almost certainly increase absent an antidumping order. Respondents collectively have substantial available capacity. The western European TTR market is fairly saturated, particularly France, as is Japan and Korea. So it is highly likely that at least some portion of this material will be destined for the United States, which remains the largest TTR market with homogeneous

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distribution, and little barrier to entry.

There already has been a substantial increase in volume of exports to the United States and there is nothing stopping them from increasing. For the last three years the respondents have led prices deeply down and increased market share. They have demonstrated not only a staggering willingness to undersell, but an ability to do it over an extended period of time.

The staff report finds that, "Prices for certain TTR clearly fell over the period of investigation, and there was a clear pattern of subject imports underselling domestic TTR."

There is every reason to believe that will continue. They will continue these practices. The Armor brief states that U.S. industry price decreases reflect raw material cost increase and productivity increases, and for this reason subject import competition is not the cause of depressed prices.

With respect to IIMAK operations, this is just simply not true. First, declines in units raw material costs accounted for only 25 percent of total unit operating cost declines from 2001 to 2003. And in the case of polyester film, which is the most significant raw material, prices were driven down
clearly by the need of TTR manufacturers who were
themselves under severe price pressure.

Second, while there were some decreases in
cost due to productivity improvements, most of our
cost-cutting measures were in response to declining
prices. We were forced to reduce employment, scale-
back overhead, and defer capital and research
investments, measures that were not a reduction, but
in fact the effect of jeopardizing our long-term
competitiveness.

Finally, I urge you to take a look at our
financials, and particularly consider the details of
the vulnerable position we are in. The real and
imminent effect of respondents' actions on IIMAK is
not in doubt. Without the discipline of antidumping
duties, our existence as a company and the jobs of our
employees are at grave risk.

I thank you for your time and I will welcome
any questions you might have.

I would like to turn this over to my
colleague, David Golub.

MR. GOLUB: Good morning, Commissioners. My
name is David Golub. I am a senior advisor of Centre
Partners, a New York-based private investment firm and
the largest shareholder of IIMAK. I have been
employed by Centre and its affiliate since 1988, and
from '95 through last year I served as managing
director.

Centre Partners acquired IIMAK early in
2000, and I held the position of chairman of IIMAK
from then through December of 2003. Frankly, I hadn't
planned on being here today. But over the weekend I
read ITW's brief, and decided that the lies and
misrepresentations in it needed to be rebutted, and I
asked to be here and prepared this testimony.

Let me begin with some background. During
my 16 years in the investment business, I have
personally been involved with several dozen companies
in a wide range of industries. Centre Partners
investments have historically done very well,
generating very attractive returns.

In my business, there are two drivers of
success; the first is understanding the changing
dynamics of industries; and the second is evaluating
the strength of management teams. Both of these skill
sets are extremely relevant to my perspective on this
case.

With respect to the TTR industry, it is very
clear to me that over the last few years a series of
offshore producers have been dumping product at ever
lower prices to gain market share, and I believe, to eliminate or acquire cheap U.S. competitors.

I have particular insight into the behavior of the Korean respondent, ITW. ITW was Centre's competition in our effort to buy IIMAK from PAXAR in late 1999, and early 2000. In the course of our due diligence, we learned how vast ITW's corporate empire is, and how it's been built through an acquisition strategy. We learned how, in 1997, ITW displaced DNP as a supplier to Advent, to enhance their U.S. position in TTR, a business they subsequently purchased in 2000.

We learned how they developed a joint venture with SKC in Korea in 1999 to backward integrate into TTR film coating, and we learned how they wanted to buy the U.S. market leader, IIMAK.

In fact, we learned that they made an offer to PAXAR at the same time that we made ours that was actually comparable to the winning bid that we presented.

As a consequence of this, I find the following statement, and I am going to quote it verbatim in ITW's brief, to be completely disingenuous. ITW states, "It learned firsthand about IIMAK's business and management deficiencies during a
number of private business negotiations, and as a consequence rejected opportunities to partner with IIMAK in 2000 and earlier."

The fact is that ITW was and is a frustrated and jilted suitor. They were rejected by Arthur Hershaf, chairman and CEO of PAXAR, and later, and I'll relate this story in a few moment, they were rejected by me.

Let them assert, you are in this hearing under oath, that they didn't submit a proposal to buy IIMAK in late 1999, early 2000.

Post Centre's agreement to buy IIMAK, ITW used tactics completely consistent with the sleazy lies and misrepresentations in their brief. They used the confidential information gleaned from their review of the IIMAK operation, including as Dick Marshall alluded to, site visits and management interviews, to weaken the company in ways that have gone far beyond fair competition.

This has taken the form of aggressively, and as we assert, illegally reducing U.S. slit roll pricing, targeting IIMAK customers known to ITW as a consequence of its due diligence, repeatedly leaking confidential information or misinformation about IIMAK, including at one time misinformation that ITW
was buying the company, the leveraging of below market
film contracts through the profit sharing agreement
with SKC, and the unprofessionally abrupt termination
of a supply arrangement with IIMAK in Europe.

The net effect has been extremely injurious
to IIMAK's financial health.

A second dimension of ITW's claims that I
would like to address is the soundness of IIMAK's
management team. Centre Partners is the largest
shareholder of IIMAK. As chairman, I have full
authority to hire and fire all of IIMAK management.

The claims asserted by ITW's counsel in
their brief related to IIMAK purported mismanagement
rank right up there in credibility with statements by
Martha Stewart.

Apparently ITW has not yet learned that the
era of corporate lying is behind us.

Let me make two points on this.

First, ITW makes a series of claims
pertaining to what they call "avoidable marketing
disasters." These claims are just plain wrong.
Through a series of acquisitions and partnerships
during the POI, with Acucote with Precision Ribbon and
others, IIMAK's management succeeded in personally
mitigating the impact of dumping by ITW and other

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foreign respondents.

All of the acquisitions and partnerships ITW references, I know all the facts about these, I would want IIMAK to do again if we could roll back the clock. The fact is that ITW did not and does not view IIMAK as a disaster waiting to happen. In fact, as recently as last spring one of the senior executives of ITW called me, and I still have the message slip on this, to inquire about Centre's interest in selling IIMAK to ITW.

Because of our faith and confidence in IIMAK's management, our faith and confidence in the likely success of an antidumping action based on the facts, and our continuing distrust of ITW for all the reasons I mentioned previously, we decided not to pursue the discussions ITW was so eager to renew.

The second point I would like to make is very recent, in December 2003, I stepped down as chairman of IIMAK, and in recognition of Dick Marshall's extraordinary leadership, I personally nominated Dick to succeed me.

The board carried the motion unanimously. I would respectfully suggest to you, the Commission, that this is not typical recognition for "gross underperformance." It is my view that IIMAK
management team is among the strongest I have worked
with in over 16 years as an private equity investor,
and my colleagues at Centre Partners agree.

    Thank you very much.

MR. CUNNINGHAM: I want to follow that with,
I guess, somewhat more boring view of some legal
issues here.

    I want to address two particular legal
issues. One is the definition of the U.S. industry,
and in particular, the question of whether slitters
should be included in the same industry. We have what
we call coaters by which we mean fully integrated
companies that do the ink making and the coating of
the jumbo rolls as well as the slitting operations.

    I'm not going to spend a lot of time on the
facts of this because I think Vince Dowell's
presentation today was pretty dramatic on all of the
criteria that the Commission normally looks to to
determine whether one company should or should not --
one type of company should or should not be in the
industry.

    Coating is a vastly more costly, vastly more
complex, and employment-heavy operation than is
slitting. Contrast that to capital investments, the
fact that the Commissioners have given particular
weight to in the past, research and development, where
there is essentially no research and development in
the slitting end, and employment are especially
striking.

A short word of question about the value
added data. Remember, the value added data are
somewhat distorted by two factors here. One is that
all the slitters that you are talking about -- that
gave information to the Commission -- are related
companies to the companies from which they acquire the
coated jumbo rolls. Therefore, you're looking an
intra-company transfers.

And moreover, the premise of this case and
the Commerce Department's findings is that those jumbo
rolls are being dumped, and some of them at very
substantial margins, and that distorts the value added
comparison.

Here, when you look at this, the traditional
Commission practices are so straightforward, I think
you will find this is at least a stronger case for
finding U.S. slitters not to be in the domestic
industry as was presented with respect to the U.S.
converters in the recent indigo case, 1999 indigo
case.

I would also urge you to look at the

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Commerce Department's analysis of many of these same factors in its discussion of who should be in the scope in the sense of substantial transformation.

Looking at those factors, they found that slitting did not constitute for antidumping purposes a substantial transformation.

Now, the other aspect of this who is in the industry issue is the related party question. I'm not going to spend much time on that because, of course, here the slitters who are related to the foreign exporters are related parties both in the sense of corporate relationship and in the sense of exclusive supply relationship.

These U.S. companies are in fact the arms by which the foreign companies participate in the U.S. market at the level at which competition really occurs; namely, in the sales of slit material. It is as integrated operators in which the predominant locus of profitability is at the coating end, and the slitters simply provide the tag end, binder manufacturing and marketing.

The slitters, therefore, are -- essentially they live to make the corporate entity profitable and they are not really separate companies.

Including them as U.S. producers in any part
of the Commission's analysis will be terribly distorted. They benefit from the dumping. They are not injured by the dumping. They get the cheap material you saw. Mr. Klett's charts dramatically showed that fact.

So you should eliminate them from financial performance, market share, underselling or whatever just as we have done in our figures.

Let me turn now to the second issue I want to cover which is one that appeared to trouble Commissioner Miller in particular at the preliminary stage, namely, whether competition should be evaluated at the jumbo roll stage or at the slit stage, the finished TTR stage.

The facts here are not in dispute. The imports are or substantially all in the form of jumbo rolls, but the only use of the jumbo rolls, the only use of the jumbo rolls is to make slit TTR. Incidentally, both ITW and Armor acknowledge this in their brief.

The vast majority of imported jumbo rolls are slit and packaged for sale as finished TTR by the U.S. affiliates of the foreign respondents.

And finally, the Department of Commerce has determined, as I mentioned a moment ago, that a jumbo
roll made in a respondent country is not for
antidumping purposes substantially transformed when it
is slit and packaged in another country.

Thus, imports from France of finished TTR
that was slit and packaged in France from a jumbo roll
made in Japan is a Japanese import of subject
merchandise. The same logic applies to the Commission
staff, which is to determine where the locus of
competition is. It is in the sale of the finished
product.

This set of facts is not a new one for the
Commission. You have considered similar, but not
quite as strong from my side of the argument, facts in
three recent cases: in synthetic indigo from China in
1999, DRAMs from Taiwan in 1999, and DRAMs in 2003.

In each of these cases you took the position
correctly where the semi-finished and finished
products were both in the scope, which is true of all
three of those cases, and where the predominant, in
the case of indigo, or only in the case of DRAMs use
of the imported semi-finished product was to make the
finished product, then competition should be evaluated
at the level of sales of the finished product.

And the sales of imports, sales of
merchandise slit from subject imported merchandise was

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the same of imports.

Here, you are looking at the level of finished TTR. Note also that these cases do not turn on whether the finishing companies were found to be members of the domestic industry.

In Taiwan DRAMs, the assemblers were found to be part of the U.S. industry, while in indigo the converters were not. In each case product made from subject imports was deemed a sale of imports.

Indeed, this case is stronger for that conclusion than indigo because here the only use of the imported product is to make the finished or more processed product, and it's stronger than both indigo and the DRAM cases because here the finishing, that is the slitting and packaging operations, are performed in the U.S. by affiliates of foreign producers of the imported less finished merchandise.

And of course, this is the only way to sensibly analyze these markets. All of these companies, whether U.S. or foreign, ultimately serve the finished TTR market as you saw in the marketing charts displayed by Mr. Kingdon.

The only meaningful competition occurs at that level. Those are sales of imports at that level by your past decisions. That's where you analyze the
competition. That's the way our data are all set up.

To the extent that the staff data is configured differently, we will be happy to work with the staff to get them on the same wavelength as we are if you agree.

Let me turn now to Ms. Kimble for another legal issue.

MS. KIMBLE: Good morning, the final two issues we would like to discuss are like product and negligibility. The Commission correctly decided in the preliminary phase that certain TTR in jumbo roll form belongs in the same like product as slit fax TTR. No information developed in this final phase undermines that finding.

The more detailed record now before you demonstrates, however, that slit fax is not part of the same like product.

At the outset, I would like to make clear that slit fax TTR is not in the scope of the investigation. Facsimile TTR are mentioned in the scope merely to illustrate that one end us is -- what one end use is for TTR in general. It's not an end use for certain TTR.

The question thus before you is whether to extend the like product beyond the scope to include
slit fax TTR.

Since the preliminary phase of this investigation, you have issued an opinion in aluminum plate from South Africa, which is highly instructive. As you noted in that investigation, when reaching out beyond the scope, the question is not whether a continuum of products exists, but rather where any continuum ends.

Respondents' reasons for including slit fax TTR in the like product could easily justify including a myriad of other TTR products, and indeed other pricing products not limited to TTR in the like product. The scope, as accepted by Commerce, draws a reasonable demarcation between TTR products and you should not extend the like product.

Whether the Commission uses in its semifinished product analysis or looks at this question by comparing slit products, the outcome should be the same. Slit fax TTR is not part of the like product. Jumbo rolls are not dedicated to the production of slit fax TTR, but overwhelmingly go to make slit certain TTR. Slit certain TTR is used in bar coding equipment while slit fax TTR can only be used in fax machines, and as demonstrated by Mr. Dowell, only after it undergoes significant processing.
that slit certain TTR does not use, and we have some
eamples for you.

Moreover, the price of slit fax TTR is
substantially higher than slit certain TTR and
dramatically higher than TTR in a jumbo roll form.
Keep in mind that the price of slit fax TTR is
artificially inflated by the presence of patents
protecting its design.

Thus, the factors that the ITC traditionally
considers in evaluating the question of like product
show that slit fax TTR does not belong in the same
like product as the in scope merchandise.

But we are not the only ones who should be
speaking on this subject. In particular, counsel for
DNP, the largest producer and importer of slit fax TTR
will be testifying this afternoon. As the largest
player in this market, DNP clearly has a good
viewpoint for evaluating this question. We suggest
that you ask them how they testify as to slit fax TTR.

Should you disagree with our assessment,
however, we respectfully submit that you must not
allow this decision to cloud your negligibility
analysis. The statute instructs the Commission to
assess the negligibility of merchandise corresponding
to a domestic like product. The like product is

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defined by reference to the scope; in other words, by
definition, the imports in the scope are the
merchandise corresponding even to an expanded like
product.

You should reject respondents boot-strapping
by which they expand the like product beyond the
scope, and then use that extended like product to
enlarge imported merchandise that you consider. Such
an approach would encroach upon questions decided by
Commerce.

In short, the in-scope imports are not
negligible. Even if you look at a broader category of
imports, however, the data collected by the Commission
indicates that these rapidly increasing French imports
likely have already passed the negligibility
threshold. If not, they will do so imminently.
Therefore, none of the imports are negligible for
purposes of this final phase of the investigation.

Thank you.

CHAIRMAN OKUN: Thank you.

MR. CUNNINGHAM: That concludes our
presentation. I would only --

CHAIRMAN OKUN: Just in time.

MR. CUNNINGHAM: Pardon?

CHAIRMAN OKUN: Just in time.
MR. CUNNINGHAM: Just in time, and that brings me to the one thing I want to say to you. Any criticism of IIMAK management must run head on into the amazing managerial accomplishment you have seen today, which is bringing this multifaceted panel in on time.

CHAIRMAN OKUN: All right, we will give you points for that.

Before we begin our questioning this morning, I do want to thank all the witnesses for being here, for all the members of the industry, employees, and you, Mr. Golub, for being here, taking time from your business to help us better understand this industry, and I very much appreciate your testimony.

And I am going to begin the questioning this morning. I would like to ask witnesses when you respond if you could just please state your name, there is a lot of tables of you, and it helps the court reporter as well if you can just restate your name for us.

So many issues, so little time as we have found. It's hard to even decide where to start. There has been very interesting dynamics going on in the industry which I'm sure we will spend a lot of
time on, but let me try to clear up a couple of little
under-brush items before I start.

And Mr. Cunningham, I appreciate your
responses in the beginning on critical circumstances.
I just want to make sure I understand.

Are you saying you are not alleging critical
circumstances with regard to either of the two
companies? You said DNP, and I wasn't sure.

MR. CUNNINGHAM: Oh, we have only taken that
position as to DNP.

CHAIRMAN OKUN: Okay, so for Union?

MR. CUNNINGHAM: For Union, the statistics
are different than DNP, and we would maintain that
it's still appropriate for you to consider critical
circumstances as to them.

CHAIRMAN OKUN: Okay. So for purposes of
posthearing you will be providing information on --

MR. CUNNINGHAM: Correct.

CHAIRMAN OKUN: Okay, okay. I wanted to
make sure I understood what your position was on that.
Okay, that's helpful.

Then let me, I guess, then turn to the
issues of the slitters and converters, and again we
noted in our preliminary that we regard it as a close
call. Commissioner Miller came down differently. You
have provided some more information this morning. But I just want to make sure that I understand this, Mr. Cunningham, in terms of the value added, your position on that, because I know you said both today and in your brief that you believed those figures to be, I guess, inflated because of how they are positioned?

MR. CUNNINGHAM: Yes, remember that whatever one may say about the data, the data nevertheless show in every case that the value -- that the cost of coating and ink making is greater, and in most companies quite substantially greater than the slitting.

Secondly, value added does impress -- has not been the primary issue to which the Commission has looked. The Commission has placed more emphasis on investment for example, capital investment.

Thirdly, as to the value added data coming to your specific question, there is always difficulty in evaluating intra-company data, and unfortunately here all of the slitters who reported in response to your questionnaire were affiliates of the foreign respondent coaters. And so put a question mark there.

Secondly, there is an inherent distortion to the extent that the value of the coated jumbo roll is understated because it's -- it's understated as a cost
to the slitters because it gets it at a dumped price. And it would be an interesting exercise for you to look at the margins of dumping and see whether the slitters that have the higher margins of dumping have the lower proportion of coated cost, and -- well, I will just leave it at that because I don't want to get into confidential information.

CHAIRMAN OKUN: Okay. Well, perhaps in posthearing briefing we can address that. And what I plan to look at it and have been trying to look at is this in other cases, and I know you cite synthetic indigo, but we have had other cases where I think we have some similarly situated industries doing something, converting something --

MR. CUNNINGHAM: Right.

CHAIRMAN OKUN: -- where, you know, think value added number is pretty high in relation -- I mean, it's up there in relation to --

MR. CUNNINGHAM: Right.

CHAIRMAN OKUN: -- these other cases, so I guess for posthearing I would like to see you look at that analysis.

MR. CUNNINGHAM: Yes.

CHAIRMAN OKUN: Understanding that you think this is important.
MR. CUNNINGHAM: Right, the value added, and I acknowledge the value added relationships are higher here than in some of the cases in which you found the finishing part of the industry, finishing companies not to be part of the industry.

On the other hand, the other categories are at least as disparate in this case, capital investment for example, or more disparate, research and development for example, than in other cases you have looked at. We always do balancing. We always do balancing on this issue.

CHAIRMAN OKUN: Right.

MR. CUNNINGHAM: And our job to you is to point out, you know, where the various factors are and then you do the balancing.

CHAIRMAN OKUN: Okay. Well, again, I will continue to work out --

MR. CUNNINGHAM: Could I say one thing on this --

CHAIRMAN OKUN: -- of the obvious one.

MR. CUNNINGHAM: This issue is of somewhat diminished importance in this case because of the particular way in which the injurious impact is felt in this case. This case is a 21 percent price decline over the period. When you are looking at a price
decline that has occurred in the market for certain TTR, not in the market for slit fax, then the fact whether you slit fax in or out of the industry doesn't really affect the major thing you need to look at in this case, which is in the certain TTR market you have had a 21 percent price decline and there is no other explanation for it than that imports at least contributed very substantially, and we would maintain is the major cause, of that.

CHAIRMAN OKUN: Okay. Well, we are obviously going to spend a lot of time on that particular issue. But let me just -- one other question that I am trying to make sense of with regard to slit fax TTR, and I guess I will turn to your industry folks who testified on this, which is, for the jumbo rolls that are in the scope, and again the scope references facsimile, those jumbo rolls, does a jumbo roll become slit fax TTR at its assemble roll stage, or by virtue of the processing?

Because, again, I mean, as I understood it, or thought I understood it, the jumbo rolls can be made either into certain TTR or into slit fax -- certain slit TTR or ceratin slit fax TTR -- slit fax TTR, there we go, but it's the processing and whatever that is added to it that imparts the fax TTR, and I

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just want to make sure I understood whether it's the
same jumbo rolls that get cut into either of these,
but it doesn't matter. So help me out, Mr. Marshall.

MR. MARSHALL: Chairman Okun, I am Dick
Marshall. The answer to that is -- let me start with
the jumbo rolls.

In certain TTR there are several ink
formulations that each of the companies that compete
have. Those ink formulations are determined at the
ink manufacturing stage that Vince Dowell had pointed
out, and then those properties of inks are laid down
in the coating process, and so what that jumbo does
from a print performance point of view is determined
through formulation, and then subsequently coating.

How that ink is then used is dependent upon
how you slit it and for what machines it's used in. A
certain part of certain TTR are ink formulations that
can print on label stocks that are used in bar coding
imaging, that tend to be a little rougher surface
stocks, and plain paper, which is the media used
almost exclusively in thermal transfer fax machines.

So the surface characteristics of those two
materials are similar. However, one is a label,
generally adhesive back, have some kind of
identification on demand put on some kind of an image,
and the other is a fax machine sitting waiting to produce text on plain paper.

Because those inks can perform on either of those two, that's why we included that jumbo type as certain TTR.

Once you take a jumbo and slit it for either that label manufacturing purpose or for the fax purpose, they are no longer fungible.

CHAIRMAN OKUN: Okay, I understand that point. But when someone is purchasing the jumbo roll --

MR. MARSHALL: Right.

CHAIRMAN OKUN: -- do they purchase a jumbo roll from a particular manufacturer because they know that that is -- its ink formulation is for -- better for slit fax TTR as opposed to buying this set of jumbo rolls for certain TTR, certain slit TTR?

MR. MARSHALL: I hope I heard the question right.

All of the respondents have the capability of producing an ink that can serve the common purpose. I don't know that they would all know that a buyer is going to use it for one reason or another. However, generally I would think we would. I can't answer for them. But I know that if somebody were buying jumbo
rolls from us for slit fax, that I would understand that.

In the United States, we don't sell jumbos for conversion into fax. In other parts of the world, we do sell jumbos that can be converted into fax, and I can identify the customers that do that.

MR. CUNNINGHAM: Are you saying that some jumbos can't --

CHAIRMAN OKUN: Mr. Cunningham, using your microphone.

MR. CUNNINGHAM: Are you saying some jumbos can't be converted into fax?

MR. MARSHALL: Some jumbos you wouldn't convert into fax because the ink characteristics wouldn't print in a fax machine, and of the certain TTR we have identified there are wax/resin products that would not work in a fax machine because of the melt characteristics of the ink and that sort of property.

CHAIRMAN OKUN: Okay. Mr. Kingdon, you wanted to add something?

MR. KINGDON: Chairman, could I add one comment? I think, as Dick Marshall said, the wax formulation for fax, for plain paper, very few bar
code TTR applications use the plain paper equivalent. So in our business the fax formulation that we use is essentially dedicated to fax.

Okay, there is a tiny, very small single percentage degree of overlap because that formulation is not used in bar codes. But when you ask us could you use the same formulations in the two applications, it can be done, okay, and some of the respondents do, and we have a very minor overlap, but simplistically no, they are not the same.

CHAIRMAN OKUN: Okay, I appreciate that, all those answers. I see that my time has come up before I got out of the weeds, I would say.

Vice Chairman Hillman.

VICE CHAIRMAN HILLMAN: Thank you very much, and I would join the Chairman in thanking you all for taking the time to be with us this morning.

Let me just, if I could, stay for a minute with this just to make sure I understand it.

As I understood your testimony then, Mr. Kingdon, what you are saying is that yes there are certain ink wax formulations that would go on that would be specific to fax TTR and certain ink wax formulations that would be specific to bar code, or something other than fax?
MR. KINGDON: That's correct.

VICE CHAIRMAN HILLMAN: Okay. So that when I look at a particular jumbo roll with this particular ink wax formulation I, in essence, know that it is likely to be or dedicated for fax use, and that there are certain others over here that are going to be for bar coding?

MR. KINGDON: If you're sitting in the United States.

CHAIRMAN OKUN: Okay.

MR. KINGDON: The issue that in less sophisticated markets, we sell into South America, into Europe, they use more uncoated paper, and so they use some of those formulations for bar code applications. But in the United States the vast majority, 90 plus percent is resin-enhanced wax, which is a different formulation from the pure wax formulation. It needs more head, and the TTR fax printer simply cannot -- it will not work well in the TTR fax.

VICE CHAIRMAN HILLMAN: Okay, so the portion of the jumbo rolls that you produce that would be produced with this wax/resin formula that is suitable for --

MR. KINGDON: Resin-enhanced wax. Wax
formula.

VICE CHAIRMAN HILLMAN: That is suitable for use in a fax machine, again I'm not trying to ask for proprietary information, but there would be a certain portion of all of the jumbo rolls that you produce --

MR. KINGDON: Yes.

VICE CHAIRMAN HILLMAN: -- that are basically dedicated to fax?

MR. KINGDON: That's essentially correct.

VICE CHAIRMAN HILLMAN: Okay.

MR. KINGDON: Yes.

VICE CHAIRMAN HILLMAN: Okay. And again, I'm not asking -- if you can in the posthearing want to put some numbers on that in terms of the jumbo rolls that you produced, I just want to make sure I understand how it works, the portion that are of a ink, wax/resin formulation that means that they are to be used on the fax side.

MR. CUNNINGHAM: We'll give you that.

VICE CHAIRMAN HILLMAN: Okay. All right, thank you.

Then I guess if I can sort of go on with this just sticking a little bit on trying to understand the like product issues on the fax side.

Mr. Dowell, you had testified about the
product that ultimately is slit and used for fax purposes. I now understand that it comes from a particular kind of jumbo roll, but if I then go on from there.

Do you have a sense of the portion of it that is then ultimately put into a plastic cassette as opposed to the portion of which is sold just with the, if you will, the cardboard tubes or whatever you call them on either end that a consumer would themselves put into their own, you know, fax machine? What portion of it do you add a plastic cassette to it?

MR. DOWELL: I would like to go back and confirm the numbers.

VICE CHAIRMAN HILLMAN: Okay.

MR. DOWELL: We can get you those numbers.

VICE CHAIRMAN HILLMAN: Okay.

MR. DOWELL: Because I don't have the -- I mean, I have a rough sense, but I think it might be better if we could --

VICE CHAIRMAN HILLMAN: And is it most of them or --

MR. DOWELL: Most, more than half, yes.

VICE CHAIRMAN HILLMAN: More than half.

Okay. I mean, you mentioned if you had the silver
strip it tells the machine that it's reached the end of the row. Do you have a sense of what portion you have that added to it?

MR. DOWELL: That would not be that significant.

VICE CHAIRMAN HILLMAN: Okay. Okay. And are the same slitting machines used to produce fax product versus bar code product?

MR. DOWELL: Yes, they can be. They need to be tooled slightly different, but essentially you can use the same equipment.

VICE CHAIRMAN HILLMAN: Okay.

MR. DOWELL: The only exception is in the end mark. It takes an additional piece of equipment added onto it to be able to do the end mark.

VICE CHAIRMAN HILLMAN: Okay. You are saying you can?

MR. DOWELL: You can.

VICE CHAIRMAN HILLMAN: Do you do that?

MR. DOWELL: We can do it, yes.

VICE CHAIRMAN HILLMAN: You do, you do use the same slitting machines to produce fax product and bar code product?

MR. DOWELL: Yes, we do.

VICE CHAIRMAN HILLMAN: Okay. And give me a
sense of the number of employees. Do you have a sense of the portion of your employees involved in coating as opposed to the portion of employees involved in slitting?

MR. DOWELL: Yes, it's --

MR. MARSHALL: Vice Chairman.

VICE CHAIRMAN HILLMAN: Yes. Mr. Marshall, go ahead.

MR. MARSHALL: Before we answer that, the one thing that would, I think, be important to do is there are entire departments that are not part of the direct labor function that would not be required if you didn't coat. For example, our R&D department is there to invent formulations, and all the laboratory people are there to prove them out and test them out.

So perhaps in a post briefing we should itemize all of those for you so that you get a feel for the entire population of IIMAK that's dedicated to the front-end of that business.

VICE CHAIRMAN HILLMAN: I understand. I mean, obviously one of the things I am trying to understand is, if you will, the relative labor intensity of coating as opposed to slitting, and that's what I am trying to get a better feeling for.

Of those two operations, which would you --
again sort of stepping back and looking at it, which is more labor intensive?

MR. MARSHALL: There is actually a bit more labor on a per MSI basis slitting than there is in coating because the key performance functions of the coater are designed into the automation of the machine.

VICE CHAIRMAN HILLMAN: Okay. I mean, I will be honest, and part of it is I would like, if you can, you were talking about sort of generally overall trends in the industry. I will say this. Things have come to us a little bit differently than what we normally see in industries in which there is some production done overseas and some done in the United States. It is more typical that the labor intensive work is done in the overseas market, and the less labor intensive, you know, production typically ends up being done in the United States.

And here we are looking at something that looks to us to be the reverse of that.

MR. MARSHALL: Yes, I think a bit of --

VICE CHAIRMAN HILLMAN: Why is that?

MR. MARSHALL: A little explanation on that is if you look at the production planning models of a business like ours that coats and then slits, it's an
inverted pyramid when you look at part numbers. You start with a relative few chemicals that make up inks, and then it gets coated onto a polyester film, and you end up with the number of jumbo rolls that have different characteristics because of the ink and the width and the length of the jumbo rolls.

When you slit, you can convert a jumbo roll into many, many, many SKUs, and so the primary reason you regionalize slitting is to provide better customer service without having scads of inventory of finished SKU that you are trying to forecast that's very difficult to do.

So at the jumbo roll level you may have tens to fifties of SKUs. At the SKU level for slit ribbons, it's in the thousands. So it's really for the customer service, the management.

VICE CHAIRMAN HILLMAN: Inventory.

MR. MARSHALL: Inventory and that reason that you more regionalize slitting.

VICE CHAIRMAN HILLMAN: Okay, okay. I appreciate that. I understand the answer. I would if you can give me some sense of this employment breakdown because I think it does go both to understanding why we see this jumbo roll production overseas and all of the slitting done here, but also
where do we put the converter in that.

And Mr. Cunningham --

MR. CUNNINGHAM: Could I just say one thing?

When you say all the slitting done here, in the course of this case one of the foreign respondents said, okay, we've got this dumping case. We will simply take slitting back overseas. Another said, okay, we'll go to another country to do the slitting. Slitting processes move around all the time, it's like DRAMs on that, it's the same thing.

VICE CHAIRMAN HILLMAN: No, I understand that, but Mr. Cunningham, you have to understand the cases that you're -- you are wanting us to draw these analogies on certain cases. The trouble for us here is that the slit bar code fax is included in the scope, and the fax product is not, and that is what is making it not work exactly like the case that you are describing.

I mean, you have chosen to file this case with some slit products included in the scope, and other slit products not included in the scope, which does make the Commission have to go through an exercise of trying to understand how it is if this product is included in the scope and this one is not, why we should be drawing such a distinction between

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slit bar code as something different from slit fax. I mean, you are asking us to make that distinction, and that's -- you know, that is not the same as a DRAMs case where you didn't have some portion of it included within the scope.

MR. CUNNINGHAM: My man wants to respond to that.

VICE CHAIRMAN HILLMAN: Okay, Mr. Kingdon.

VICE CHAIRMAN HILLMAN: Okay, Mr. Kingdon.

MR. KINGDON: Thank you. We will respond to everything, sorry, and anything.

Let me explain a bit about the fax business. The fax business is really an OEM business. There are Brother, Panasonic and Sharp, and they manufacture the fax machines, and they actually import the fax ribbons as elements of the machine. That's how they declare them on their customs imports, okay?

We manufacture compatible fax products. So there is a very finite number of fax SKU, and the reason the math is totally different on the fax business, the slit fax business versus a slit bar code business, is that there is intellectual property that brought the price of the fax products up. So they sell on an MSI basis at a much higher level because of the cassetting and the hubs and the gears that we have
designed around without infringing patents. So they are totally different distribution, and they work in a different market.

And I think if you appreciate that, you would understand why we feel slit fax is quite different versus slit bar code. But when you go up to the -- because there is some interchangeability at the jumbo level, we petitioned that both sets of jumbos would be included. So that's the underlying logic of the way it was structured.

VICE CHAIRMAN HILLMAN: Okay. Many questions to come back to but I see that the red light is on. Thank you very much.

CHAIRMAN OKUN: Commissioner Miller.

COMMISSIONER MILLER: Thank you, Madam Chairman, and let me join in welcoming all of our guests here. Despite the fact that I was negative in the preliminary, I appreciate your testimony. I still feel the need to educate myself on the issues related to the industry. And as I said at the time, my decision at that point was driven by my conclusions on the legal issues, so they are important for me to continue to be comfortable with my conclusions on this.

The issue of the like product and the slit
fax question was one that I found to be a very close call at the preliminary, and I, as I usually do, decided to stick with the like product consistent with the scope. But I think the questions that my colleagues have asked are quite relevant, and I want to make sure that I am comfortable on that issue before I go on to anything else.

And mostly, they have asked the questions that I was interested in. There is one thing I still want to understand and in some way Ms. Kimble's testimony in some ways referenced it.

You know, I understand that the basis for excluding the slit fax from the scope was size. I mean, that's how you defined your scope.

MR. CUNNINGHAM: I'm sorry. I didn't hear the word. Was?

COMMISSIONER MILLER: Was by size.

MR. CUNNINGHAM: By size?

COMMISSIONER MILLER: Well, in terms of excluding the slit fax TTR from the Commerce's scope, it was essentially done in terms of the way you defined your size. No?

MR. CUNNINGHAM: No, that's not accurate.

COMMISSIONER MILLER: I mean, in the scope it says sort of, for example, facsimile TTR, so is
that not correct? Mr. Kingdon?

MR. KINGDON: The scope had a -- fax only
comes in 212 to 220 millimeters in width.

COMMISSIONER MILLER: Right.

MR. KINGDON: Because that covers an eight
and half by 11 sheet of paper, which is what it's used
in. However, there is bar codes that is sold within
that range, and we did not exclude that. The
dimensions were not a critical element of the way we
petitioned.

COMMISSIONER MILLER: Okay. Well, I'll have
to make sure I understand that because that was my
impression from reading it. I'm trying to decide
whether or not that answers the second part of my
question. But given something that Ms. Kimble said, I
think there is still a question there, and that is, if
we were to include the slit fax, what other -- are
there other products that we would be picking up as
well? No?

MR. MARSHALL: I don't think so.

COMMISSIONER MILLER: Okay. It's just a
matter of slit fax being in or out. Okay. All right,
well, I'll work on that to make sure I understand, but
you have answered that question, including it does not
mean that you start picking up anything else. Okay.
MR. MARSHALL: It does not.

COMMISSIONER MILLER: Okay, good enough.

Now, then, Mr. Cunningham, I listened to your comments about the issue of the slitters and the coaters and the relationship.

One thing I want to understand in this. You are trying to diminish the value added and the degree of priority the Commission has placed on that in the past, and you know, I guess for me it's been a little more important than you would suggest.

You are right, it's always a balancing of the different issues. I recognize the R&D and the capital expenditures and the investment in production facilities and those being ones that weigh in favor of not including the slitters, the number of employees and the value added to me kind of goes the other way.

Today you have made some comments that suggest you are not -- you are kind of taking issue or you are trying to give us reasons not to rely on the value added data. But in our preliminary investigation, and I'm sure the data this time would be, I suspect it would be consistent. The value added in the slitting process by virtue of the data submitted by this company, the companies that are the integrated coater, slitter producer was also fairly

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high. It was like 35 percent, I think, 34 percent.

That suggests to me that the numbers that we are seeing now, they are not that different. I mean, if you are trying to diminish it and suggest, well, it's not really quite as high as it sounds, the information submitted by these companies suggests to me yes, it is every bit as high as that.

Mr. Kingdon?

MR. KINGDON: I don't think we have ever taken the position that the data we originally entered has been modified to materially change those percentages. We have never denied that percentage because there is more labor involved.

COMMISSIONER MILLER: Right.

MR. KINGDON: And you have U.S. paid labor complemented with offshore capital, so you are getting an aggravated delta in the total cost.

COMMISSIONER MILLER: Okay. Okay, I appreciate that.

MR. CUNNINGHAM: Let me explore --

COMMISSIONER MILLER: Yes.

MR. CUNNINGHAM: -- because it seems to me that you shouldn't look at these things entirely from a quantitative standpoint. If you had one product that was all labor and the other product that was all
capital intensive, it seems to me that would be a factor for saying the two shouldn't be in the same category together.

COMMISSIONER MILLER: Well, I --

MR. CUNNINGHAM: Right?

COMMISSIONER MILLER: You might be right about that. Some people might differ with you on whether you should give more weight to labor versus capital. You want to give more weight to capital than labor. That I'm not sure I want to get to that world.

MR. CUNNINGHAM: No, I'm not saying -- I'm not saying what you give weight to. I'm saying that where the two are entirely different for the two different products, one is labor intensive, the other is capital intensive. That suggests to me it shouldn't be in the same industry together, doesn't it?

It's not a question of how much value the labor is and how much value the capital is. Doesn't that follow as the right away?

COMMISSIONER MILLER: No, I think we -- I think we basically try to get away from making that judgment by just looking at the dollar value added as opposed to the nature of the dollar you add.

MR. CUNNINGHAM: Don't you have to ask what
are we trying to do here. We are trying to see whether the two are sufficiently similar to be in the same industry. It's not just a quantitative analysis. It must be a qualitative analysis in the type of situation that you are talking about there.

When you have got two products that everybody admits don't compete with each other at all, and you've got one very capital intensive and one very labor intensive, I mean, I don't see the -- if the dollar amount of labor in one were equal to the dollar amount of capital in the other, you would say, oh, the dollar amounts are the same. I guess we would put them in the same category.

I think it would go exactly the opposite way. I don't know what the rationale would be --

COMMISSIONER MILLER: I want to think about that. I want to think about that.

MR. CUNNINGHAM: Yes, I don't know what the rationale would be for putting them in the same category.

COMMISSIONER MILLER: Okay. I hear you. I have to think about that a little bit more.

Let me take it to -- make another point or ask you, and I'll ask you perhaps for posthearing purposes to address this. Mr. Klett, you referenced
the value added information. I'm going to go to a couple of tables we have in the report on value added, and those are the tables at Roman VI-8, and Roman VI-3. Actually, VI-3 being the information related to the U.S. coaters, and it says U.S. coaters, but we are talking coater/slitter, right, doing all of this process versus just the coating.

And when you look at the information here, I see this kind of value added on an industry-wide basis in terms of cost. That the U.S. coaters were taking their raw materials and just in terms of cost of goods sold adding like 44 percent to it, not going to SG&A, which you could do, the analysis holds up. But adding 44 percent.

The converter slitter is adding 26 percent. So you want me to basically say an industry that has 44 percent makes an industry, but an industry that adds 26 percent, that's not enough to be part of the industry, and I may not be making any sense here, but I'm just looking at, you know, taking the raw materials and what you do to get to the product that you then sell.

MR. KLETT: I understand, but I think in terms of the coaters, the raw materials are at a much earlier stage of the process. In other words you are
talking pet film and you're talking ink, and
essentially for the converters the raw materials are
the jumbo rolls, and implicit in the jumbo rolls
essentially are a lot of the cost that the coaters
have such R&D, other types of overhead.

So that I don't think you can make that kind
of -- I don't think you can compare one versus the
other, raw material versus everything beyond the raw
materials because the nature of the raw materials are
quite a bit different for the coaters versus the
converters.

In other words, for the coaters, essentially
they are, you know, adding more beyond the raw
material stage just by virtue of the nature of their
operations. And I think also --

COMMISSIONER MILLER: Well, you know, I
don't want to spend anymore time on just the value
added issue, it's not --

CHAIRMAN OKUN: You don't have anymore.

COMMISSIONER MILLER: Right, exactly. It's
one of many, and so I shouldn't. But you hear my
point and you are welcome to address this further.
You can tell me why this analysis is not a legitimate
kind of analysis in your posthearing submission.

MR. KLETT: Okay. Thank you.
CHAIRMAN OKUN: Commissioner Koplan.

COMMISSIONER KOPLAN: I'll be careful.

First of all, I want to compliment the panel on what I consider to be a very efficient use of your time. I hope to do the same in my questions.

Mr. Cunningham, I am still examining, as are my colleagues, whether we should now include slitter/converters as part of the domestic industry.

A lot of the emphasis in your argument has been, you know, urging us to compare their operations to the production-related activities of coaters. I am leaning toward relying on whether slitter/converted production activities is significant in the absolute sense. If I do that, then in taking into account the value that their operations add to the finished product, the numbers of employees needed, the technical expertise involved, et cetera, I am leaning toward including it, okay.

But it would be helpful to me, picking up on the Chairman's request, on the legal side as far as the cases are concerned, it would be helpful for me if the purposes of your posthearing submission you would compare for me this issue as it was presented in three earlier Commission investigations which we haven't touched on this morning, and these investigations in
which I previously participated.

I am referring to pure magnesium from China and Israel, and that's USITC Pub. 3467, November of 2001, page 9 to 11; and honey from Argentina and China, and that was a final investigation USITC Pub. 3470, also November of 2001; and certain color television receivers from China and Malaysia, and that was preliminary, and that was Pub. 3607 in June of 2003 at pages 6 and 7.

In those three cases, in the first one, magnesium, we were looking at grinding. In the second one, honey, we were looking at packers; and in the third one, color television, we were looking at assembly.

And so if you could discuss those for me for purposes of the posthearing, comparing it to what I am looking at it, I would find that most helpful.

MR. CUNNINGHAM: We will be happy to do that. I hope we will also in the panel questions, get the question of whether we should exclude as related parties.

COMMISSIONER KOPLAN: That's my next question. I have it right here.

Assume that I do include the slitters and converts as domestic producers of certain TTR and

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slitter fax TTR, I will need to assess each of them separately to determine whether they should be excluded as related parties. So for purposes of your posthearing submission because much of that data will be PBI, please provide me with a related party analysis taking into account the traditional factors we must consider for each of the U.S. slitter/converters that are related to foreign producers regardless of whether they have coating operations in the U.S.

Does that cover your request?

MR. CUNNINGHAM: Brilliantly.

COMMISSIONER KOPLAN: I'm not going to cut you any slack on that one.

Now let me turn if I could to Mr. Marshall. On the issue of whether slit fax TTR should be included with certain TTR as part of a single domestic like product, respondent Armor argues at pages 6 to 10 of its brief that the Commission got it right when we included slit fax TTR with certain TTR in the preliminary phase of this investigation.

It argues six traditional points: One, that both have similar physical characteristics and end uses; two, that they are interchangeable; three, that there is considerable overlap in the channels of
distribution; four, the customer perception there is no bright line between them; and five, that the same manufacturing facilities and employees are used; and six, that their prices significantly overlap.

In part, their counsel bases their argument on business confidential information provided by a company that I am prevented from using in the public session.

However, I can give you one example from their brief, which is public information, and relates to the issue of interchangeability.

At the staff conference last June Armor's pre-hearing brief quotes you as having said, and I quote, "A waxed jumbo that is a good wax for printing on plain white paperback is very able to be slit into a bar code ribbon configuration and print well on a regular uncoated tag. I guess that there is very little formulation differences, and you would be able to do that." That's at page 56 of the staff conference.

Mr. Kingdon is also quoted as having said that, and I quote, "Certain TTR can be used in fax printers," and that's at page 90 of the staff conference.

Tell me where you differ with Armor on any
or all of the six factors I just listed. Mr. Kingdon, of course, is free to jump in as well. I would be interested in hearing from the two of you.

MR. MARSHALL: Where I agree with Armor is that there are ink formulations that are designed to print well on less surface stocks like plain paper. There is some labeling applications, more so in Europe than in the United States, where that kind of surface characteristic of the label is used a lot in bar code labeling. So if the ink was designed to print on those two stocks at the jumbo level, at the jumbo level you would have the ability to make a bar code ribbon or the ability to make a fax ribbon.

Once you have converted to make a ribbon for a bar code printer as compared to a ribbon for a fax printer, there is virtually no fungibility. A finished fax ribbon cannot be used in a bar code ribbon, and a finished bar code ribbon can't be used in a fax machine.

So the converting operation is where the differentiation is made, and only in certain ink formulations is there a commonality which is why we introduced this obviously confusing issue of why are they included at the jumbo level and not at the slit ribbon level.
Armor's position is that there is substantial overlaps between distribution, I would take exception to. The primary distribution for bar code is as was described by Richard Kingdon's presentation on how the market sets up with OEMs and distributors and resellers and the like.

There are few but very few resellers that actually do both in any substantial amounts. The vast majority of slit TTR for the purpose of fax machines is sold through very large office product distributions channels, Staples, Office Depot, Office Max, catalogue houses, and they are starting to think about selling some bar code, but a very finite level of bar code, infinitesimal compared to the marketplace.

So the vast majority of the distribution channel is office retail and the vast majority of the bar code channel is a distribution network unique to the auto identification marketplace.

The overlap is a bit, but it is very insignificant relative to the total market. So in that particular case I disagree entirely.

From a unit price point of view, at the jumbo level if you can't determine if it's going to be used for bar code or for fax, but the ink has the
characteristics that can be used for either, there is probably similarity in the unit price at the jumbo level.

Once you have made the conversion and you have a slit fax ribbon and you finished it into form that has the supply roll, the take-up roll, the hubs, the gears, the cassette that generally has intellectual property associated with it, packaging gets designed for retail generally with color type packaging, that value add, and the amount of technical property that's involved in it has allowed the pricing of fax ribbons to be substantially higher on a per MSI basis than on a per MSI basis for bar code because it doesn't have all of that other differentiation that takes place and value added takes place. That is why we separated the two of them.

So I disagree on those two points.

COMMISSIONER KOPLAN: Thank you very much. That's very helpful.

Did you want to add anything while my yellow light is still on, Mr. Kingdon?

MR. KINGDON: Thank you. I would only add, reaffirm the channels of distribution are totally different and that the pricing is also driven part by the this intellectual property that provides a price
umbrella controlled by the OEM in the fax business
which does not exist in the bar code business because
there is no intellectual -- essentially there is no
intellectual property on consumables within the bar
code printers with one or two minor exceptions.

MR. CUNNINGHAM: When we talked this over
for the preparation of the hearing the closest that we
thought that they were right on any of the factors is
on, you know, manufacturing operations could overlap;
that is, they could be produced by the same workers,
could be produced by the same workers using similar
equipment.

In fact, there are many operations that are
not produced using the same equipment, but it could
be. That the closest they were to being right. The
others we concluded they are all wrong, and we will
address that posthearing.

COMMISSIONER KOPLAN: Thank you. Thank you,
Madam Chairman.

CHAIRMAN OKUN: Commissioner Lane.

COMMISSIONER LANE: Good morning. Yes, I
guess it is still morning. Welcome to this hearing.
I have a few questions and I apologize if some of them
are repetitive. At this point I couldn't tell you if
they are repetitive or not.
As you know in the preliminary determination the Commission found that finished wax TTR was part of the domestic like product, finding that its physical characteristics and uses, interchangeability and common manufacturing facilities and processes warranted its inclusion.

In your pre-hearing brief and today I believe you are arguing that like products should be defined co-extensive with the scope.

Now, if the Commission does expand the domestic like product as we heard today, and if the slitters and converters are also included, does that or how does that affect your argument and what sort of argument would you make then as to whether or not there is injury in this case? Mr. Cunningham.

MR. CUNNINGHAM: Yes, let me first say that one thing that it clearly doesn't affect by your past decision is the level of competition that you look at or whether the imported -- whether you consider as import sales the sales of slit, certain TTR made from imported subject jumbo rolls, because you faced precisely that issue in DRAM where you determined that the -- that the finishing process people were part of the domestic industry, but nevertheless you considered properly the sales by those members of the domestic
industry of material made from imported subject merchandise to be import sales.

So that's the most fundamental point in this case because the case turns and manifests itself in terms of pricing effects.

Now, the issue -- the predominant effect, call a spade a shovel, I left out an adjective there, but we are in a civilized hearing here, of putting the fix -- the slit fax into the domestic industry and like product may relate to the negligibility issue, because it changes, arguably changes and we don't think it should, and we think that even if it did then you should look at the imminent of the French, now rapidly increasing French imports, that they would surpass the imminent level.

But just on a pure numbers basis, if you do the math, and you do change the denominator to reflect your like product rather than the scope, then you have a number that's lower than the negligibility for France, but we don't think that's where you stop in the analysis even if you do that. So that's the biggest issue that it affects in the case. It doesn't affect the overall issue of -- in our judgment -- the overall issue of is there injury caused -- material injury caused by imports, because even if you put slit
fax in, you still have a 21 percent price decline caused by imports as to a part of your overall market and industry that constitutes, what is it, 90 percent or something like that of the overall volume of the market even as we defined.

So you have not changed the parameters of the case on an is there material injury, is there no material injury, but you may affect -- we think it shouldn't affect, we will argue that it doesn't affect, and we will win that argument, on the negligibility issue as to France.

MR. KLETT: Commissioner Lane, this is Dan Klett. If I could just amplify on a few points.

With respect to expanding to include the slit fax, I mean, in other cases where the industry has been expanded beyond the scope, such as grapes or tomatoes, and the expansion has been so great that the effects of the imports have been diluted, that has essentially resulted in a negative determination.

Here the slit fax as a percentage of the total slit fax in certain TTR does not expand the industry that much so that the adverse effects are still material.

With respect to expanding the industry to include converters, I think the first step is do you
exclude the converters as a related party. And I think that the jumbo rolls account for roughly 75 percent of the manufacturing cost for the converters, so they are benefitting substantially by virtue of the lower cost jumbo roll raw material. And as one of my graphs showed in large part that explains why their profitability is much better than the profitability of the integrated coaters slitters.

When you -- they are still part of -- I guess they are still -- and that's the producers, you exclude them as related parties, I think there are still adverse effects because the imports have allowed the converters to price in a way that they would not have been able to price but for the advantage they have from the purchases of the jumbo roll. So I would submit at least indirectly the imports through that mechanism have suppressed and depressed U.S. prices, and has adversely affected the domestic industry, i.e., the coaters, that you have not excluded.

COMMISSIONER LANE: Okay, thank you.

Could one of you explain to me how much of a market there will be for the slitted fax product? Because I thought that the technology had changed, and that wasn't being used in the current fax machines.
MR. KINGDON: Commissioner, if I could --

Richard Kingdon, if I could answer that.

The statistics indicate that the new installation of the fax TTR machines is beginning to decline. But you are actually right, it's being substituted by other technology, injector laser. However, the install base is substantial, and our understanding of the market is that as a consequence of that people will go to compatible product which is why Staples and Office Depot and Office Max are selling these branded products in competition against the OEMs, so the compatible business will stay solid or perhaps grow in the next three to five years while the OEM business will decline.

COMMISSIONER LANE: Okay, thank you.

Respondents argue that the U.S. converters have made sufficient capital investment in their slitting operations over the period of investigation to be included in the domestic industry. They further contend that the data does not correctly represent the capital investments.

How do you respond to that?

MR. CUNNINGHAM: This is Dick Cunningham. I think the figures speak for themselves in the staff report and the questionnaire responses.
capital investment is very, very low compared to the coating.

As to the second point, I guess I would defer to somebody else as to -- I'm not sure I quite understood the argument made as to why the figures allegedly understate the investment.

MR. TRENDL: This is Tom Trendl.

I think as Mr. Dowell indicated in his slides up there, I think when you look at capital investment and you look at the total capital investment to have a coating operation, I think it had numbers in the eight to 10 million dollar range, and you have the slitter which does not include -- you know, which is not requiring by your mental controls and a lot of the other parameters required to coat and ink the product.

And when a semi-automatic slitter is 200 to 250 thousand dollars in a room that could be run by pretty much anybody, and we have already presented evidence to the Department of Commerce that respondents are now slitting in China and India and other places, that that sort of capital investment -- I mean, that is a fair comparison.

In some ways, you are looking at eight to 10 million dollars versus a few hundred thousand dollars.
MR. DOWELL: Yes, this is Vince Dowell, if I could just comment on that a little bit.

Just to get started in the ink making and coating side, the least it can be, you can't do it for less than four to five to six million dollars. It just can't be done. And in slitting, you can buy a used piece of equipment for a little as $100,000. And as I mentioned in my explanation earlier, it essentially takes no additional infrastructure.

If you have a 220 volt line, you can turn on a slitter and start slitting in a week.

COMMISSIONER LANE: Okay, thank you. My time is out and we had better stop before somebody yells at me.

CHAIRMAN OKUN: Not me.

Well, thank you. I have enjoyed all the answers you have given us. You have covered a number of issues, but I am sure, as Mr. Cunningham has explained to all the industry folks what the Commission has to work through in order to get to its analysis. But I know that given the testimony you gave this morning that you are all anxious to talk a little bit more about what's going on in the industry with regard to the price and impact of the subject imports.
So let me turn to that, and I guess I would note, I think for the issues that the Commission identified in the preliminary, I think that a lot of your testimony, you spoke to those issues, so some of these questions are going to just allow you to elaborate on some of the things that you have already said on the road.

And on that, I guess I would start with in terms of what's going on. Mr. Cunningham, you described this as everyone agrees on prices and the question we have raised is, well, what else is going on with regard to prices in relation to subject imports. So some of the issues that we identified and that you talked about this morning were intraindustry competition, domestic oversupply and sluggish demand.

The respondents have also noted PAXAR, which I know has been discussed, Fujicopian's entrance into the market, and intraindustry price wars.

So I wanted to kind of go back, maybe to you, Mr. Golub, because you came down, and Mr. Marshall, to talk about this industry and how you see subject imports in relation to these other issues. And maybe we could just start with intraindustry competition. I know you have all commented on, you know, the Sony statements were in everybody's briefs,
I think, and you talked a little bit about them. But maybe I will pose it this way, Mr. Golub. Obviously, you have taken issue in this front row with ITW's brief, and what they said, and you are getting a lot of responses on it.

At this point, Koreans have been found, the Korean product is not -- Commerce has said it's not dumped. So if this is out, and let's say the final commerce preliminary or final commerce determination Korea continues to be out. Is the injury you have suffered due to the Japanese and France alone?

I mean, I have heard so much about Korea and ITW. I want to have you talk about everyone other than Korea if you could. Maybe I will start there. Mr. Golub, I will start with you, and then just work down this front row.

MR. GOLUB: I certainly didn't mean by my comments with respect to ITW to imply in any way that the Japanese and French imports have not been critical in the price declines that have taken place over the course of the POI.

In particular, you know, I think it's quite apparent in the information that I have reviewed that price competition from respondents in both of those countries have been very material in both individual
circumstances that we can detail for you because they
confidential in a post brief, and in a macro sense.

So I certainly don't want to leave you with
the impression that this is only an issue between U.S.
manufacturers and Korean respondents.

MR. MARSHALL: The way I see the market is
that, and I have been with the industry going on 13
years now, it has changed dramatically. It was much
more regionalized; it was a new growing, robust
industry and probably all of us, if not -- again, I am
sure most of us at some point in time or another ran
out of capacity. So what drove the industry was
increasing utilization of the auto-ID technology, we
all refer to as: bar code. The adoption of that in
retail and manufacturing and shipping and distribution
caused great demand and the U. S. was a very adoptive
marketplace.

So, in the early stages, it was everything
we could do to kind of keep up with demand. That
started to slow down a little bit and there were other
dynamics of other industries that caused capacity to
increase fairly rapidly. For example, the magnetic
tape industry started to lose its footing and declined
worldwide. The magnetic tape industry coats, if you
will, a formulation on polyester thin film. So there
was a lot of utilization of that equipment that could be readily converted to TTR; and TTR appeared to be the industry that was up and coming and we could employ that kind of technology to it. Many of the Japanese did that and, in similar ways, some of the European companies did that.

So it brought upon the industry a lot of capability that had prior to been involved in other marketplaces.

CHAIRMAN OKUN: Mr. Marshall, I want you to continue but could you just help me with one thing. When you talk about the slowdown are you talking about a slowdown that happened prior to the period of investigation we are looking at; or are you talking now about some investigation going on in --

MR. MARSHALL: The investigation before that introduced some players who I am not sure would have ever looked into the TTR industry because they had a manufacturing capability that could be employed to do it. So by the time that we got to the latter part of the '90s, we ended up with a bunch of dynamics happening. One is: the adoption rate of the bar code was going down. It was still growing but it was going down.

Two is: there was a lot of capacity and I
think overreached by the collective group of manufacturers worldwide. Thirdly: the standard of performance of inks started to converge to where there was a commodity. What drove that dynamic was that the marketplace was largely satisfied originally by the OEMs who produced the bar code printers with their own brands that were usually different in some way or another and they wanted it that way so that they could protect the after-market ribbon business.

As the industry got smarter and clever and as the printers got more robust, we could design inks that could be used in anybody's printers, so an after market developed and that is where the largest part of the distribution is today.

If you take those couple of dynamics, you have got over capacity worldwide; you have got the largest marketplace in the United States; you have fungibility of the core products used in the majority of applications. The U. S. is the easiest marketplace for a foreign competitor to compete because it is a monolithic marketplace. You don't have to know 15 different languages; you don't have the regionalness that you do in Europe; you don't have the massive differences of culture that you might have in some of the other regions of the world, like in the Far East.
So the U. S. was a targeted market and everybody saw it as: a place to go and sell our products.

I would say that alternatively, under that happening, many of the companies that were in the marketplace have no inhibitions to compete all in one place. There wasn't any price; there wasn't any service that they could perform; there wasn't any differentiation of product; there wasn't any value added to an OEM that they were bringing to the party, so it became the marketplace of choice for capacity to be dumped. And I would say that generically for world capacity, the U. S. market is pretty much barrier free to come in and compete.

CHAIRMAN OKUN: Mr. Cunningham?

MR. CUNNINGHAM: On the questions that you raised about what happens if ITW is not subject to imports, Korea is not subject to imports and what about intraindustry competition. Let me give you a couple of analytical tools that you can use. First of all, as to ITW's role versus the others, look at your staff charts and see which country is the underseller at which times and how much? I think that will give you quite a good analysis of what the situation would be like if ITW wasn't considered a dumper.

Secondly, as to the intraindustry
competition, as you know there are two things. One, there is Exhibit 1 to our brief and I urge you to look at that. Two, there is the material submitted by SONY. I can't quote that because it is confidential. But in Mr. Oliverio's interview that everybody quotes, the language they don't quote that he says is: We didn't start this price war but we can sure as heck finish it. I don't think he said heck. But we can sure as heck finish it.

That is exactly consistent with the pattern that we all see here, that through the first half of at least -- maybe more than the first half of 2002, clearly, it is the importers that are selling all the domestic producers. And only then does it narrow us to: do domestic producers come down, that is SONY and others moving in to "finish the price war." And the rebuttal that a couple of the producers tried to give to the underselling is based on price comparisons only in last five quarters of the period, where the price gap certainly has narrowed.

It has narrowed because, by that time, they have dragged the U. S. industry prices down. These are analytical tools that I think will answer the questions that you have raised.

CHAIRMAN OKUN: I appreciate that. Mr.
Klett, I will come back to you since my red light has come on.

VICE CHAIRMAN HILLMAN: Thank you very much. I would return a little bit to sort of a related issue to some of the discussion you were having Mr. Cunningham with Commissioner Lane. And that gets to the issue of: What does our data look like if we were to determine that the converter slitters are part of the domestic industry? And I understand very clearly the issue of the related parties.

So, let's leave aside what the financial data may look like because at some level, on the financial side, it is not clear to me how much of a difference it makes given that you bring everybody in as a part of the domestic industry and then try and take the data out as a related party, so let's leave that aside.

But the issue that is troubling me very much is: What do we do on price comparisons? As you know, we have priced three products. Two are them are slit products and one of them is a jumbo product. If we now were to just include the slitter converters as part of the domestic industry, I am then troubled about whether we can or should place much reliance on the pricing data that we have collected in products

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one and three since that would now be deemed to be
domestic production, not foreign production, for
purposes of price comparisons.

But think about it. In DRAMs, we priced
only cased and module product. We had no subject
imports of an uncased product to the extent it was.
The issue of what to do with an uncased DRAM and how
to treat it was only non-subject product; and it was
then deemed to be domestic production for purposes of
the data. And in terms of pricing products, we don't
have anything analogous in DRAMs because we only
priced cased and module product and we only had
subject imports of cased or module product here.

You are asking us to include, as a price
comparison, a product that if we say that the slitter
converters are part of the domestic industry, we are
now counting, at least to some degree, domestic
production as part of a price comparison between an
import and a domestic price. Again, I am focusing on
the price-comparison issue.

MR. CUNNINGHAM: All I can say about DRAMs
is what you said you did in your opinion. What you
said in your opinion was that where there was a sale
by a member of the U. S. industry of a product
assembled from subject imports, that sale is an import

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VICE CHAIRMAN HILLMAN: You are focusing on that on the volume side and I am saying that I am now looking solely at the issue of: What is a fair price comparison for purposes of our analysis of underselling and of price effects? What I am saying is: If -- I am just wanting to hear you out --

MR. CUNNINGHAM: Yes.

VICE CHAIRMAN HILLMAN: In other words, I don't think, in just purely looking at price comparisons, that DRAM tells us very much because, to me, the fact pattern there is very different. So, let's start just with this case alone. How do I look at prices if we were to determine that the slitter converters are part of the domestic industry? Then, presumably, the pricing information that I have for products one and three reflects, at least to some degree, domestic production, which, to me says: Okay, I should be really focusing on the jumbo rolls because that is where we have actual import data. And yet, as we have said, that is a small portion of the amount of commercial market sales in jumbo rolls, which is obviously very small.

So, in may ways, the pricing issues are very different from where they were in DRAMs.
MR. KLETT: Commissioner Hillman, this is Dan Klett.

VICE CHAIRMAN HILLMAN: Yes.

MR. KLETT: I understand your dilemma because if you define converters as domestic producers then what you are saying is that the prices of the converters that slit imported jumbos are domestic prices. But I think ultimately the question is: Have subject imports suppressed U.S. producers' prices? And I think notwithstanding the fact that, I guess legally the prices from the converters will be domestic if you conclude that the converters are domestic producers.

I think that their pricing into the U.S. market and the price levels at which they sell into the U.S. market and their price trends are affected by their procurement of LTFV jumbo rolls from offshore. So I think that the converters' pricing into the U.S. market, by virtue of their procurement of LTFV jumbo rolls, has depressed the market generally and the depressed prices can be tied, even if indirectly, back to the subject imports.

VICE CHAIRMAN HILLMAN: I appreciate that answer.

MR. CUNNINGHAM: I don't think that is the
right way to analyze it.

VICE CHAIRMAN HILLMAN: I understand everything that Mr. Klett has said. I would ask you, in your posthearing brief, to help us think about whether there is precedent for doing this issue of sort of indirect price-affects' analysis, where again I am looking at a direct price. Obviously, we normally do these direct price comparisons. But, for sake of argument, if we determine that the converters are part of the industry and, therefore, the prices of products one and three are, in fact, domestic-to-domestic comparisons and, therefore, really don't tell me very much about the underselling of imports.

Again I am wanting you to walk through both the legal precedent and the evidence on the record that would help me understand where I can see price suppression or depression by reason of subject imports, if the slitted product is considered domestic production.

MR. CUNNINGHAM: Let me add one thing to your --

VICE CHAIRMAN HILLMAN: Yes, Ms. Kimble?

MR. CUNNINGHAM: I'm sorry.

VICE CHAIRMAN HILLMAN: Go ahead.

MS. KIMBLE: I just wanted to refer back to
something that you started by saying that you wanted
to exclude the issue or not discuss the issue of
related party because you said that means for the
financial conditions then that is a separate issue.
But I just wanted to make sure that we are clear on
the point that the related parties' provision of the
statute says that you may exclude them from the
domestic industry, period.

So that it doesn't only pertain to the
financial condition, if you were to exclude them as
related parties, they get excluded as to everything.

VICE CHAIRMAN HILLMAN: Then I just need to
make sure that I understand. Again it may be that you
want to look at the data before you tell me the answer
to: Whether I shall be pulling all of the related
parties' data out of the pricing comparisons? Then my
assumption is that I left with nothing. I don't know
whether there might be any pricing data from anybody
who would not be excluded.

Again, since I haven't gone through whose
data is exactly where and who would be deemed a
related party. But my concern is if I do what you
just said Ms. Kimble, I am left with no comparisons,
no price comparisons for slitted product because I
don't have any data from anybody that wouldn't be

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deemed a related party.

I don't know but I am saying that I am concerned that, at a minimum, the coverage is going to be exceedingly small.

Mr. Cunningham?

MR. CUNNINGHAM: I am going to preface this saying that I do know that you are not bound by decisions that the Commerce Department makes. But here the issue that you are analyzing are conceptually the same issues that the Department of Commerce analyzed, which is: When I look at the price charged by a converter, should I deem that to be the price of sale by the foreign respondent?

Commerce looked at that and considered pretty much the same factors that you are talking about here. They reached the conclusion that that is exactly what they should do. Now, if -- you are administering the same law here. I understand that there may, and indeed in lots of cases there are situations in which your issue is a different issue than the Commerce Department and you may only even have to explain why you drew a different analysis.

Here I don't think that that is the case. If you were to analyze this differently and by differently, I mean you were not to look at the prices

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in the United States by the converters that are affiliated to the foreign respondents and are assembled from, or slit from subject merchandise.

If you weren't to look at that as prices of imports in the United States, you would be doing exactly the opposite of what Commerce is doing in saying: Is that a sale that we are looking at, a sale of subject merchandise into the United States? I think that you would need to explain just on the matter of making the statute work right and having the two agencies work in harmony, you need to explain why there are different considerations that would govern your analysis and I don't see any.

VICE CHAIRMAN HILLMAN: All right. Given that the yellow light is on, I will not turn to a different topic. Thank you, Madame Chairman.

CHAIRMAN OKUN: Commissioner Miller?

COMMISSIONER MILLER: I appreciate Commissioner Hillman taking care of the things that I was most concerned of out of my preliminary, as you referenced Mr. Cunningham in your opening. The discussion you just had was very useful. I do want to see what you will have to submit in the post-transmission.

I will point out that I think that Vice
Chairman Hillman is right about the fact pattern in DRAM being different. If the fact pattern was the same or similar here, we would be looking at imports of the slit product. That would make this fact pattern like DRAMs. That is the problem, okay. It is always the problem with precedent here. Every case we see, although we look to precedent, you know every case is so unique that oftentimes those precedences don't work.

That is why the DRAM precedence is problematic I think in this case because the imports were the equivalent of the slit product, not the jumbo product. So you have the prices of that equivalent of a slit to compare with the U. S. price. And then you had to figure out what was in your U. S. price basket. But, anyway, enough said. It is a difficult issue. I can understand from the company's perspective fully why they see the competition at that level. Obviously, they do and I understand exactly what the company is saying in terms of the price competition. It is just one of these things I have struggled with.

MR. CUNNINGHAM: The last things I will say on this are two points. One is you really do have to think about economic reality here and the economic reality of the marketplace is that organizations
headed up by the foreign coaters are selling in principal competitions, the U. S. integrated companies at the slit level. And they are financing the price underselling at the slit level by the low pricing of the imported jumbos.

Now, if you say that the dumping law can't reach that, you are saying something very, very profound.

COMMISSIONER MILLER: I appreciate that.

MR. CUNNINGHAM: And I think you ought to think --

COMMISSIONER MILLER: That is why --

MR. CUNNINGHAM: -- long and hard before doing that.

COMMISSIONER MILLER: That is exactly why we are struggling with it.

MR. CUNNINGHAM: You could do it either on Mr. Klett's theory, or on an extension of DRAMs, or on getting rid of them as affiliated parties and then essentially looking at the sales in the United States at the slit level as being made by foreign respondents. Those are three ways that you can get the economic reality here but I would say to you that you are doing something very, very profound with the dumping law if you say that we can ignore that
1 economic reality.

COMMISSIONER MILLER: Okay. Let me touch on a couple of other issues. I want to go back to one thing and just clarify why my understanding of the scope of this case was because it is still -- I look back at the scope language again and I am going: It is delineated here, the exclusion? It says that the petition does not cover product with greater than 212 meters but not greater than 220. It is essentially 8.35 to 8.66 inches in length. And then it says: i.e, slit fax.

So I just want to make it absolutely sure all that is in that little exclusion, that you delineated by virtue of references to size, is slit fax.

MR. KINGDON: Commissioner, I think that I misspoke. It was defined in that way. There is a very, very small amount of bar code that is within that span: the 212 to the 220. It is inconsequential. What is the right word: The coaching that the DOC said they did not want to define as scope with application?

COMMISSIONER MILLER: Exactly.

MR. KINGDON: So they said: Is there a way of physically defining it?

COMMISSIONER MILLER: Exactly.
MR. KINGDON: So I am afraid that I gave you a practical definition rather than a --

MR. CUNNINGHAM: But we did get him to use i.e. instead of e.g. How about that for a lawyer's remark.

COMMISSIONER MILLER: You take it -- wherever you say it is successful, you can find it, Mr. Cunningham. Okay.

Now, let me ask just one more question. I think it is another thing that we often struggle with in cases and we do in this one, I think, as well. When we look at the impact and issue of the industry as a whole versus that the company that is represented here today and is the Petitioner -- I am going to let you address this also in a posthearing submission. But it is another issue that I think clouds the result in this case. There are a lot of differences in terms of the impact, or the financial performance of different companies in the industry. I know there are reasons for that.

At moments I look at it and I think: Are these companies all in the same industry? I don't know that you can address it here but we have to make our decision based on the industry as a whole, not specific company performances. But they do vary? I
don't know if you have guidance for us on that point.

MR. KLETT: We spoke about this a little bit just in general yesterday. I think the nature of IIMAK's operations, being that is a strictly a U.S. company, it incurs certain costs that some of the other coaters being multinationals may incur offshore, for example: R & D expenditures. So that when you look at the cost structure of IIMAK versus some of the others, just by virtue of the type of company it is and its operation, there are certain costs that are going to be domestic based versus foreign based.

When you control for these kinds of things, the disparity in financial performance narrows a bit. There are some other things going on with IIMAK in terms of its capital expenditures to make itself more competitive on a variable-cost basis that I think are very important to consider. And just generally, even when you look at the industry as a whole, the operating profits are declining for coaters compared to the converters.

COMMISSIONER MILLER: Okay.

MR. KINGDON: Commissioner, if I could add to that?

COMMISSIONER MILLER: Yes.

MR. KINGDON: If you look at the domestic
industry, we are a one-trick pony, a relatively small
NCR manufacturer. The other household name, NCR, is
part of a clearly broader company, a multinational and
a subdivision within a division. Two other members of
the domestic industry are Japanese-American
multinationals, so, as Dan made the point, much of
their development in infrastructure is located
offshore relative to the domestic. And then, of
course, we know PAXAR pretty well and that really TTR
is a small fragment of what they do in a specialized
application. So we can certainly, in the brief,
address the "definators" of those.

MR. CUNNINGHAM: And remember whatever any
individual company's level of performance is that
company's performance must have been adversely
affected by a 21% price decline during the period of
investigation. It is implausible to say that it
wouldn't have been making substandard -- the more
profitable companies would have been making
substantially greater profits than they did if prices
hadn't declined 21%.

That is the elephant in the room in this
case: 21% price decline. Your staff's analysis shows
crystal clear that subject imports had the major role
in that.
COMMISSIONER MILLER: Okay. I appreciate that and I appreciate all of your answers to my question. Thank you very much.

CHAIRMAN OKUN: Commissioner Koplan?

COMMISSIONER KOPLAN: Thank you, Madam Chairman. I have three matters that I would like to cover. I think we can probably do it in this round. First, Mr. Cunningham, you indicated this morning, in response to the Chairman, that you no longer wish to pursue critical circumstances with respect to DNP. But on March 5th, last Friday, the Commerce Department found that critical circumstances exist with respect to both DNP and Union in their final determination.

As a legal matter, how does the Commission address the fact that Commerce has made its finding and that we, therefore, have a statutory duty to address the issue with respect to DNP. The second part of the question is: Are you planning to make any supplemental filing with Commerce respecting DNP's critical circumstance issue before we make our determinations in these investigations?

MR. CUNNINGHAM: I don't know the answer to that yet. I don't know whether there is a procedure for doing that.

COMMISSIONER KOPLAN: I don't either. That
is why I was asking.

MR. CUNNINGHAM: Yes. But our position is very clear that we do not have an interest in that we do not believe, based on the more recent data that we have seen and based upon the issues that we think are properly affiliated, that we don't think DNP warrants it and we have no problem with telling the Department of Commerce that if there is a vehicle to do that.

COMMISSIONER KOPLAN: I appreciate that. If you could make that decision and advise us in your posthearing what you are going to do on that point that would be appreciated.

MR. CUNNINGHAM: I have been known to make decisions and we will do so and advise you.

COMMISSIONER KOPLAN: Thank you very much. Let me stay with counsel. On December 22, 2003, Commerce issued its preliminary determination that included a finding that: with respect to Korea, Illinois Tool Works Inc. and all others, the dumping margin was 1.27%. That is de minimis. With regard to allegations of lost sales and lost revenue, certain of the specified transactions lumped together more than one subject country as the alleged source of imported product.

I am referring to Tables V, IX and X of the Heritage Reporting Corporation (202) 628-4888
confidential staff report; and I can't get into that
here because it is confidential. I would appreciate
it if you resubmit those transactions without any
Korea in the equation. I am making this request now
in the event that Korea retains a *de minimis* margin in
Commerce's final determination, which has just been
postponed until March 22nd.

   I note that in a IIMAK brief, at page 51,
you state that and I quote: "Identifying the sources
of the competing bids is difficult because customers
generally do not reveal the names of the companies
offering them lower prices" and "purchasing agreements
are given multiple suppliers," making it "difficult to
identify precise lost sales and revenue allegations."

   However, since I am trying to evaluate the
significance of what I regard as relatively few
confirmed transactions, I would appreciate it if you
were able to break out Korea in your posthearing
submission.

MR. CUNNINGHAM: Yes. We will do our best
on that. In some instances that may require judgment,
hopefully rising above the level of speculation on our
part. Where it does so, we will clearly label it as
such in case we turn out to be -- well, wrong.

COMMISSIONER KOPLAN: Thank you. I
appreciate that.

MR. KLETT: Commissioner Koplan, you mentioned that there were relatively few confirmed lost sale/lost revenue allegations.

COMMISSIONER KOPLAN: That was in my opinion, yes.

MR. KLETT: Conversely, there were relatively few categorical-denied lost sales/lost revenue allegations. A lot of the allegations in terms of the table, anyway, say: see discussion. When you see the discussion and you go back to the purchaser's questionnaires for the same customers, I would say that some of those come very close to being confirmed; and then for a number of allegations there was no response.

So, I guess my only point is that the lack of categorical-confirmed lost-sale allegations, I don't think means that it would suggest a lack of competition.

COMMISSIONER KOPLAN: I was not suggesting that. I am just trying to fill in a gap for myself in the event that this stay is de minimis on March 22nd.

MR. KLETT: I understand.

COMMISSIONER KOPLAN: I wasn't drawing an ultimate conclusion here but I appreciate the fact
that you are bringing that up. Thank you.

MR. KLETT: Thank you.

COMMISSIONER KOPLAN: Ms. Potuto, if I could come back to you for a moment. Respondent Armor contends that imports from France, that correspond to the domestic-like product, found by the Commission in the preliminary phase amounted to a negligible percent of all imports during the most recent 12 months for which data was available preceding the filing of the petition.

They also argue that there are new non-subject sources of certain TTR, certain specific countries that are PBI and that I can't get into here, that are not captured in the Commission's data and that, consequently, the French percentage of imports is actually overstated. That is at page 15. I am specifically referring to Footnote 55 on that page.

In our preliminary reviews, we stated that because we included finished faxed TTR within the domestic-like product, along with jumbo TTR and finished bar code TTR, the domestic-like product is broader than the scope, as defined by Commerce, therefore raising an issue with respect to negligibility of French-subject imports. You have covered this well I think in your earlier
presentation.

If the calculation includes all imports corresponding to the expanded domestic-like product, as Armor contends, subject imports from France would be negligible. Your discussion of negligibility included the statement that you are unable to locate a case which examined the like product beyond the scope affected by the question of negligibility. It appears that Armor could not find such a case either.

I tend to agree with your analysis but how do you respond to Armor's additional argument that new non-subject country sources of certain TTR caused the French percentage of imports to be overstated? I can't get into the specifics of the basis for that claim on their part, but I note that there was a question asked in the questionnaires, just the question I can get into. The question was: Are you aware of any new suppliers, either foreign or domestic, that have entered the market in the last three years? Okay. So that is apparently behind this that is alleged by Armor.

I would like you to respond if you would?

MS. KIMBLE: My name is now Ms. Kimble. I'm not Ms. Potuto.

COMMISSIONER KOPLAN: I was about to correct

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myself and I hadn't gotten to that point, yet. That was going to be my last comment to you. Sorry I missed that.

MS. KIMBLE: That's okay.

COMMISSIONER KOPLAN: Okay.

MS. KIMBLE: With regard to non-subject imports, it's important to note that the Commerce Department has now issued a decision that says that any material coated in one of the subject countries, but slit in a third country, is still subject imports. We are not aware of any coating facilities anywhere, except in the subject countries.

MR. TRENDL: And this is Tom Trendl, and I'll add to that. In fact, we have submitted evidence to the Department of Commerce of exactly this occurring, where we had subject imports, subject jumbos being slit in third countries. And it's one of the reasons we believe that the Department of Commerce wrote its determination the way that it did. And we'd be happy to submit that information, as well, to the Commission, because, frankly, we believe it's probably Japanese material going through third nations or other subject material.

COMMISSIONER KOPLAN: Thank you. I appreciate that. And I'll just close by saying to Ms.
Potuto Kimble, welcome back.

MS. KIMBLE: Thank you.

COMMISSIONER KOPLAN: Sure.

CHAIRMAN OKUN: Commissioner Lane?

COMMISSIONER LANE: I'm not sure who to address these questions to, but I'm sure that somebody will volunteer an answer. The definition of slitted fax TTR is based on a width of 8.5 inches and not end use, meaning not using for fax. Does there exist in the market a label printer or other machine that uses or could use 8.5 inch width TTR for an end use other than fax?

MR. KINGDON: Richard Kingdon, yes; yes, that does exist such a printer, in very, very small utilization. We could -- in our posthearing brief, we could give you a distribution of our certain TTR cells for non-fax applications within that -- in that width frame.

COMMISSIONER LANE: Okay, thank you. Is there a range of wax chemical specifications that are used specifically with slit fax TTR and not certain TTR?

MR. DOWELL: This is Vince Dowell. Could you just repeat the question again?

COMMISSIONER LANE: Yes. Is there a range
of wax chemical specifications that are used specifically with slit fax TTR and not certain TTR?

MR. DOWELL: First of all, let me say, I'm not a chemist. But, I don't believe that there are specific chemicals or specific ranges of chemicals that could be used to identify non-slit or certain TTR versus fax TTR. They're generally the same raw material components that are used to develop the two types of formulas.

COMMISSIONER LANE: Okay, thank you. If it were possible to cut a slit fax TTR into a smaller size, could you place it in a printer that uses TTR, which has similar chemical wax composition?

MR. DOWELL: Sorry, could you ask that question one more time?

COMMISSIONER LANE: Do you want me to repeat it? If it were possible to cut a slit fax TTR into a smaller size, could you place it in a printer that uses TTR, which has a similar chemical wax composition?

MR. DOWELL: I'm afraid, Commissioner, it's the last four or five words that just throw me. The printer doesn't have a -- a printer is mechanical. One could take a slit -- one could take a fax ribbon, one would have to re-roll it onto a spool that fit the
bar code printer, one could then run that bar code printer and on a certain subset of receivers, that ribbon would print, most likely. It wouldn't be optimum, though. Again, these -- in response to both of your last two questions, these formulations are adjacent, if you think in Venn diagrams, and they overlap; but, their degree of overlap is minimal in the United States.

COMMISSIONER LANE: Okay, thank you.

MR. MARSHALL: Let me take one last clarification shot at that one. From an economic point of view, you have all this value added in a finished slit fax ribbon. It generally runs in length between 30 and 100 meters long, which by most standards in bar code would be considered a very short length ribbon. So to take that slit fax ribbon out of its packaging and that value added, put it on some mechanism to re-spool it, generally a different both diameter size spool and width size spool, and spool up a new bar code ribbon from what was 30 to 100 meters long in the first place, it's just economically not feasible. You would never produce something that you could possibly make any money out of doing.

Jumbo rolls that are slit for either fax or for bar code purposes generally are 20,000 to 30,000
meters long and the economies associated with setting up a jumbo and getting a lot of drops of ribbons off of it are what helps make your economics viable to compete in this marketplace. To do what you suggested is physically possible, but it's economically very impractical.

COMMISSIONER LANE: Okay, thank you. In your pre-hearing brief, you stated that slitting and converting did not require substantial technical expertise. However, it has been argued that converting jumbo TTR into slitted TTR requires careful coordination by a trained professional staff and that the unique and specific needs of the consumers require the converters to possess a high degree of technical expertise. How do you respond to this claim?

MR. DOWELL: This is Vince Dowell. Certainly, slitting is a technical job. I mean, it requires some amount of training and it's a large piece of machinery and there's a lot of safety conditions that need to be understood. But, in comparison to the ink making and the technical know how required to make thermal transfer inks and code them on to polyester film with these large high-speed, multi-station coating machines, in comparison to that, the slitting side of this is relatively simple.
And it's also not necessarily unique to the TTR industry. It's fairly generic technology. Any company that needs to convert rolled materials to specific widths and lengths understand what it takes to slit and understand that technology. So, it's not that it doesn't require some technical expertise; just relative to the ink making and the coating side, it's not necessarily significant. It's not the essence of being a TTR manufacturer.

MR. MARSHALL: Commissioner, I'll expand a little bit. Vince and I have worked together for many, many years and this is the latest that the industries would work together in. So, we've been exposed to all kinds of manufacturing operations, from electronics, to DoD system support for the World Fleet. And we're seeing lots of complicated operations, lots of value-added operations, and I would say that slitting would fall in the category of a machining operation.

It's not a low-skilled job; it's a medium-skilled job. It takes a couple good months to get a slitting operator trained and up to speed. A slitting operator can induce a lot of scrap and waste, because you have so much value added in the jumbo roll, so you want to make sure they're trained well and they know
how to run the machines. And there are things that
you can do to help them, like have set-up people set
the machine up, so the operator is dealing with a
smaller element of the job. But, that's about where
that would fit.

In contrast, an ink maker, I would say, is
-- If we were talking to our colleague back here, who
is an ink maker, he was with IIMAK for a number of
years, as a slitting operator, went into training as
an ink manufacturer. He's been at that now a couple
of years. He's gone through one step of a promotion.
And if you were to ask him, and I would encourage you
to do so, he'd probably say, well, I've been at it two
years and I'm still learning something everyday. This
is hard, comparatively.

And so, that value added resource is very
rare to find and we have to train them. It's very
hard to find somebody from the marketplace that can
come in and do that kind of a job. Yet, somebody with
a machining background, we can have them in a couple
of months be productive.

In coating, it's even far more extreme than
that. It takes virtually years to get to what I would
consider to be a coating operator, whom we would
entrust with these multimillion dollar machines. They
have lots of process capability. They can ruin literally hundreds of thousands of dollars worth of materials, if they don't operate the machine correctly. There's a lot of environmental factors to take into account. And the training, I would say, is a three- to five-year period of time before you have a coating operator, who is really valuable.

And so, there's lots of progressions to get there. And, generally, at IIMAK, our people tend to go through slitting and then ink manufacturing and then coating, and they tend to learn a lot about the industry and the nuances of the chemistry. And by the time they get to coating, they have a very high-skilled job.

COMMISSIONER LANE: Better stop right there. The red light is on.

MR. MARSHALL: Okay.

COMMISSIONER LANE: And I'll come back to you. But, thank you.

CHAIRMAN OKUN: Commissioner Lane, if he wants to just finish his thoughts --

COMMISSIONER LANE: Oh, okay. I'm sorry; go ahead.

MR. MARSHALL: I think that's sort of the explanation. And I think about my broad background in Heritage Reporting Corporation
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manufacturing and I would say we're dealing with a mid-level skilled job in slitting and a higher level skilled job in coating and a very skilled manufacturing job in coating. And technically, the resource and the technical support required is equally as complicated in exponential.

COMMISSIONER LANE: Okay, thank you.

MR. KINGDON: Commissioner, could I point out one -- of course, you've got a red light.

CHAIRMAN OKUN: Got a red light; but, is it short?

(Laughter.)

CHAIRMAN OKUN: If your lawyer would have taken that, we would have never - no, I appreciate that. We'll try to keep moving and if we need to come back, we'll do that.

Mr. Klett, I'm going to come back to you. If you recall, at the end of my questioning, we were talking a little bit about pricing and intra industry competition and some of the things going on. And Mr. Marshall, I think, had given me a lot of helpful information about what's been going on in this industry. But, you had wanted to add something, as well.

MR. KLETT: I think Mr. Cunningham covered...
just about everything I wanted to say. I would just
point you to Table 2-3 in your staff report, where it
actually gives price comparisons on a country-by-
country basis.

And the other point I'd like to make, in
terms of responding to that it's intra industry
competition, not imports, and that is that they're
essentially -- to follow that logic, you're
essentially segmenting the market and saying, U.S.
producers compete among themselves and don't compete
with imports. And I just don't think that's the way
the market works. Thank you.

CHAIRMAN OKUN: Okay, I appreciate those
comments. Well, let me -- I want to continue on with
what's going on with the industry and the different
factors that can affect pricing in the market. And
let me now turn, if I could -- well, actually, Mr.
Marshall, maybe you could just continue where you were
and talk a little bit about the global nature of this
product and whether that's been a change. In other
words, you referenced, I think, kind of global over
supply. This is an industry with a fair amount of
exports of its own. And I wondered if you could just
talk about what's been going on globally, other than
over capacity, which you mentioned, that might be --
whether it's changed of all, I guess, over the period
of investigation, I think you pointed us to. And if
you could just use your microphone, please.

MR. MARSHALL: Let me get my thoughts
together on that one a little bit. I would say, first
of all, America was the first market to develop.
Europe was behind it. And that adoption rate is still
a little bit more developing, because you have Eastern
Europe still in an adoption state. And so that part
of the marketplace actually has more attraction to it
from a growth point of view, than the U.S. market
does. And then you have Asia, which is a very
difficult market for especially U.S.-based companies
to compete in and it's emerging, especially China, at
this stage.

And the way I see what's happened, and
especially influenced shortly before the period of
interest of this investigation, is that several of us
were related by way of a license agreement for a long
time, from 1983 until 1998. And that was Armor IIMAK
and Fujicopian. And Fujicopian was the licensor and
Armor and IIMAK were licensees. And as a result of
that agreement, we were trade restricted from each
other's marketplaces. And Armor and IIMAK paid
royalties to Fujicopian, in return for technical
sharing. And, actually, it's how we both started in
the TTR business back in the 1980s.

When that license agreement was not renewed
by Armor, it put Armor in position where it could
compete freely in the rest of the market, including
our own, and it caused us to have a need to do the
same thing. So, Armor is the market share leader in
Europe; we're the market share leader in the United
States. And it took those two market share leaders
and it had them -- it gave them the ability late in
the game and the maturity of these markets to compete
in each other's market.

So, the market started to get global. And
what Armor and us, and although we're on the opposite
sides of the table here today, but, at that point in
time, I think we both agreed that we needed to look at
it globally, because all of the other companies in the
TTR business, but for our license agreement team, all
had global access, and a lot of the customers needed
us to have global access. So, it was a restriction
that was actually hurting us relative to our
competitiveness with other competitors throughout the
world. So, it kind of opened things up quite a bit
and made the market more competitive.

I think, also, a very interesting change was
Dai Nippon. Dai Nippon was not very much into the bar
code industry at all, but they were the world dominant
leader in fax TTR and they supplied their fax TTR to
the fax OEMs, most of whom are Japanese. And so, the
OEMs sell their fax ribbons under their brand name and
that's where Dai Nippon was largely supplying their
TTR.

What had happened with them is that, as
Richard Kingdon described earlier, the new
installations have peaked and are actually starting to
go down, and that has had a direct impact on the
capacity utilization of Dai Nippon. And so, Dai
Nippon made a decision that they were going to use
that capacity and put it towards bar code, and the
only market that they found really plausible to do
that in was the U.S. marketplace. The Japan market is
substantially smaller and it's pretty saturated.
Europe is much harder to approach, because it's not a
monolithic market. And so, they came to the U.S.
market and were pretty egregious at it. It was a
fairly well supported market with supply and demand
and reasonable balance. They had a lot of resource
and a lot of capability and they came to the market
with products. And, in our opinion, the way they went
to market is with price. So, Dai Nippon was a very
large contributor to this over capacity and a new player in the market, as compared to the earlier years of the business.

MR. CUNNINGHAM: As a footnote to that, the Commission is familiar with that sort of circumstance; that is, the breakdown of interlocking licensing arrangements, leading to dumping. I refer you to EPGTS from Japan a few years back.

CHAIRMAN OKUN: Mr. Trendl?

MR. TRENDL: Yes. Mr. Marshall actually touched on something relevant to a question, I think, all of you asked at some point, regarding the relative weight of coating versus slitting and the importance of these two things. Interestingly, you have licensing agreements for coating operations that really governed the industry for many years. There aren't licensing agreements -- there's no need for a licensing agreement to be a slitter. And although somewhat off topic, it is something Mr. Marshall mentioned, so I wanted to note it.

CHAIRMAN OKUN: Okay. And then just in terms of global prices, in relation to the U.S., do you have any sense of that, Mr. Marshall, in terms of, are they global supply arrangements, where it's keyed off a particular price?
MR. MARSHALL: Well, I can speak from our experience. I think the U.S. has been hyper competitive, highly contested by all of the key manufacturers worldwide. They've all come into this marketplace. It is the largest marketplace. I think Europe is seeing more competition today. And, again, I think that -- and I would say, I've noticed a difference in Europe, even as a result of us filing this petition last May, that we find Europe more contested today than it was a year ago.

Europe, also, has a substantially different set up as to how manufacturers go to market. Armor is still the largest, by far, manufacturer and supplier market share leader in Europe. The last time we looked at it, we had them nominally at 40 percent of the market and nobody holds that kind of share here in the United States. And it is a harder market to go to. You really have to address country-by-country how you're going to approach that marketplace. And as a result of that, there are a lot of regional converters in Europe. There are very, very few competitive coating companies in Europe and I would argue maybe the only one of substance is Armor.

And so, converters, slitting operators, slitting companies are much, much more prolific in
Europe, as a way of going to market, than they are in the United States, because it's more regional and they satisfy the cultural differences from country-to-country that way, and it seems to work over in Europe in a way that it would not work here in the United States. So, it is pretty different.

Brazil is a pretty small market, comparatively. And Asia hasn't defined itself yet; but, I would say Asia is mostly contested with the Japanese and somewhat Armor were there, but just a teensy bit. It's a hard market for us to compete it.

CHAIRMAN OKUN: Okay. Mr. Kingdon?

MR. KINGDON: Richard Kingdon. Could I just add a comment about the global supply agreements? There are certain key OEMs in this industry and they do operate globally with differing levels of success. And it has been asserted by certain parties, I've read, that there are sort of universal global supply agreements.

In our experience, these OEMs do prefer to have a global source of supply when they can; but often, or, in fact, invariably, the ones that we deal with, they all have -- they have differing regional pricing. We do not have global pricing. We have different pricing in Europe, different pricing in the
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United States, and that's the pattern we see. And we have no such agreement selling into Japan and Korea, because we have just no access into those markets.

CHAIRMAN OKUN: Okay. I appreciate that. I do have some more questions, but maybe they'll be covered. Vice Chairman Hillman?

VICE CHAIRMAN HILLMAN: Thank you. I guess I would like to follow up a little bit on both what Commissioner Miller was asking and what the Chairman has been talking about, to understand more about the competition in the market. Commissioner Miller had been asking you to help understand, explain for us -- I mean, we, obviously, have heard from all of the IIMAK people very clearly, your sense of your sort of financial position. And, obviously, we are required by law to look at the industry as a whole. And I think as Commissioner Miller's questioning suggested, your position is not the same as a number of the other players in the industry. So, we're struggling with what do I make of those differences.

And I guess I'm trying to understand whether any of them relate to product mix. Is it more profitable to sell fax TTR or to sell bar code? I understand the IPR issues related connected to the fax. But from a manufacturing standpoint, do you make
more money in one market versus the other?

MR. KINGDON: They're very comparable.

VICE CHAIRMAN HILLMAN: They're very comparable.

MR. KINGDON: In some of the non-certain TTR, like color or like resin, there are specialty products that are more profitable. So, there are issues of mix across the different companies, but not between fax and bar codes.

VICE CHAIRMAN HILLMAN: Or any of the other product that is subject to this investigation.

MR. KINGDON: I get confused on who has which data, but there are different price points for wax resin products. I think product three versus product one, product three is a more sophisticated product. It's a different market. It could be different mixes between different companies. But, primarily, the market is 75 to 80 percent product one.

Another factor that you might see is that certain respondents -- certain domestic players sell at different points in the value chain. For instance, NCR, while I said before that very few people sell direct, NCR does a little bit of selling direct, so they get the value of the additional step in the value chain, because they have broader relationships with
certain very large U.S. companies.

VICE CHAIRMAN HILLMAN: Okay. No, I was trying to understand from looking at the data whether some of these very wide differences in operating income and other financial data were at all a function of either what the actual product that they're selling and the cost to produce it versus the price you can sell it for, as opposed to these issues of distribution and other things.

MR. KINGDON: I think there's also for the two parties that are transnational, Japan to the United States, I think if you look, their pattern of imports over time has not been totally uniform and I'm absolutely convinced that there is an element of cross subsidy that they can bring those products in and get profit from those products, while subsidizing domestic.

VICE CHAIRMAN HILLMAN: And I understood the point you were making to Commissioner Miller, in terms of where the R&D, both costs and actual research, is occurring. But, I will look forward to any of the answers, Mr. Cunningham, that you're giving on helping us to understand how we look at this, given the requirement to look at the industry as a whole.

If I can then go on a little bit to touch on
these issues of the competition on the foreign side. And maybe I'll use, as a way of going through some of this, the arguments that Armor has made in its brief that its imports should not be cumulated with those from others, and they make a number of arguments, in terms of why we should look at their imports differently. And I guess I wondered if I could have you help me understand that. I mean, one of the things that they're arguing is this issue that they are -- the relationship between selling to OEMs, as opposed to selling to distributors. And you touched on this to some degree in your testimony, but I'm trying to make sure I understand how much of a distinction you think it is whether you're selling to an OEM, as opposed to through a distributor.

MR. KINGDON: In general, the OEMs are very attractive customers, because they are single-point customers that control relatively large volume of product and they pre-specify, it's an engineering level, and then they build that product and sell it versus the resell of it, they said, has more of an iterative play one versus the other.

VICE CHAIRMAN HILLMAN: And if you get a -- I mean, presumably, when you sell to an OEM, it's on a contract rather than a spot basis?
MR. KINGDON: It's more typically on a contract basis or a period of commitment. There are very few contracts in this industry over the last few years, because people have been so hurt by them. The customers perceive they've been hurt by them. So, it doesn't mean much. They have re-openers. You might have a commitment to purchase, but re-price it fairly regularly. So, there is some element of difference. Armor has probably -- I'll defer to what they said, they have more global relationships with certain critical OEMs that they operate national -- that they operate around the world. But, again, I'm familiar with some of those agreements, because we bid against them.

VICE CHAIRMAN HILLMAN: Okay.

MR. KINGDON: And there were carves out by region, the fact that Armor won that business globally, but when they were solicited -- when bids were solicited, there was an option to bid on the European element or the U.S. element or both concurrently. We have, in the last 15 months, secured a contract in Europe that we didn't secure the U.S. side of a U.S. supplier. So, it's a little overrated to say that it's a global --

VICE CHAIRMAN HILLMAN: No, that's very

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helpful, because, obviously, that was one of the things I was trying to understand, because what they're arguing is that for these contracts to global companies, where it's kind of a global supply contract, if you will, the competition is not occurring here in the United States and, therefore, we should not consider the French imports to be cumulated, because the competition wasn't really occurring here in the United States.

MR. MARSHALL: Commissioner –

VICE CHAIRMAN HILLMAN: So, I appreciate your point. Mr. Marshall, you wanted to add something?

MR. MARSHALL: Yes. Commissioner, I'd like to just build upon this just a little bit. Armor has been an excellent supplier to OEMs historically and it's been a solid part of their market strategy, as we've competed against Armor and as we've now with Armor throughout the years. When the license expired and they came to the United States, what was certainly easy for them to do was to take advantage of their European developed relationships with those OEMs and build on them with a base of critical mass here for the U.S. marketplace. I mean, very logically, they would do that. I would have done the same thing had I
been in their position.

But, I would point out to you that that's how they started. The marketplace here in the United States is largely determined today by distribution. And so, Armor's share of the United States grew very rapidly, very quickly, because they had the step function global agreements that they were referring to with OEMs that they established the relationships with in Europe first and then built on them here. But, the future of the market in the United States, if you're going to do anything in the United States, it's more with distribution, because the OEMs really have a much smaller share today than they did 10 years ago. This is a distribution business today.

VICE CHAIRMAN HILLMAN: Now, all of your comments have been extremely helpful in terms of the overlap between the French and the U.S. market. Help me understand what you think there is to point to, in terms of overlap between the Japanese and the French. How do you see those two players, in terms of competition in the U.S. market, between the French and the Japanese.

MR. MARSHALL: I would -- I'll just kind of wing this one, because it's more the way I feel, based on my impression as running a company in this industry.
for a lot of years.

            MR. CUNNINGHAM: Lawyers always love it, at this point.

            MR. MARSHALL: Yes. This is where he's going to cringe. I would just tell you, I think Armor has a basis of a market strategy that was built around OEMs and I've watched how they've built on that over years and less than arms length understanding. I would say that the Japanese companies that have given us the most gas on a pricing basis are companies that had relationships with Japanese OEMs, still retain Japanese OEM supplies, and came to the United States to try to get into that market and they're trying to get into a distribution marketplace today, which is very difficult to do on dimensions, when the marketplace is already serviced fully. So, what dimension do you use, if you want to build market share on a market that's already fully supported?

            And I don't think the Japanese had a plan. Some of this is based on conversation with my competitors and times that we've met with one another that I don't think they had a plan on how they would go into the market and differentiate with price or services or some other dimension. You know, they came in and they differentiated with price. They tried to
get market that way. And I would say that that's the
largest difference that I see between the way the two
competitors have come at the marketplace.

VICE CHAIRMAN HILLMAN: Okay. Now, Mr.
Cunningham, you know that part of the reason I'm
asking this is Armor is basically saying, don't
cumulate us, because we are different from the
Japanese. And to some extent what I just heard Mr.
Marshall tell me is, in fact, there are some
differences, in terms of the focus, et cetera. So, I
guess I would ask you for the posthearing, to respond
to the arguments that Armor made, in terms of
distinguishing themselves, both from domestic
production, as well as from the Japanese imports.
There are a number of specific items in their brief
that speak to this issue to sales to OEMs, versus
distributors, to global contracts, et cetera. If you
could respond to those and then help us understand the
evidence that relates to any overlap between Japan and
France.

MR. CUNNINGHAM: We'll be happy to do that.

VICE CHAIRMAN HILLMAN: Okay, thank you.

CHAIRMAN OKUN: Commissioner Miller?

(No questions asked.)

CHAIRMAN OKUN: Commissioner Koplan?
CHAIRMAN OKUN: Commissioner Lane?

COMMISSIONER LANE: First, I want to start off by asking Mr. Kingdon if he remembers the question that he wanted to answer a little bit ago and do you still want to answer it?

MR. KINGDON: Thank you, very much, if I could. I think we were talking about the skills of slitting and I did read in certain respondent briefs the complexity of laying out the web. You have a one meter web and then you are trying to optimize your yield out of that and there's much made of the complexities of that. I just wanted to add that there are very simple computer programs that do that. There's precedent in the garment industry and other industries. It's very simple. The slitter operators don't do that. They're given a pattern that they are given instructions to what they will slit off one jumbo and the computer has already calculated what's the optimum width of the jumbo and the optimum slit ribbon configurations to get the maximum yield out of that jumbo.

So, it's always struck me as somewhat misleading to focus on that element as being part of the key value added process with regard to slitting in
this country. It can be done easily.

COMMISSIONER LANE: Okay, thank you.

(Pause.)

COMMISSIONER LANE: In the pre-hearing brief, you stated that competition for slit certain TTR is fierce among domestic producers. How can you be sure that the state of the domestic industry is the result of subject imports, as opposed to this competition among domestic producers?

MR. KLETT: Commissioner Lane, this is Dan Klett. Imports represent roughly, just in general terms, 30 percent of the market. I would characterize the market as highly competitive among all competitors in the market, domestic producers and importers. And I think your little -- there was a question asked in the purchaser's questionnaire about who is the price leader and all the companies pop up at one point or another, domestic and import.

So, I don't think you can attribute the price decline that you observe during the POI to just intra-industry competition. I think it's a function of competition among all the suppliers. And that, overlaid with the fact that when you look at your pricing data, you have consistent underselling, I think you have to conclude that the importers, as a
whole, contributed materially to the price decline that you observed over the POI. So, I don't think it can be laid totally to intraindustry competition.

MR. CUNNINGHAM: And I would just -- this is Dick Cunningham -- I would just add as a footnote to that, it's worth reading the affidavit submitted by Sony on that, their take on how that, in fact, worked from their standpoint.

(Pause.)

COMMISSIONER LANE: The data in this matter shows that the per unit cost to producing certain TTR and slitted fax TTR has decreased over the period examined. What are the reasons for this decline and per unit production costs? And do you perceive this decline in per unit cost continuing and why?

MR. DOWELL: This is Vince Dowell. Certainly, the per unit costs has decreased due to several reasons. One of them is, you know, IIMAK had a very aggressive program to reduce our costs, in order to remain competitive. We've modernized our facility. We've added new equipments that run much wider and faster. We've worked very hard to come up with ways to, in some cases, redesign our products, to reduce the raw material costs by going to different types of materials that essentially can accomplish the
same thing with little different chemistries. We have improved our modernization in the ink-making equipments. We've added the higher speed coaters. We've added fully automatic slitting equipments. And we've worked very hard to partner with many of our suppliers, to reduce the raw material costs.

There's a point in time, though, when you run out of rope. And I think we're certainly getting to that. The cost line becomes somewhat asymptotic, as there's just not that much left anymore. I think we've worked really hard over the last few years to continue to bring that cost down, but it certainly can't go on forever. You can't cost reduce yourself into profitability.

COMMISSIONER LANE: Okay, thank you. That's all the questions I have.

CHAIRMAN OKUN: You all have provided a lot of information. I have a couple of other things that I can hopefully wrap up with. One would be just to pricing in general and the Vice Chairman, of course, has raised an issue with regard to how we deal with these converters and slitters pricing, which I will, obviously, be looking for, for posthearing.

Mr. Klett, in your presentation, you had addressed at least one of the allegations about the

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quarterly pricing data and its reliability and you did
that with respect to product one and said you're
providing additional information on that. As I
understood, there were the same allegations made or
similar allegations made about product three and I
wondered if you intend to address those in a similar
fashion or whether it can be addressed.

MR. KLETT: Well, I obtained the detailed
data from product three from IIMAK, as well, and I can
provide some analysis in our posthearing brief,
looking at both product one and product three, in
response to the allegations of Armor and ITW, that the
price data are flawed.

CHAIRMAN OKUN: Okay. I'd appreciate you
doing that. And then I just want to make sure, Mr.
Cunningham, that I understand. With regard to product
two, you've asked us to put less emphasis on it. But,
you're not arguing that it's not an – are you arguing
that it's not an indicator of competition or
appropriate –

MR. CUNNINGHAM: No. I said there is
competition of some sort at that level. It's a bit of
a side show. It shows something of the same pattern
as what's going on with the rest of the market. It
might be viewed – it's not quite -- could be viewed as
a microcosm. That's not right, because the real
competition is at the slit level. But, it's not
irrelevant and it shows some injury and the injury
there is not insignificant. It's more than, say,
immortal.

CHAIRMAN OKUN: Okay. And then one final
question with regard to what's going on with prices.
And, again, we've talked a lot about the intraindustry
competition. And Mr. Klett, you described this as a
highly competitive market. If we say that, okay,
highly competitive market, what about the other
issues? And I know you talked a little bit about why
you added capacity and the reasons for that. Could
you, also, address -- and, I guess, maybe, Mr. Dowell,
you may have just addressed this, in terms of, we've
seen costs come down -- I guess what I would say, is,
okay, put intraindustry competition aside, would you
expect costs to be -- prices to be going down in the
market where you've got capacity that's come on line,
you've got declines in costs, and you've gains in
productivity? Why wouldn't I expect there to be a
decline in that market in prices? Mr. Klett?

MR. KLETT: I think a lot has to do with --
well, it's kind of a chicken or egg question, to the
extent that -
CHAIRMAN OKUN: I love those kinds.

MR. KLETT: Yes. Respondents are claiming that the cause of the price decline is the cost decline and I don't think the market is near that simple. I mean, you can't say that cost declines don't affect price. But, I think in this situation, IIMAK, in response to the price pressure it was facing, took some clear steps to reduce its costs and I think some of the other producers did, as well. So that to a certain extent, I would say that cost declines -- or a good chunk of the cost declines are in response to the price declines. They've managed, to an extent, when you look at the operating profit level, to mitigate the adverse affects of the price declines through positive actions they've taken.

But, as Mr. Dowell said, you reach a point in the road where your options to further reduce costs become more and more limited over time. For example, they've reduced employment. That's reduced their pre-unit labor costs, part of which was productivity increase, but part of which were reductions they otherwise wouldn't make. And when you're looking long term, in terms of your long-term competitiveness, I think Mr. Marshall explained the training that went into a skilled worker. You let somebody like that go,
there's a cost to try to rehire somebody later on, if
you need to. And Mr. Marshall, Mr. Kingdon, can
probably expand upon that a bit, in terms of their own
experience with the motivations for the cost declines
and whether - which was driving which.

CHAIRMAN OKUN: Mr. Marshall, Mr. Kingdon,
you can comment on that. And, then, maybe if you can
take it one step further, which is, I mean, this point
being, if you can only cut costs so much and then you
have to do something else. I guess the question I
have is, you know, one thing that strikes me about
looking at the data is that you did see prices go
down. But, you didn't just hold your volume, I mean,
you've got an increase in shipments. So, I'm just
trying to figure out when -- how do those relate? I
mean, how do you make that call of -

MR. CUNNINGHAM: Remember that consumption
was increasing during this period, too. One was
expecting -

CHAIRMAN OKUN: But, you didn't make -
that's what I want to hear from these industry guys,
how they see their market.

MR. MARSHALL: Let me start on the cost down
side of it. In the early years of our participation
in this business, every time we bought a coater, we
bought it because demand kept increasing. It wasn't until the very late 1990s that we, like I think all good companies introspectively look at ourselves and size us up against our competition, and when you look at some of the later entrance into the market, they were coming into the market with what was newer, commercially viable, developed throughout time, highly productive equipment that our Legacy equipment did not have. And so, we understood that we were going to have to really get moving, in order to stay competitive with what some of the entrance, and a particular one would be ITW. They have a good cost model. And so, we would target that and say, we have to figure out how to compete, especially in the markets where they're at. And they talked about their 80/20 rule, so they're right in the wheelhouse of the commodity market that we're largely playing in.

So, we've made those investments. Unlike the past, for the purposes of capacity, we made them for cost reduction. And the commercial availability of the equipment in the late 1990s was there and the commercial availability of equipment like coating machines and small medium mills was not there in the late 1980s. We just couldn't find it. But, some companies did rise to the occasion and figure out how
to develop stuff that was really very, very productive comparatively and that's what our investments were in.

I think what we would have thought back then is that at a certain point in time, we'd still be able to use our Legacy equipment, either for non-certain TTR, other types of products, and maybe if we had a capacity crunch, we could use them. At today's prices, they're obsolete. I could not use that Legacy equipment and compete in certain TTR. There just wouldn't be any profitability to it.

MR. CUNNINGHAM: Could I make a point about that with respect to capacity data? We agonized over this a bit in our questionnaire response. The question asked you to include in your capacity, all the equipment that is, in fact, usable. Well, this is usable, but not usable. We included it all. We did not crank out of our capacity data the machines that he's talking about, what he calls the Legacy machines. They're there. They are usable, as he says, in a crunch for overflow production. But, they're not basically — and once in a while, they do use them. But, basically, they're not used. They're not competitive in the marketplace.

So, when there's a lot of talk by the respondents about, ah, there's a big increase in
capacity by IIMAK and that drove down prices, that
simply has no relation to reality whatsoever. If you
look at IIMAK's production and look at the industry's
production, it essentially tracks consumption in the
marketplace. And the capacity might have been better
stated if we had cranked that stuff out; but, frankly,
we wanted to be conservative and maybe we should have
put a footnote or something. But, I want you to
understand it now, I guess, is what I'm saying.

CHAIRMAN OKUN: Okay. Mr. Kingdon, did you
have anything else that you wanted to add to Mr.
Marshall's comments?

MR. KINGDON: If I could add a couple of
things. Ms. Chairman, I think that the data you
stated is perhaps not quite correct. That includes
the slit fax data. If you look at certain TTR without
slit fax, IIMAK has had its hat handed to it and
volumes are down and revenues are down substantially.
And having been instrumental in moving the company
into the fax business, that was a response to the fact
that we couldn't hold our own in the certain TTR, as
we defined it.

I think as we move along, there's an
insidious consequence to what is happening in this
marketplace, in that we are forfeiting R&D. We are
forfeiting new product development. And when I look across the competitors, no one else has put the capital investment that IIMAK has put into this industry and, yet, all their prices are going down. Well, what's the economic basis for that? Where we've made the process improvement and reduced our costs, but we still can't keep up with the price reductions in the marketplace through our cost reductions and, hence, as Vince Dowell has said, we're reaching the end of the road.

Finally, there's a huge knock-on effect with this business, in that the resellers essentially take our product and mark it up. If they were buying it for 12 cents before and they marked it up by 25 or 30 percent, they could make a reasonable return. Today, they're buying that product for 8-1/2 or nine cents, whatever the price is, and they are getting a much smaller markup. So, a number of the resellers are just moving away from the technology. So, this price competition, while it's an immediate donut, in terms of, wow, I can buy the product for a cheaper price, someone else with low overhead, a reseller not adding any value, also, gets the same price, they take it to the end user and so the pricing goes straight through from us to the end user. It doesn't make the end user
more competitive, because it is simply not a big
enough cost element. It doesn't appear on their bill
and materials. And now, the resellers are saying, I
really don't want to carry this product anymore. So,
we are losing the whole basis of our industry through
this.

CHAIRMAN OKUN: I appreciate all those
comments. Vice Chairman Hillman?

VICE CHAIRMAN HILLMAN: Thank you. I hope
just one follow-up. You have, obviously, testified a
bit about your reaction to some of the things in the
ITW brief. And the one issue that we haven't really
talked about, that I wanted to at least get your
reaction to, was their statement that in March of
2000, when Paxar sold IIMAK to its current owners,
IIMAK became the most heavily indebted TTR producer.
And I wondered if you could comment just on, is that
true and how would you say that it affected your
operations.

MR. MARSHALL: Well, when IIMAK was sold, we
had, at that time, two finalists vying for the
company. One of them was ITW. ITW buys companies for
their business. That's what they do. They have
hundreds of businesses within ITW. They had the
ability to pay for it in cash and so if we became a
division of them, you wouldn't have any of those
things on a P&L and you wouldn't have that on a
balance sheet and, you know, that's kind of the way
you become part of a corporation like that. You don't
have your own board. You don't have to pay your own
D&O insurance. You don't have to do all of those
other things that a stand-alone business does.

When that did not happen, we became -- we
were purchased by Centre Partners. What happened
there is there was a capital structure put together,
led by Centre Partners, where they put an equity stake
in -- they financed the business with a structure of
bank debt, both senior and mezzanine bank debt. And
the management team, all my direct reports, invested
in the company, as equity members of the capital
program.

And so, we went to market that way with
plenty of room to meet our obligations to our lenders.
And in all of our mind's eyes, from the largest equity
stakeholder to the smallest equity stakeholder, we
felt that we had a very strong business with a very
good market position and a lot of opportunities to
grow. So, the capital structure seemed to be well
suited for the business we had and our ability to
generate profits from it and satisfy our lenders and
What was, I think, the most shocking difference of what happened is that even with -- when Centre was arm's length from us and in the process of purchasing us, they go through excruciating detail to understand the market. They hired a very reputable company to take a look at it. I mean, we argued for days over whether the pricing is going to flatten out or it might still go down by two percent a year. I don't think anybody would have expected eight to 10 percent continuing for three, four years at a time. And that's where the crunch came from. It just was unrealistic that a market would continue to do that.

That put our capital structure under some squeeze and that's where we've made our statements to you about what we've had to do and the hardships that that put us under. And, you know, did it make the investment less attractive? Of course, it did. Take prices top line; it's also bottom line. It's the toughest problem for a business to battle with, insidious pricing.

I would go one step further. We're the only company in the entire industry that's TTR and we stand alone. And so, you don't have to be a rocket scientist and sit down and say, who might be the most
vulnerable, if we can go for an infinite period of
time with aggressive pricing, who is the most likely
candidate to fall? Well, it's not going to be Sony.
It's not going to be D&P. It's not going to be these
multibillion dollar corporations. If it sounds a
little paranoid, I think that if you looked at a
strategic plan of who is the most vulnerable in the
marketplace, it would have been IIMAK. And who is the
best plum? Well, we had the leading market share.

So, you know, being paranoid doesn't mean
they're not going to get you, but there was reasons to
feel that way and the attack on us and our customer
base was insidious. And where I think we became very
alarmed and caused us to come at this from this type
of an action is that we did everything we knew how to
do. And I would define myself as an expert in
manufacturing operations. I've done it for 33 years.
I was trained to do it and I've done it well all my
life. And we were very successful at reducing costs.
We're running out of road and the pricing just kept on
going.

And so, that's the way this whole thing
manifested itself. And you both -- all of you have
asked questions about the dimension of cost and the
dimension of pricing. You know, for quite a while, we
thought we had the plan that we could stay right with it and we could develop the company and remain successful doing it. We just never expected the pricing to be as insidious and as deep as it was.

VICE CHAIRMAN HILLMAN: Thank you for your answers.

MR. CUNNINGHAM: And I would just keep all of that testimony in mind, when you look at Exhibit 1 to our brief.

VICE CHAIRMAN HILLMAN: I appreciate that. I think with that, I have no further questions, but I thank you all, very much, for your answers. It's been extremely helpful. Thank you.

CHAIRMAN OKUN: Let's see if there are any other questions from my colleagues. Commissioner Lane?

COMMISSIONER LANE: I have a follow-up to something that Mr. Cunningham said. I think you said that in the capacity numbers, you were using old machines that weren't necessarily being used all the time, because you wanted to give an accurate reflection, even including old machinery. Can you provide, if it's not already in the record, the numbers and take those old machines out, to reflect the capacity?
MR. CUNNINGHAM: We can do that and we will.

COMMISSIONER LANE: Okay, thank you.

CHAIRMAN OKUN: With no other questions from my colleagues, let me turn to staff to see if staff has questions of this panel.

MS. MAZUR: Diane Mazur, Office of Investigations. Staff has no questions.

CHAIRMAN OKUN: Thank you, Ms. Mazur. Do respondents have questions for this panel?

MR. LEVINE: This is David Levine. I have three questions. The first is, we've heard mention of verification of IIMAK's questionnaire response and we just wondered when we're going to be able to see a verification report. So, that's a question to staff. The second question has to do with, and I don't know if there's an answer –

MS. MAZUR: Diane Mazur, again from Office of Investigations. As soon as practically possible, we will make it available to all parties under APO.

MR. LEVINE: Thank you. The second question goes to IIMAK and Mr. Klett, in particular. As the parties may know, when we commented on the draft questionnaires, we suggested that staff include a question, so that the pricing data be segregated by particular model numbers, because we expected that

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there would be baskets of categories in the various pricing products. And that is what happened and we've commented on it, in our brief. Pardon me one second.

(Pause.)

MR. LEVINE: Mr. Klett has said that he's already collected the information on a product-specific basis and we would like to be able to see that, as soon as possible, so that we could comment on it, as well. And that would be for product one and product three.

MR. KLETT: Mr. Levine, I'd just make two points. Number one, as you well know, in terms of the product specifications that are collected by the staff, it's a balancing act between specificity and coverage. And I think that the products that were collected -- the product categories that were collected were the right product categories, in terms of good coverage, were not of significant variance in terms of variability for the particular product specs. In terms of proving you with the data, I'll just have to talk with the attorneys in terms of the proper mechanism for that. I mean, Chairman Okun asked that we provide the detail in our post-hearing briefs and we will do so.

MR. CUNNINGHAM: Yes. I was just going to
say we've made commitments to the commission on that and we'll follow through with those.

CHAIRMAN OKUN: Did you hear that answer?

MR. LEVINE: We won't have a chance to comment on it if it's provided only in the post-hearing brief, is my real concern.

CHAIRMAN OKUN: Do you want to say something, Mr. Trendl?

MR. TRENDL: Yes. I believe in your final comments you'll be able to make additional comments on that information.

CHAIRMAN OKUN: That's what I was going to say, but there you go. We have final comments, too. Does that finish your questioning?

MR. LEVINE: I suppose so. I would just reiterate that it seems that the data is already available, it wouldn't be additional work to collect it and provide it. I'll just leave it there.

My final question is with regard to the last round of questioning on the level of debt incurred by IIMAK, if IIMAK could provide information on their level of debt during the POI, that would be informative.

CHAIRMAN OKUN: Mr. Cunningham, did you want to comment?
MR. CUNNINGHAM: We'll give the commission anything the commission deems appropriate on that.

CHAIRMAN OKUN: I appreciate that comment.

Anything further?

MR. LEVINE: That's all. Thank you.

CHAIRMAN OKUN: Before we break for lunch, a much needed lunch, I do want to again thank all the witnesses for being here on this panel. It's been an extremely informative morning and we very much appreciate your time and all the answers that you've given.

With that, we will take an hour break for lunch, so we will come back at 2:20. With that, I will remind everyone the room is not secure, so please take any confidential business information with you.

We are adjourned.

(A recess was taken from 1:16 p.m. until 2:18 p.m.)
AFTERNOON SESSION

(2:18 p.m.)

CHAIRMAN OKUN: This hearing of the United States International Trade Commission will please come back to order.

Good afternoon, Madam Secretary.

MS. ABBOTT: Good afternoon, Madam Chairman.

CHAIRMAN OKUN: I see that the second panel has been seated. Have all the witnesses been sworn?

MS. ABBOTT: That is correct.

CHAIRMAN OKUN: Very well, then, you may proceed.

MR. LEVINE: Thank you, this is David Levine again on behalf of ITW.

CHAIRMAN OKUN: Mr. Levine, will you bring your mike a little bit closer so we can hear you better? Thank you.

MR. LEVINE: At the outset, I want to say that based on the record and information available to ITW, we stand by all of the statements in our post-hearing briefs and our panel will respond to some of the comments by the IIMAK panel in our presentation here today.

While IIMAK certainly faces problems, it has presented or at least it has implied a distorted view
of the U.S. industry as a whole and through some serious manipulation of data has attempted to show that imports have caused or threaten to cause harm to the U.S. industry. IIMAK is wrong for a number of reasons.

First, IIMAK's poor performance is unique in the industry and the commission should not treat its anomalous results as representative. This is not a case like the recent hand truck investigation where the commission found that the impact of imports on the largest U.S. producer would be representative of the impact on the rest of U.S. producers. We urge the commission to scrutinize all of the criteria for injury in this case with and without IIMAK. The contrast is striking.

Measuring the U.S. industry condition with IIMAK included is analogous to testing the buoyancy of styrofoam while tied to a lead weight. The industry as a whole is not injured.

Second, IIMAK has caused its own troubles through questionable business strategies and mismanagement. Several witnesses at the preliminary conference recounted, as we did in our post-hearing brief, not for the first time, but as we did in the preliminary conference, a litany of miscalculations.
and failed marketing choices by IIMAK over the past several years.

As directed by the statement of administrative action, the commission should consider how these factors other than imports have caused IIMAK's troubles.

Third, IIMAK crafted its scope of subject imports to seek protection only from specific TTR products. The reasons for IIMAK's exclusion of slit fax TTR from the scope and its arguments for excluding slit fax from the domestic like product is clear: IIMAK does not want the commission to consider producers' activities and performance regarding this particular TTR segment.

The commission should reaffirm its preliminary finding that slit fax TTR is part of the like product and producers of slit fax are part of the domestic industry.

The record in this final investigation provides ample support for your preliminary determination based on the standard six-factor test that no clear distinction exists between slit fax TTR and the balance of the TTR included in the scope.

IIMAK defends its exclusion of slit fax by arguing alternatively that the commission generally
does not include the domestic like product downstream products made from subject merchandise or that under a semi-finished product analysis slit fax does not belong in the same like product as jumbo rolls. These arguments and the cases IIMAK cites lack any relevance to the facts of this case.

Slit fax TTR is no less like the in scope jumbo rolls from which it is finished than any other slit TTR is like its corresponding jumbos and slit fax TTR bears the same likeness to other slit TTR as the various widths and formulations of in scope slit TTR bear to one another.

The record dictates that the commission should affirm its preliminary determination to include slit fax TTR in the domestic like product.

Fourth, IIMAK wants the commission to exclude from the domestic industry U.S. producers that perform the finishing operations that convert jumbos into the form slit TTR required for the product to be used in all of its intended purposes. The facts in this case demonstrate, however, that converters satisfy the standard commission criteria for inclusion in the domestic industry.

In the fair value investigation, IIMAK itself urged Commerce to pay particular attention to

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ITW's converting operations because, and I quote, "In this particular case, the further processing constitutes a very significant part of the total finished cost of the product sold in the United States."

IIMAK was correct: the U.S. Customs Service officially ruled that TTR converting constitutes a substantial transformation conferring origin on the finished TTR. The questionnaire responses in this investigation also confirm this fact, indicating very substantial levels of value added in the converting process.

IIMAK cannot discredit these facts in the record and I don't believe this morning it even tried to, nor can it cite to any cases where the commission excluded from the domestic industry U.S. producers with levels of capital investment, production expertise, value added, employment, U.S. inputs and activities similar to the U.S. TTR converters.

In fact, the case upon which IIMAK primarily relies for this purpose, the synthetic indigo from China case, bears no similarity to this TTR case. Unlike this case, converters of synthetic indigo added little domestic value, they had low capital investment, they required minimal technology and
expertise and number of employees. Moreover, respondents in that case did not even bother to address the factors examined by the commission in deciding whether a firm qualifies as a domestic product.

Here, the record shows the opposite and the commission should rule that converters are part of the domestic industry, as Commissioner Miller found in the preliminary phase.

When converters are properly included in the domestic industry, the absence of injury by reason of imports becomes even more profound.

With that, I will turn to the experts who can fill in the details, starting with Jim Landry.

MR. LANDRY: Good afternoon. My name is Jim Landry and I am Vice President and General Manager for ITW Thermal Films Division of Illinois Tool Works. ITW is a Fortune 200 American company with annual sales of approximately $10 billion and employees over 23,000 Americans. I've been involved in the TTR industry and related products for over eight years.

ITW has both TTR coating and processing operations in the United States located at Kalkaska, Michigan and Romeo and Bruce, Michigan. These operations collectively represent $34 million in
capital investment and employ a total of 127 Americans.

In Korea, our TTR operations employ approximately 70 people. We own and operate a Korean producer of TTR, ITW Specialty Films Company, Limited, and believe we account for 100 percent of imports from Korea. But it is important for the commission to understand that we consider our imports to be of an intermediate product, so-called jumbo TTR rolls.

Practically none of these imports is resold in this intermediate state. This focus on making and selling intermediate product is an excellent example of our 80/20 business philosophy.

We believe in separating and focusing our business activities into long run and short run operating units to achieve operating efficiency. Continuing the example, jumbo rolls are further processed at our U.S. production operations and sold in transformed form, i.e., slit rolls, at a substantially higher sales value, approximately double in value.

As a result of our U.S. processing, nearly all of our U.S. market share is supplied with U.S. produced material that is either produced at Kalkaska, Michigan, our short run customs niche coating
I was surprised when IIMAK brought this case because even though I am not a trade lawyer, I always thought unfair imports had to be the reason for obtaining antidumping relief. Imports are not the cause of IIMAK's troubles.

I can also tell you that IIMAK's troubles are unique among U.S. producers and that explains why it is the only U.S. producer petitioning for relief.

Before the period of investigation, IIMAK utilized an M&A firm to solicit ITW with regard to potentially acquiring their business. From the perspective of a previous significant customer of IIMAK and from my general understanding of the industry, I am uniquely aware of IIMAK's self-inflicted problems.

The next largest U.S. producer, Sony, out of its Pittsburgh operations boasted recently that it imports only a small amount of TTR and is in very good health. For Sony's U.S. production to benefit from antidumping relief would truly be an injustice.

Leveraging its substantial U.S. production operations, Sony has relentlessly been driving prices downward for some time in a well publicized campaign.
to reduce the number of TTR suppliers active in the U.S. market from 19 or 20 down to five.

Recently, IIMAK just lost a multi-million dollar account for wax to Sony with product produced at Sony's Pittsburgh, Pennsylvania facility.

What are the reasons for IIMAK initiating this trade action?

Based upon customer feedback and general industry knowledge, we believe the reasons may be as follows:

In March 2000, Paxar agreed to sell almost all of its interest in IIMAK for a substantial capital gain. IIMAK’s management bought the company in a highly leveraged buyout financed by the venture capital firm Center Partners Management LLC. The buyout was announced to the marketplace in early 2000, right at the beginning of the period of investigation in this case.

The new IIMAK began life in its current form as the most heavily indebted TTR producer of any significance with debt we believe to be very large, the specific amount which the commission has just requested confirmation. At the same time, recession hit the U.S. market and the rate of growth for TTR in the U.S. fell to about zero. Over capacity in the

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U.S. industry and competition from other technologies such as direct thermal printing, ink jet printing and laser printing added to the general downward pricing pressure. ITW owns and operates businesses that use these technologies.

What did IIMAK's management do in response to the more difficult market environment?

Within the industry, it is common knowledge that IIMAK spent a lot of capital seeking to expand market share through a variety of means that failed or backfired.

In July of 2000, IIMAK attempted to buy a distributor with an estimated annual sales volume of $17 million, Acucote Imaging. It then effectively lost a portion of this business by substituting a cheaper TTR product to the Acucote channel which created ribbon breakage problems with Acucote's customers' printers. A large portion of the Acucote Imaging business had been supplied with wax products from Union Chemicar, UCA. The marketplace reports that IIMAK was forced to direct its representative to take various remedial measures in order to prevent customer desertion.

It appears that the efforts failed and customers left in droves. They did not come to us.
because of a lower price. They simply wanted a product that worked as represented and expected.

As you continue to investigate claims of lost sales and revenues to our products and to those of other TTR producers, ask the customers if they had previously purchased from Acucote.

IIMAK's management also invested heavily to develop and serve the market for TTR colors and other specialty TTR products. It purchased two new multi-head coating machines from Italy that were designed to coat these particular products, but the market and U.S. demand failed to develop as expected.

Today, the great majority of demand is still for standard black wax, wax with some resin and wax/resin TTR products. According to industry experts, it is my understanding that the two multi-head TTR coaters are greatly under utilized, adding to their depreciation expense, but ill suited for the manufacture of certain TTR.

During the period of investigation, IIMAK also invested in a company called T-2 Solutions in Plymouth, Minnesota. IIMAK's hope was to expand sales of color TTR through developing a systems integration solution; that is, bundling of color TTR with labels and printers in a single system. This was a direct
selling effort into the market by IIMAK as T-2 was a wholly owned subsidiary.

IIMAK management admitted to me personally that the effort has not achieved their plans, as the business has been closed and relocated to Amhurst, New York.

Other marketing disasters befell IIMAK during the period of investigation which helps to explain why its average pricing might have eroded more rapidly than those of its competitors. One such event involved ID Images, which was a major Sony and IIMAK distributor during the period of investigation.

ID Images allegedly owed a large amount on accounts payable to IIMAK. To resolve this issue, ID Images' ribbon business was transferred to IIMAK in January of 2001. However, before the transfer, ID Images significantly reduced prices to the end user market using Sony products. This action produced a panicked response from IIMAK management which communicated to the marketplace that it would meet its distributors' lower prices immediately and guarantee such prices for a period of months.

IIMAK also invested in a company named Precision Ribbon Technologies, an offshoot of Chemicraft, which according to industry knowledge had
not paid off for IIMAK as planned. Initially, IIMAK was toll coating for this company, but eventually absorbed the company into IIMAK in January 2002.

Another offshoot from Chemicraft emerged, Ribboncraft Associates, which effectively reduced the business volume IIMAK had anticipated absorbing.

In short, any erosion you might find in IIMAK's financial performance and prices are linked to the foregoing self-generated events, not to some sudden low-price strategy of importers. The fact is that prices have been declining on a worldwide basis for everyone for more than five years now, but IIMAK's strategies in response have been uniquely counterproductive, which explains why IIMAK, unlike other U.S. producers, has chosen to file this case.

Nothing else has worked, despite IIMAK enjoying the industry's largest share of the large U.S. TTR market. Why now?

Given the outcome from failed strategies identified earlier, I suspect IIMAK has filed this case as a last resort to validate their failed management leveraged buyout plan. IIMAK's obsessed focus on imported TTR versus Sony overlooks the impact on the market by their biggest competitor. Sony as the number two market share holder with aggressive

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pricing and a strong parent company would suggest a big threat.

IIMAK's failure to acknowledge this imminent threat and continued focus on imports would appear to be another failed strategy by IIMAK.

I would like to clarify a couple of points from the brief submitted by IIMAK and also from the earlier testimony.

In IIMAK's brief, they indicate that the Korean domestic market is for all intents and purposes closed to imports. Please be advised to our ITW's market share in Korea has decreased from approximately 75 percent to approximately 50 percent market share over the past two years with the balance served by imports.

To clarify earlier testimony by Petitioner, Petitioner has alleged that there is a joint venture between SKC and ITW. This is far from the truth and the facts. ITW acquired SKC's converting business in 1999. ITW is not affiliated with SKC, we have no joint venture partner relationship with SKC. SKC is the third largest chaebol in Korea.

Next point: Petitioner also alleged that Advent, which was the distributor for DNP, was acquired by ITW back in 1997. For the record, Advent
was purchased by Thermal Transfer, Inc., not ITW, in 1997. The new company, Advent TTI, was acquired by ITW in July of 2000.

Petitioner also alleges that we have breached our confidentiality agreements with them. I am here to testify today on the record ITW has not breached any of their confidentiality agreements with IIMAK. Common industry knowledge and plant visits as a significant former customer of IIMAK are the basis for our assertions.

In addition, I would also like to question Mr. Marshall's comments about his 7/24 operation of these multi-headed coaters to make certain TTRs made up of wax or wax/resin products. Typically these products are two or three layer composite TTR products. These multi-headed coaters having four and six coating heads would be a very inefficient way to manufacture certain TTR for anyone in the industry that understands coating technology and costs.

Thank you very much.

MR. GALLETTE: Good afternoon. My name is Peter Gallette. I am the General Manager of ITW Thermal Films in Romeo, Michigan. I am one of many ITW employees in the TTR businesses in the United States and I note that we employ more people in our

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TTR businesses in the U.S. than in South Korea.

I have been involved in this industry for eight years and I am intimately familiar with all aspects of the industry, the market and TTR products.

Since May of last year when IIMAK filed its petition, I have also become an amateur antidumping expert and I now know that the factors considered by the ITC in its investigation. I want to make sure you understand the products at issue here. I will answer any questions that you may have.

Mainly, I want to explain why slit fax TTR that IIMAK has excluded from the imports under investigation should continue to be included within your definition of the domestic like product.

The U.S. TTR market is served by both in scope products, I'll use your term, certain TTR, and those products expressly excluded from the petition. IIMAK excludes some TTR such as types of wax/resin, colors, and resin products.

I have to say that IIMAK's attempt to include some formulations but to exclude others makes no sense at all to the marketplace.

I understand that IIMAK can exclude whatever types of products it wants from subject imports and it has chosen to exclude slit fax TTR and other specific products.
types of TTR.

As you found in your preliminary decision in this case, no clear dividing lines exist between slit fax TTR and other types of slit TTR and there is definitely no reason to distinguish slit fax TTR from fax jumbos while ignoring any distinction between the slit certain TTR and certain TTR jumbos.

You already found in your preliminary decision a discernable line between color and resin TTR on one hand and all other TTR, including slit fax TTR, on the other hand. No such discernable line exists between slit fax TTR and certain TTR.

All of the reasons you cited in support of your preliminary decision are confirmed by the industry and the market. The record supports this and we provided significant details on this topic in our questionnaire responses. Please review our information carefully.

There is a significant overlap in the channels of distribution for TTR products that are within the scope of the petition and slit fax TTR.

Nearly all TTR sold by producers through distributors and/or directly to OEM printer manufacturers such as a company called Zebra.

I know that the same distribution network

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could represent both fax and non-fax TTR products. For example, we have sold fax and non-fax jumbos to a single customer and that customer markets both fax and non-fax TTR.

We also know that IIMAK markets fax and non-fax together, as the homepage of their website makes clear. You should look at that homepage and see ribbons for tag, label and office fax machines all promoted on the same page. In fact, with rare exceptions, all major thermal transfer ribbon manufacturers market both fax and non-fax TTR.

Producers and customers likewise perceive various TTR products within the scope and slit fax TTR to serve common purposes and to have common features. Educated customers and distributors understand that common technology is used in the printing methods of certain TTR and slit fax TTR. The only significant difference among all of the various slit TTR products including slit fax but not exclusive to slit fax is in the format of the slit roll used, that is, length, width and, in some cases, use of plastic cartridges.

You should understand that the packaging of some slit TTR in plastic cartridges occurs for some non-fax TTR as well as for fax TTR. In short, the same differences that exist among all slit TTR within
the scope apply between those products and slit TTR.

Also, as I mentioned already, there is a notable overlap in the distribution channel for fax and non-fax.

Pricing among all TTR products is heavily influenced by the relative volume and demand for individual products. We included a chart as Exhibit 19 to our pre-hearing brief that displays the relative price of representative products across the broad spectrum of all TTR products.

You can see that the pricing is organized in what I am told the commission would call a continuum. The continuum includes all forms of TTR, specifically including fax TTR and other TTR products.

I urge you to look carefully at the Exhibit 19 chart. You will see that the average pricing for fax TTR falls between the average pricing for various products included in the scope of subject TTR. Whereas the average pricing for other non-subject TTR lies at the high end of the chart, the average pricing for fax TTR lies within the range of subject TTR pricing.

I would add that the price of excluded fax TTR seems to be developed based on the same characteristics as certain TTR and other TTR. In the
actual marketplace, the unit pricing of fax TTR and non-fax TTR is very similar. For ITW, recent pricing for certain fax jumbo products differs from that for certain other TTR jumbo sold to the same customer by a fraction of one cent per MSI.

We have included in our proprietary questionnaire response more details in support of this point.

In closing, I would like to make a personal comment about how frustrating this proceeding has been for me personally. As general manager of ITW Thermal Films, I'm responsible for responding to our customers' concerns and also ensuring that the business is accurately represented in the marketplace. I have been forced to respond numerous times to publications and market accounts distributed and created by IIMAK, some published on their website.

IIMAK has tried to capitalize on this in every possible way against ITW. On their website, they made a statement regarding the products that we produce were made in North Korea. Obviously, that is not true. But the comments leave an impression that we have to respond to with our customers and that impression we are constantly clarifying to our customers over and over because it continues to be
ongoing mistakes and misrepresentations.

While this example pales in comparison to the overall defense that we have been forced to mount in this case before the commission and the Commerce Department, it does illustrate how wrong we think IIMAK has been all along.

Thank you and I will be happy to answer any questions.

MR. MALASHEVICH: Good morning, Madam Chairman, members of the commission. I am Bruce Malashevich, President of Economic Consulting Services LLC. I am accompanied by Ms. Jennifer Lutz, a senior economist with our firm.

My testimony today focused on rebuttal of what are really just a few economic arguments made in IIMAK's 80-page pre-hearing brief. I say few because it is a brief largely dedicated to arguing points of law. As you know, I'm not a lawyer, but it reminds me of the old adage, if you don't have the facts, argue the law, et cetera. But a good portion of IIMAK's brief is dedicated to a purported showing that converters should not be considered domestic producers. However, almost all of the argument is based on the experience at IIMAK, not on the experience of the domestic industry as a whole as
reflected in the pre-hearing brief.

The fact that converters are very much a part of the domestic industry is based on the informed views of industry experts and finds ample support in the record. In particular, if you have before you our APO pre-hearing brief, that is the brief of ITW, please turn to Exhibit 17, which is a summary of the statistics in the record supporting the inclusion of converters under the commission's traditional standard.

From an economist's perspective, the value added in the United States is the difference between what the subject imports cost and what the finished product sells for. In ITW's case, as you heard earlier, roughly 50 percent, that is five-zero, of the value of product is added in the United States. This is not, as IIMAK wrongly contends, because of dumped imports.

The commission sometimes has considered the value added more narrowly, measuring labor and material and other costs expended in the United States after the goods are imported. Even by this measure, the value added is quite substantial and I call your attention to page I-16 of the public pre-hearing report.
Petitioners downplay the data collected by the commission by saying that the total cost of foreign imports is distorted downward due to the determination that imported jumbos are entering the U.S. at dumped prices. This is a stretch in general in this case, but once again I note that it cannot apply to ITW's imports of jumbo rolls from Korea so ITW's experience serves as a useful guide of the relationships of value added to the cost of the goods in the United States.

Most interesting, Petitioners really made an admission against interest in the testimony today and in the brief because as they disclosed today, U.S. coaters reporting to the commission instinctively included their own products converted for imported jumbos as U.S. production throughout the data so the perspective of the U.S. coaters clearly show that converted products are U.S. production.

They tried to back away from their tactical error in the brief and their testimony today, but I think the damage to their case has been done.

As important as the industry definition issue is, it's not case determinative. Whatever the commission decides in this regard, the fact remains that most subject imports are converted into U.S.
production before being sold in competition with other domestically produced TTR.

At this point, I would like to reveal my attempt at fairly abstract art here. Basically, this sums up the competitive structure of the industry.

This is the universe of jumbos produced in the United States, of which, as you heard in testimony earlier --

CHAIRMAN OKUN: Mr. Malashevich?

MR. MALASHEVICH: Yes?

CHAIRMAN OKUN: Because the parties need to look at this, let's just hold the time for a second so we can look at it.

MR. MALASHEVICH: Sure. Of course.

CHAIRMAN OKUN: If you could turn this a little bit more this way?

MR. MALASHEVICH: Of course.

CHAIRMAN OKUN: We'll let the parties have a chance to look at it.

MR. MALASHEVICH: I'll even let them have it after the hearing is over. It is sort of like Salvador Dali.

But any event, this is intended to be the universe of jumbos produced in the United States by coaters. As you heard earlier, in, I believe, Mr.
Marshall's testimony, a very small percentage, less than 10 percent, are sold as jumbos in the open market.

This is the universe of subject imports, including, to be conservative, imports from Korea. Only a small sliver of subject imports are resold as is in the open market and only a small sliver of the small sliver of domestic jumbos sold as jumbos in the open market.

This little slice which we measure in our brief is the only competitive overlap between what's imported and what's in fact sold in the United States.

These conditions of competition mean that the great majority of imports are not imports at all, as the commission has observed in the hearing earlier today.

And I ask you to examine the pre-hearing brief of ITW and ask yourselves are there any subject imports of finished TTR? For those sales of jumbos where imports and domestic production compete, there is currently no evidence of injury by imports, the numbers are too small and the imports oversold the domestic industry in every instance.

So the issue becomes whether imports of intermediate jumbos somehow cause material injury to
the industry as a whole. IIMAK's brief for the most part talks about injury to IIMAK, not the domestic industry as a whole.

It's very important to note on volume effect that the pre-hearing brief establishes that the domestic industry gained market share over the POI. Under Mr. Klett's view of the competitive conditions in the U.S. market, where all these products are interchangeable and there's a lot of competition, how can you expect imports from Korea which allegedly undersold the domestic product during most of the period, how come they lost market share?

Mr. Klett's view of the market simply does not hold water when placed against the facts.

IIMAK attempts to get around this by making a fairly convoluted recalculation of market share in the pre-hearing report. We were not able to duplicate the numbers, but it involves at least a dozen or so modifications, rather unconventional, from what the pre-hearing report shows.

I also would like to address IIMAK's and Mr. Klett's argument that access to subject imports of intermediate jumbos allows converters to underprice a limited number of other U.S. producers. As tenuous as this alleged link is, considering the degree of value
added in the United States prior to sale, the argument could easily be shown as incorrect. Please look at Exhibit 7 in ITW's pre-hearing brief which is based on the numbers in the pre-hearing report.

The exhibit compares the average unit net prices reported by the so-called coaters as a group to the evolution of the average unit net sales prices reported by the converters as a group.

Now, you could see who is underselling whom in general in the marketplace. Now, I think that's one of the simplest ways to cut through a lot of the argument you heard earlier today to the effect that conversion operations somehow are distorted by virtue of their access to dumped imports.

The coaters as a group primarily rely little on subject imports, converters as a group much more so. Look at the average unit values and form your own conclusion.

In the end, the commission must assess the impact of subject imports on the domestic industry as a whole. Volume indicators and productivity are all moving strongly in the upward direction. Although prices are down, the U.S. producers have cut per unit costs through labor, raw materials, factory overhead, selling expenses and G&A expenses. Therefore, the

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profitability of domestic producers, no matter how that is measured in the various permutations found in the pre-hearing report, has remained quite healthy, even in Petitioner's calculations or is even trending upward in some scenarios.

These are not the facts that warrant an affirmative determination in this case.

Thank you.

CHAIRMAN OKUN: Does that conclude your presentation?

MR. LEVINE: We yield the balance of our time to the rest of the panel behind us.

CHAIRMAN OKUN: Okay. Thank you.

You may proceed, Mr. Price.

MR. PRICE: Good afternoon. I am Alan Price with Wiley, Rein & Fielding, here today on behalf of Armor, S.A., the French producer of the subject merchandise. I am joined this afternoon by my colleague Dan Pickard and Mr. Chris Walker, Vice President and General Manager of Armor U.S.A.

I would like now to introduce Mr. Walker.

MR. WALKER: Good afternoon. My name is Chris Walker. I am the Vice President and General Manager of Armor U.S.A., Inc.

Armor is a small privately-owned participant
in the U.S. market. Our shipments of subject products are negligible and will remain negligible. We are neither injuring the U.S. industry nor are we a threat to the U.S. industry. Armor is small and will remain small because of our specialty focus.

The overwhelming majority of our TTR sales are of specialty, non-subject products, including near-edge, corner-edge and resin products for technically demanding applications that are not covered by the current investigation.

Most of our subject product imports are either for reexport from the United States or sold to OEMs and do not directly compete against the standard mass-produced products sold by IIMAK and Sony.

Armor's basis for competing in the U.S. market is completely different from other domestic and foreign producers. We focus on unique technologies and market niches. Armor is in the U.S. as a commitment to our customers' demand for global service. The heart of our business is involved in global contracts with the OEMs who we supply with global solutions that are also tailored to meet their logistical needs.

Armor focuses its sales to OEMs, a distinct channel of distribution that makes our company unique.

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This business approach of Armor in selling TTR has been consistent for the 14 years that I have been in the industry and a member of the Armor group.

The overwhelming majority of Armor sales are to OEMs, as confirmed by the Petitioner this morning. This strategy is extremely demanding to follow. We have worked with several OEMs, including Avery Dennison and Markem, to develop proprietary subject and non-subject products. These products combine special printing technologies under ribbon formulations that are interdependent upon one another.

We excel at establishing centralized global account management, covering commercial, technical and service aspects. Then, to a small team, we roll this out globally, adapting to the local market needs.

In short, mass market distribution of standard products is not the basis of Armor's success. We principally sell to OEMs on quality and performance, where other domestic and foreign producers are not able to compete for technical reasons.

We do not plan on changing our focus or growing our business in the mass distribution market in which IIMAK and Sony, the price leader, vigorously compete with each other.
I would like to now address Armor's future in the U.S. under the markets in order to dispel any argument that Armor's imports were or are likely to imminently exceed 3 percent of the imports corresponding to the domestic like product including slit fax TTR.

First, for the like product subject to investigation, I understand that there is no dispute that Armor's imports are less than 3 percent of total imports for the 12 months preceding the filing of the petition. This doesn't surprise me, as Armor has had a tiny share of the market from 2001 to the present day. This will not change.

Second, Armor will remain negligible as a U.S. supplier. Our questionnaire projects essentially stable production for 2004 and 2005 and, frankly, I believe that a decline in our U.S. market share is more likely, which I would like to elaborate.

As the commission knows, a large portion of our imports were slit in the U.S. to serve foreign markets. Specifically, we exported significant quantities of slit products to Latin American. Global supply contracts are a core part of Armor's sales strategy. Through 2003, we served Latin American orders from the United States. In 2004, the Armor

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Group will start to slit products in Brazil in order to serve the Latin American market.

As our Brazilian operation comes up to speed, we will stop exporting from the U.S. As a consequence, jumbo rolls from France that were imported to the U.S. for slitting and reexport will in future be sent directly to Brazil. Under no circumstances will we continue to slit in the U.S. to serve Latin America. This will reduce our imports.

I would also like to point out to the commission that our certain TTR business with OEMS including Avery, Markem, and Norwood, is based on old flathead printer technology for apparel and packing applications. These printers and therefore the associated TTR products are leaving the market at approximately 50 percent per year. The consequent decreased sales of certain TTR is leading to overall decreased imports of subject merchandise in 2004.

Further, the global market is growing much faster outside the U.S.A. than in it, as Exhibit 11 to Petitioner's pre-hearing brief shows. Demand is growing faster in Europe, Eastern Europe, Asia and Latin America than in the U.S. The growth and openness of the non-U.S. market is shown by IIMAK, who is seizing share in Europe, Brazil and elsewhere. As

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the U.S. market increases, Armor's stable
participation in it will be even smaller.

Just for the record, concerning the matter
of DNP and a joint venture with Sagem in France, this
business is limited solely to slit fax TTR, 
non-subject merchandise. Further, this is not a new
market entry into France, but rather is a transfer of 
the location of slitting from Japan to France. This 
will not affect either the French or the European 
markets. And, lastly, Armor does not produce slit fax 
in France.

In sum, imports from France will not
imminently increase. The U.S. market is growing 
rapidly and any change in Armor's sales will therefore 
be insignificant.

Finally, high growth rates to TTR markets in 
Asia, Latin America and Eastern Europe indicate that 
Armor's French exports will not be diverted to the 
U.S. In conclusion, imports from France are 
negligible and do not threaten the U.S. industry.

Thank you.

MR. PRICE: Thank you, Mr. Walker.

The first issue I would like to address is 
the proper domestic like product definition. The 
commission got this right at the preliminary stage.
The evidence demonstrates that slit fax TTR should be included within the domestic like product. There are several inherent contradictions in the Petitioner's arguments and they also have a lot of facts wrong.

First, the Petitioner wants semi-finished and finished products to be in the same like product. Now, the Petitioner used chemistry as the principal scope definition here and then excluded slit fax TTR. Based upon that alone, it doesn't even matter that some companies may predetermine the use of some jumbos at coating. All subject jumbos meeting their chemistry are in the like product, whether ultimately used for bar codes, fax, apparel or other applications.

Now, the ITC has fairly clear precedent on including semi-finished and finished products in the same like product. Generally, all or virtually all of the subject jumbos must go into the finished or, in this case, slit product for there to be a single like product.

Since IIMAK wants slit product in the like product, all of the slit products must come into the investigation or none of them can.

If a line is drawn between jumbos and slit, this case must go negative. Those are basically
divided up as like products and there are a variety of reasons which I think Mr. Malashevich largely explained, although not explicitly and I'll save time and explain them later.

But whether the Petitioner realizes it or not, its only theoretical chance of an affirmative determination is if slit fax TTR is swept up in the like product.

Second, what makes no sense is if the Petitioner wants slitting to be deemed inconsequential for the purposes of defining the domestic industry, but they want slitting only as to fax TTR to be so significant as to be the basis for a domestic like product definition. This just makes no sense.

We also believe that many of their representations regarding clear bright lines and the traditional six-factor like product test were just wrong. We brought a variety of samples here which we would be happy to discuss. They go to specific issues, they go to use, they go to distribution and so forth, so we would be happy to answer questions about those.

Now, let me turn to negligibility. Imports from France are negligible. There appears to be a novel issue in this case as to whether the commission
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should use the Commerce Department's scope or the ITC's own domestic like product determination in determining negligibility.

Well, here the statute is pretty straightforward. The negligibility statute reads, "Imports from a country corresponding to a domestic like product identified by the commission are negligible if imports account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available the precedes the filing of the petition."

The plain wording of the statute indicates that the commission must examine those imports corresponding to the like product. There is no need to go beyond the plain meaning. However, the FAA, the House report and the antidumping agreement all support our interpretation. Any other interpretation will not withstand scrutiny at the Court of International Trade or at the World Trade Organization. Subject imports from France are negligible and this investigation should therefore be terminated as to France as a matter of law.

With regard to threat, there is no basis for concluding that imports were likely to imminently
exceed 3 percent at the time of the preliminary
determination or today. In this regard, the
negligibility determination is rather unique because
all aspects of it are actually linked in time to the
filing of the petition.

As a result, the commission must ignore
subsequent effects of the antidumping investigation as
some importers from Korea or Japan may reduce their
shipments or modify the shipments from levels that
they otherwise would be at. In this case, the
decision is easy because French imports have never
exceeded the 3 percent threshold, so there is no
current basis for concluding that imports would have
imminently exceeded 3 percent soon after the filing of
the petition; nor, as Mr. Walker just explained, will
they exceed the 3 percent level going forward. In
fact, they are likely to decline.

Should the commission not terminate this
investigation as to Armor, it is appropriate to
decumulate French TTR from other subject imports. Due
to the unique nature of Armor's business there is no
reasonable overlap and competition with imports from
Korea or Japan. The overwhelming majority of Armor
sales were either exported from the United States or
sold directly to OEMs through global supply contracts.
These OEMs insisted on one global source. There was no option to supply geographically as the Petitioner has claimed.

CHAIRMAN OKUN: Mr. Price, while you're looking up, are you also seeing that your red light is on?

MR. PRICE: I'll wrap up in one second. I appreciate that.

CHAIRMAN OKUN: One sentence. How about that?

MR. PRICE: Okay. In sum, Armor produces specialty products which it sells in a distinct channel of distribution and they should be cumulated. The commission should make a negative determination as to France and overall in this case.

Thank you.

CHAIRMAN OKUN: Thank you.

MR. THOMAS: Madam Chairman, before we start, could I confirm how much time is left for us?

Mr. Secretary?

BI: ** Eight and a half minutes.

MR. THOMAS: Thank you. Mr. Loeb and I intend to split this, five minutes that I will take and he will take three and I'll do my best to stay within my five minutes. Thank you.
I am Ritchie Thomas of the law firm of Squire, Sanders & Dempsey, counsel for Union Chemicar Company, a Japanese producer of TTR, and its U.S. subsidiary, Union Chemicar America, the importer and converter of subject TTR from U.C. Japan.

U.C. is concerned with a single issue. That issue is whether imports of subject TTR from U.C. Japan and Dai Nippon Printing Company, the two Respondents as to which the Commerce Department has made an affirmative critical circumstances finding, surged in the post-petition period such that they are "likely to undermine seriously the remedial effect of the antidumping order to be issued and thereby warrant a retroactive application of any antidumping duties that may be ordered."

It should be noted that the statute directs the commission to address "The imports subject to the affirmative critical circumstances determination" and it is Commerce that identifies imports that are included in that determination. Petitioner is not empowered to modify Commerce's determination, as Petitioner's counsel seems to have attempted in his remarks this morning that Petitioners are no longer interested in critical circumstances as to DNP.

Data submitted by U.C. and DNP show that
imports of subject TTR from U.C. Japan and DNP did not surge in the post-petition period, but in fact declined. Consequently, the only possible answer to the retroactive application question before the commission is in the negative.

I could stop here, but at the risk, indeed, the virtual certainty, of belaboring the obvious, I will continue briefly to explain why this is true.

Before doing so, I feel constrained to note that the reason for the retroactive application issue is before the commission at all is attributable to a defect in the Commerce Department's procedures. Although Commerce apparently recognizes that its critical circumstances determination is legally and factually distinct from its sales at less than normal value determination, Commerce has taken the position that information relative to the critical circumstances determination will not be accepted unless Respondents previously had submitted all of the information Commerce has demanded for the purpose of the LTNV determination.

Commerce thus effectively has taken the position that its own failure to make appropriate provision for collection of data relevant solely to the discrete critical circumstances determination
warrants in this case an adverse facts available
critical circumstances determination with respect to
U.C. and DNP.

For the record, the facts available input
data on which Commerce relied in this case have
nothing whatsoever to do with U.C.'s imports of
subject product, nor, we understand, the subject
product imports of DNP.

The inadequacy of Commerce's procedures is
no direct concern to the commission. The commission's
inquiry is wholly independent of Commerce's
deliberations and is based on the commission's own
record. Aside from identifying the imports to be
considered by the commission, Commerce's determination
that critical circumstances exist does not in any
regard bind the commission's determination, a fact the
statute makes abundantly clear by expressly directly
the commission independently to consider the timing
and volume of the imports.

When account is taken in this case of the
timing and volume of the imports at issue, it is clear
there was a substantial decrease in U.C.'s and DNP's
imports in the post-petition periods typically
considered by the commission. We submit the
substantial decrease in imports at issue mandates a
negative retroactive application determination in this case.

As the commission recently noted in Refined Brown Aluminum Oxide from China, the FAA indicates that the commission is to determine "whether by massively increasing imports prior to the effective date of release the importers have seriously undermined the remedial effect of the order."

If the predicate "massively increasingly imports" are not present, the inquiry logically is at an end and any other factors the commission might consider in other circumstances can be of little or no probative weight.

In those circumstances, any increase in inventories or other adverse trends must be the result of exogenous factors such as a decrease in demand or other factors that adversely affected sales of a kind that bear no relation to the effectiveness of an antidumping duty order.

Finally, if it were appropriate to consider facts other than the decrease in imports concerned, those typically considered by the commission would not in the face of declining imports in the post-petition period support a finding in this case that U.C.'s and DNP's imports are likely to undermine substantially
the effectiveness of any antidumping duty order that
may be issued.

For these reasons, we submit that the record
before the commission will support only a negative
retroactive application determination.

Mr. Loeb?

MR. LOEB: Thank you.

Madam Chairman and members of the
commission, I am Hamilton Loeb with the firm of Paul
Hastings. We represent DNP.

I had been allocated the final three
minutes. In light of events this morning, I don't
think that I'll need them.

Let me just endorse Ritchie Thomas' comments
with respect to what the record provides on the
retroactivity point. Mr. Cunningham this morning made
comments both at the outset of his presentation and in
questioning, responding to commissioner questioning,
that indicates that the Petitioner is no longer
asserting critical circumstances or a need for
retroactivity, at least with respect to DNP. That
should pretty much close the chapter.

If the Petitioner doesn't want it and
doesn't think it's justified on the record and the
commission rarely finds retroactivity anyway in these
critical circumstances cases, I don't think we need to spend much time on it.

I did hear another challenge this morning put down by Ms. Potuto Kimble with respect to the slit fax point. Let me just say to respond to what I understood the request to be, it is a fact that DNP is, as we understand it, the principal supplier of slit fax material that comes into the U.S. market. It may be useful to say the following. The way that occurs is that DNP in Japan provides finished slit material to the three principal remaining fax producers or OEMs, those are Canon, Brother and Panasonic, and those entities then supply their customers worldwide, including the U.S. market, with the material they bought in Japan from DNP.

I notice on the like product question that a good deal of attention has been paid to specifics that relate to one of the factors, which is the characteristics of the material, the physical characteristics of the material. It seems to me the commission has preliminarily focused principally on that in reaching the conclusions it did and I would say that as the representative of the principal party involved in dealing with channels of distribution, there are certainly facts about the way that the slit
fax, that is F-A-C-T-S about the way the slit F-A-X, material ultimately reaches the U.S. market that do suggest there are some differences in the channels of distribution and the customers and the uses of the material.

And, finally, I think if you do look at pricing you need look only at page 118 of the staff report which provides a pricing average unit value for the slit fax material that you'll see is considerably different than the average unit values that have been provided on the record for bar code material.

With that, I will conclude my comments.

Thank you.

CHAIRMAN OKUN: Thank you and thank you to all of you. I believe that concludes all the testimony from this panel.

Before we begin our questioning, I want to thank all the witnesses for being here this afternoon, for your willingness to answer our questions and to help us better understand the industry.

Two preliminary things before we start our questions. One, just to remind all witnesses if you can just restate your name for the court reporter, that would be very helpful to us.

And, then, second, Mr. Levine, at the end of
the first panel, you had asked three questions. Your
last question was to Mr. Cunningham relating to
information on IIMAK's indebtedness. Mr. Cunningham
had replied that he would provide whatever information
the commission requested. I would note that the
commission has taken that request under consideration.

Any commissioner can ask you either in this
forum or in post-hearing questions for that
information, but it has not been done so yet, so
I just wanted to clarify where we were and I apologize
I didn't do that at the end of your question.

With that, Vice Chairman Hillman will start
the questioning this afternoon.

COMMISSIONER HILLMAN: Thank you.

My welcome to all the members of the panel.
We very much appreciate your willingness to be here
for this relatively long day and to present your
testimony and all of the information in the
pre-hearing brief.

Let me start with making sure -- I want to
see whether there's any difference in terms of
understanding the products from your perspective as
opposed to what we heard this morning.

Maybe, Mr. Landry, if I can start with you
in terms of the ITW product and then move back.

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I was trying to understand this morning the degree to which a jumbo roll when it's produced whether there is something about the ink resin wax composition of it that makes it uniquely used for and dedicated to, if you will, fax as opposed to bar coding or another use.

Mr. Landry, from your perspective, when you see a jumbo roll and/or when you bring it in from Korea, do you know already that this jumbo roll is going to go for fax purposes and this other one over here is going to go for something else?

MR. LANDRY: My name is Jim Landry. Commissioner Hillman, the answer to that is when we import the jumbo roll, we know --

COMMISSIONER HILLMAN: Can you pull that microphone just a little bit --

MR. LANDRY: I'm sorry.

COMMISSIONER HILLMAN: It's more for the court reporter. I want to make sure they're picking it up.

MR. LANDRY: When we import the jumbo roll, due to the product numeration system we use, we know that that product, for instance, if it's wax, B220, it will be used for a bar code application. If it's fax, F220, it will be used for a fax application. So the
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answer is yes, when we import the jumbo, we know 99.9 percent what use that jumbo will be used for.

COMMISSIONER HILLMAN: Okay. And are there jumbos that are used either way? Are there some that you can do whichever application you want?

MR. LANDRY: Yes, Commissioner. It is possible to use in some instances fax jumbos for bar code printing provided that the material is slit to the proper specifications for the bar code printer and the corresponding label stock will accept the wax ink chemistry. For most uncoated wax labels, the fax product will in fact work. Based upon our belief, our B220 is a better use, but, yes, they will both work.

COMMISSIONER HILLMAN: Okay. And, if you can, sort of what share of the fax -- again, the fax TTR, the ink formulation, the specific jumbos that are unique only to fax, would you say is what portion of your jumbo rolls coming in are really solely dedicated to fax?

MR. LANDRY: Commissioner Hillman, we do not participate actively in the fax business.

COMMISSIONER HILLMAN: Okay.

MR. LANDRY: We imported in the period of investigation, I believe, one container of fax jumbos for resale into the U.S. market. We do sell into the
Asian market fax jumbos.

COMMISSIONER HILLMAN: Okay. But then in terms of the jumbos that you are going to slit into slit fax product, again, do you have a sense -- are virtually all of the jumbo rolls dedicated for fax purposes? I'm trying to get how big is this overlap of ones that could go either way?

MR. LANDRY: Commissioner Hillman, we do not participate in the slit fax business in the U.S. market.

COMMISSIONER HILLMAN: Okay. I'm sorry. I thought you were making a distinction between participating in the commercial jumbo market. Okay. Fair enough.

Moving back, if I could, Mr. Walker, on the French side, and it wasn't clear to me whether you're even in this exact business, but help me understand from your perspective, if I'm looking at a jumbo roll of TTR, from your perspective, is it on the basis of its ink composition, wax/resin composition dedicated to a particular end use or is that determined by the slitting process?

MR. WALKER: What I have brought is maybe some samples that could explain the possibility to overlap the two grades.
The answer is in the U.S.A. Armor doesn't offer a fax TTR ribbon, but the Armor group is involved in the office printing consumables market worldwide. We do have a fax TTR range, so I have a certain amount of knowledge that I used to be involved in that market before I moved to the U.S.A.

What I have got here is some samples printed on a Zebra printer, on one hand with a fax ribbon which just immediately fitted onto a Zebra printer which is a bar code printer, and then using a fax ribbon we've produced exactly the same format labels on the same Zebra printer with what's sold as a specialty fax ribbon. So we have these samples here of the ribbon and the printer samples.

A further answer would be that we have, as Mr. Landry, a very limited experience of the fax market in the U.S.A. but we have participated in one reexport and the film grade, we use a wax grade, our very standard entry level wax TTR product that we would normally supply for a bar code application, so in my opinion the same product could be used in either technology and if the slitting process is compatible, which in this case it absolutely was, you can even use the same ribbon across onto one printer or another. It is rather unusual, but in this case it did work.
COMMISSIONER HILLMAN: Okay. Okay. It can be done, but as a practical matter, is it done?

MR. LANDRY: I believe it probably is done, yes. I can't believe people would duplicate inventories of the same standard wax products.

COMMISSIONER HILLMAN: Okay. And then, Mr. Landry, just to make sure I understand the operations here versus in Korea, do you do slitting in Korea? I mean, obviously you're bringing into the U.S. just jumbo product and doing all the slitting here for the U.S. market, but in Korea are you doing slitting?

MR. LANDRY: Again, this is Jim Landry. Commissioner Hillman, we do a small amount of slitting at our ITW Specialty Films operation in Chonon.

COMMISSIONER HILLMAN: And where is that slit product then sold?

MR. LANDRY: It is sold into the domestic Korean market or exported for resale into the Asia-Pacific market.

COMMISSIONER HILLMAN: Okay. Okay. Thank you.

I think it was you, Mr. Gallette, who commented on this issue of prices and you noted that there has been worldwide a downward trend in prices...
over the last couple of years. I believe that was
your testimony -- I'm sorry, Mr. Landry's testimony.

Excuse me.

I'm just trying to understand the degree to
which you in the industry perceive there to be a
worldwide price. In other words, does what's
happening in terms of prices in Europe or in some of
the Asian markets have a direct effect on the price
for TTR in the U.S. market?

MR. LANDRY: Again, this is Jim Landry.

Commissioner Hillman, I believe the price that has
been decreasing in Europe and in the Asia-Pacific
market. Those price determining factors are specific
to those markets and not specific to the North
American TTR market.

COMMISSIONER HILLMAN: Okay. And do they
affect one another? If people know the prices are
going down in Europe, does it have any effect on
what's going in the U.S.?

MR. LANDRY: Most of the resale of product
in Europe and in Asia, to the best of my knowledge,
does not have any effect on the prices in North
America, i.e., a customer of ours in Germany, France,
or Italy that we sell product to would not have any
impact on the prices to an American customer that we

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sell product to here.

COMMISSIONER HILLMAN: Mr. Walker, would you have a sense of that? Would you agree with that?

MR. WALKER: I think that Armor's answer has to be on my side quite limited. Our involvement is on a global contract basis with an OEM and with perhaps some minor consideration for currencies. Generally, our products are not following a particular individual market, they're agreed on a global basis, on a contract basis, as I think the Petitioner mentioned this morning.

COMMISSIONER HILLMAN: Okay. Now, in your brief, you are obviously making an argument both with respect to cumulation with respect to your overlap of competition with the U.S. industry as well as the degree of overlap with products from Japan in terms of a cumulation argument. And yet when I asked the Petitioners this morning a little bit about this issue of the contract, their response was that they were in direct competition with you bidding for those for a number of those contracts and therefore that suggests at least an overlap between their production and your sales. I wondered if you wanted to comment on that.

MR. WALKER: Certainly. This is Chris Walker again. My understanding of the Petitioner's
answer this morning was perhaps more of an indication of that inadequacy at managing a global contract and addressing the needs of a global OEM where you have to disconnect yourself from local markets somewhat and address the bigger picture of logistics, service, quality and finally price and you have to bring a complete solution to them.

So in some ways I think we're probably not in that mass market that the Petitioner was discussing this morning and if history was to repeat itself they themselves destroyed the distribution channels of the American market by falling out with their single biggest OEM in America, which was Zebra, in fact.

COMMISSIONER HILLMAN: Okay. I may need to come back to that issue, but I see the red light is on.

Thank you, Madam Chairman.

CHAIRMAN OKUN: Commissioner Koplan?

COMMISSIONER KOPLAN: Thank you, Madam Chairman.

I, too, want to thank the panel for its testimony. It was detailed and very informative. I appreciate it.

I wasn't going to get into this first question this afternoon, but it was referenced by

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Mr. Cunningham not only in his brief, but in his opening statement, so let me see if I can stumble through this because there's business proprietary information involved.

In the opening paragraph of Petitioner's brief, in the introduction, I'll read the part that's not bracketed. It says, "This is the declared unambiguous and bold goal of" and then there's a bracket, and then it says towards Petitioner IIMAK, I'm paraphrasing that part of it, "data collected by the International Trade Commission strongly suggests the reality that Respondents' pricing and marketing practices are entirely consistent with" bracket "stated goal."

There is a footnote that says "See Exhibit 1." Exhibit 1 was referenced this morning.

I know counsel can't get into this in the public session, but I would like to understand what I'm looking at for purposes of the post-hearing, unless somebody wants to get into that now, but when you respond to that, I'd like to know whether Exhibit 1 refers to an isolated point in time, whether there are similar or identical documents for the period of investigation that I'm looking at, and what the background of this is. I'd like as detailed an
explanation of this as possible because, as I say, it's highlighted not only in the brief, but it was also highlighted in the opening statement.

If I could hear -- I don't want to target a particular counsel, obviously, but I would like to just have counsel on the record say that I will get some kind of an explanation post-hearing.

MR. LOEB: This is Hamilton Loeb. I'll volunteer to respond on that one and I certainly can provide -- to the extent it relates to my client, I can provide a response to all of the questions or all of the factors, Commissioner Koplan, that you've just described.

COMMISSIONER KOPLAN: Thank you.

Mr. Price?

MR. PRICE: Given Mr. Loeb's statement, I think it's important --

COMMISSIONER KOPLAN: Could you move your microphone a little closer?

MR. PRICE: Excuse me. Given Mr. Loeb's statement, I think the commission would be very interested in knowing sources of underlying supply for jumbo rolls.

COMMISSIONER KOPLAN: Fine.

MR. PRICE: For the relevant period in time.
COMMISSIONER KOPLAN: Fine.

Any other counsel?

(No response.)

COMMISSIONER KOPLAN: That covers it.

All right. Thank you very much. I look forward to getting that information.

On March 5th, Commerce issued its final determinations with respect to Japan and France and found in part that for purposes of U.S. Customs and border protection jumbo rolls produced in Japan or France in unslit form and then slit in a third country does not change the country of origin if its for antidumping purposes because slitting does not cause a "substantial transformation."

Commerce expressed concern that a slitting operation could be established in a third country for circumvention purposes with far greater ease than a coating and ink making operation because the primary costs involved in a slitting and packaging operation is not its capital cost, but labor cost, which Commerce noted might be hired cheaply in a third country.

They also referenced as a factor the sophistication or lack thereof of the third country processing.
Is this treatment by Commerce consistent
with DRAMs and DRAM modules from Korea? And that's a
final investigation, Publication 3616, that was in
August of 2003. That you can respond to in the
post-hearing if you would prefer, but if so how does
this affect our finding in the preliminary phase of
these investigations not to include slit or converted
at that time as part of the domestic industry?

MR. LEVINE: This is David Levine. I'd like
to --

COMMISSIONER KOPLAN: Could you move that
closer?

MR. LEVINE: I'd like to take you up on your
invitation, Commissioner Koplan, to address it in our
post-hearing brief. I would add, however, that the
Commerce Department's decision on substantial
transformation, as I believe even the Petitioner's
panel this morning admitted, is a lot different than
the decision on substantial transformation offered by
the U.S. Customs Service.

COMMISSIONER KOPLAN: That's why I was
asking the question. Yes.

Mr. Price?

MR. PRICE: We will address this is in the
post-hearing brief also.
COMMISSIONER KOPLAN: Okay. Thank you.

Mr. Walker, your company has argued both today and in your pre-hearing brief at pages 16 to 18 that if the commission continues to find subject imports from France are not negligible, we should not cumulate Armor's imports with other imports because there is not a "reasonable overlap of competition" between Armor, the domestic industry and other subject imports.

We considered such arguments in the preliminary phase of our investigation and rejected them for the following reasons. In our confidential views, it's pages 27 and 28, but the reasons that I'm listing were public, not bracketed, in our views.

First, that four out of five responding domestic producers reported that imports from all three subject countries were either always, frequently or otherwise interchangeable with each other and with the domestic like product. Additionally, all responding importers gave similar responses.

Next, pricing data indicated the existence of French product for the general purpose black wax finished TTR for which we sought information. These pricing categories represent common wax and wax/resin products that are not used in niche or specialty
applications.

We also found that subject merchandise from all three countries and the domestic like product are sold primarily to end users through distributors or OEMs and compete in the same geographic market.

Lastly, our data indicated that subject imports from all three subject countries were simultaneously present in the U.S. market during the period examined.

Your brief did not, in my opinion, refute the evidence in the record that I just referred to and I would appreciate it if you could address cumulation further, first now and to the extent that you feel you need to in your post-hearing submission.

MR. WALKER: Chris Walker speaking. The part of the question you'd like me to address now is the distribution channels for the product?

COMMISSIONER KOPLAN: As much of that as you're comfortable doing now, I would appreciate. Otherwise, you can detail it in the post-hearing, but I feel I need more information on the issue of cumulation.

MR. WALKER: Sure. I understand. I'll address as much as I can and I'll leave the rest for Mr. Price in the post-hearing brief.
COMMISSIONER KOPLAN: Okay.

MR. WALKER: The thermal transfer market from Armor's side, as I mentioned before, is that --

COMMISSIONER KOPLAN: Excuse me. Could you just move that a little closer?

MR. WALKER: Absolutely.

COMMISSIONER KOPLAN: Okay.

MR. WALKER: From Armor's point of view of the U.S. market, we're certainly involved in certain parts of the channel with standard certain TTR by nature of our relationship with the OEMs. And it's true you will find a whole package of products which will include that product which will be distributed through the OEM and find its way into the normal channels. I've not much more to say. I mean, we are on the market because of our partnerships and the whole range of Armor is available because of that relationship with the OEMs.

COMMISSIONER KOPLAN: Thank you.

Since my yellow light is on, I think you've said enough and I'll look for the rest of it in the post-hearing submission.

CHAIRMAN OKUN: Commissioner Lane?

COMMISSIONER LANE: Good afternoon.

In arguing that the slitters converters are
not part of the domestic TTR interview, Petitioner spent some time going into detail about the high cost of capital investment that is required in the ink making and coating processes. Petitioner argued that when compared to ink makers and coaters, slitters converters do not have significant capital expenditures. Specifically, Petitioners stated that in order to get started in ink making and coating, one must invest four to six million dollars, but in order to get started in slitting TTR, one only needs to invest $100,000.

Do you disagree or agree with those assertions of Petitioner's and why or why not?

MR. MALASHEVICH: This is Bruce Malashevich. I'll answer that globally and perhaps Mr. Landry and Mr. Gallette would like to chime in.

I do suggest you turn to Exhibit 17 of our APO brief. The manner in which the data were reported by coaters permit the segregation of capital spending on slitting conversion from capital spending on the front end, so to speak, of the operation, but they weren't quite set forth that way in the pre-hearing report.

We did the calculations and you get a very different result than was claimed this morning by
including the capital spending by the coaters on their own conversion operations with the capital spending of the independent converters. That's the only way you could properly look at the relative shares of capital spending at the front end versus the back end.

I also noted from the testimony that one point of comparison was for a used secondhand, in effect, slitting operation. I don't think it was a fair comparison of the capital involved in coating versus slitting, but I defer at that level of detail to Mr. Landry and Mr. Gallette.

MR. LANDRY: This is Jim Landry. Commissioner Lane, my responsibility is global for ITW Thermal Films for our coating and slitting operations. My comments would be directed that in theory you could set up a slitting operation in your garage, i.e., one slitter, but the only place I know of anyone doing that and they are not very successful is in China.

Slitting with only one slitter will not allow you to be competitive in the markets that I am aware of on a global basis. I think you would need significantly more capital investment to have a profitable slitting and distribution business than the number provided by Petitioner this morning.

With regard to ink making investments of
four to six million dollars, I believe that was the number. I think unless you talk about the capacity, the number of coaters, the products you intend to make, I think that number could be certainly looked at and questioned.

Within ITW, we probably would come up with a number that would be less than that, but it would be certainly targeted to produce a certain amount of volume and without that information it's difficult to verify or deny whether or not that's an appropriate number.

MR. LEVINE: This is David Levine. I also invite you to look at the comments in our pre-hearing brief on this issue and I believe it came up during the discussion this morning. We suggested that the collection of capital investment information just during the POI understates the capital invested in slitting operations, at least for ITW, most of which occurred prior to the POI. I think in response to a question on that point Mr. Cunningham said the data in the record should speak for itself and, frankly, looking at that data, that's fine with us.

MR. WALKER: This is Chris Walker. I would like to echo some of what Mr. Landry just said, that it really depends on apples and apples conversation.
I wasn't quite certain this morning if the Petitioner was speaking about something like a Rolls Royce of coating machines or whatever.

What I will say is that a slitting machine in my recent experience, researching them, it's the best part of $350,000 if it was a brand new machine. On the other hand, I can imagine a used coating machine for limited applications such as Mr. Landry was suggesting could be perhaps less than $200,000. So I would say it depends what job you want to do with which machine you want to buy how much it would actually cost to set up a particular coating or slitting operation wherever. I would say it's a matter of scale and a matter of need and objective.

COMMISSIONER LANE: Okay. Thank you.

Going back to some other questions this morning, the Petitioners also argued that the technical expertise and experience of slitters converters is minimal compared to coaters and ink makers. Do you agree with that?

MR. LANDRY: This is Jim Landry. Commissioner Lane, we absolutely do not agree with that. While we will acknowledge that it certainly takes technical capabilities to make ink and to coat jumbo rolls, we would also note that without the
technical expertise in slitting the jumbo into the usable finished roll TTR for all practical purposes is useless, therefore, the value add occurs in the slitting operations. The technical competence to understand specific product performance features needed for the printer and the substrate, I think, indicate that there is additional technical competence required for effectively slitting and distributing the product.

COMMISSIONER LANE: Okay. Thank you.
Did anybody else have a response to that before I go to my next question?

MR. WALKER: Commissioner Lane, this is Chris Walker. I would say I disagree with the comment. I think coating can be broken down into very simple processes. It's machine minding. I would think setting a slitting machine to within tolerances of .01 of a millimeter and a specific length and hardness of the roll is equally demanding in its own area of expertise. I would like to think I could train a slitter -- I think it was quoted in two months. I would be delighted if I could train a competent slitter within a two-month period. It would save me an awful lot of time and money, but we spend a huge amount of time, effort and resources training
slitting staff and personnel to slit correctly within very fine tolerances, to formal specifications. I don't see it as a meaningless exercise. I think it's a very important, competent job.

COMMISSIONER LANE: How long does it take to train?

MR. WALKER: I would say our best machine operators reach their absolute performance of speed and quality after perhaps eight months.

MR. GALLETTE: This is Pete Gallette, Commissioner. I would also agree that it's much longer than the two months of training. We spend ongoing effort to train them. I would have answered the same question roughly around six months. We feel confident of their capabilities, but we also have programs where we're constantly enhancing their abilities, cross-training among different machines within our facility in Romeo and teaching them about different set-ups and how to handle the products. So it is longer than the two months stated this morning.

COMMISSIONER LANE: So in two months time, they're not able to start on the job.

MR. GALLETTE: After two months, they certainly can operate the machine, but we may have supervisors watching them, checking the work, coming
back and taking a look at the process they're doing on
a daily basis on the set-ups.

COMMISSIONER LANE: Okay. Thank you.
I see my yellow light is on, so I'll stop.

CHAIRMAN OKUN: Well, thank you again to the
witnesses for all the answers you're giving.
Let me turn to you, Mr. Price, in terms of
the negligibility argument, just so that I understand.
I read your brief, I read the argument that you've
made. The one thing that I would ask you to respond
to, I guess, post-hearing is in terms of the court's
review of the negligibility decision, I didn't see in
your brief and I'm not sure if you're aware of In
Co-Steel Raritan v. United States, the Federal
Circuit, in January of this year had upheld the
commission's applicability of the negligibility
provision and in that, and I'm quoting here, it says,
"In order to make a determination with respect to
negligibility in a given case, the commission examines
official import statistics for the subject merchandise
for the most recent 12-month period for which data is
available."

Do you have any response to that in terms of
what it means for your argument of how we should apply
the negligibility provision?
MR. PRICE: We did look at this case. We'll address it more in post-hearing. I think it's fair to say that it is not definitive on this issue. I think it is fair to say the statute has a very plain meaning, it is fair to say that the Congress intended to implement the antidumping agreement. That agreement has a very express requirement and I think that it's appropriate for the commission to follow the plain meaning of the statute, but we will address it in greater detail. Thank you.

CHAIRMAN OKUN: Okay. But fair to say from your perspective as well this is not another contradictory court opinion on your application or the way you would have us apply it.

MR. PRICE: We don't view it as being a contradictory interpretation in any way, shape or form.

CHAIRMAN OKUN: Okay. All right. Well, you can expand on that post-hearing if you would like.

And then I'm also interested in any further information that you're going to supply in response to Commissioner Koplan's cumulation questions, but one thing that I either wanted to make sure you include in there or to ask if you could give some sense of it now is just in terms of what you've testified to regarding
global contracts and the percent of your sales that
are made under those, can you, Mr. Walker, give us any
sense of how much -- in a public setting, can you talk
about how much of your business is under what you
would regard as these global contracts as opposed to
what was referenced earlier by the Petitioners and
I believe Vice Chairman Hillman may have asked this as
well.

MR. WALKER: This is Chris Walker. Without
going into specifics, perhaps I could answer it and
say that over half of the Armor Group business
worldwide is with the OEM, whether it be a U.S.-based
OEM or in a different country, but it's a significant
part of our business, as I indicated, and that is the
way we choose to make our business in the world and
the U.S. is an example of that where we're dedicated
to rather large customers.

CHAIRMAN OKUN: Okay. For post-hearing,
I would appreciate any additional information or
specifics that you can provide and how you define that
and what a global contract is, I think would be
helpful, in light of the arguments we've heard this
morning.

There were arguments made and I think
Petitioners this morning talked about what the effect
of the end of the Fujicopian licensing agreement was
and, as I understood the Petitioners' testimony, it
was prior to the end of that agreement everyone kind
of had their certain markets and when that ended it
meant that companies who had not been here, including
Armor, began to focus on the United States.

Is that a fair characterization of how you
see it?

MR. WALKER: This is Chris Walker again.

Without going into too many specifics and some of it
is proprietary, the chain of events that led to Armor
leaving that particular three-company agreement was
Fujicopian and IIMAK started with losing our
geographical protection within the license, which was
part of the protection. The other part was technical.
The geographical protection which fell away without
reference or notification was one where by Paxar
Corporation purchase IIMAK. That meant geographically
the Fujicopian product manufactured under license by
IIMAK in North America was able to filter into the
marketplace in all markets worldwide through the Paxar
sales channel and Paxar is an OEM able to distribute
globally without any issue.

Therefore, for that particular reason as one
of the major reasons, it was not appropriate for Armor
to remain inside that agreement. It was bringing no
protection or any benefit particularly and so we chose
to withdraw.

CHAIRMAN OKUN: Okay. All right.
I appreciate those answers.

Let me now turn to pricing issues and I know
that both in your statements today and in your briefs
you spent a fair amount of time on the pricing
information and I guess I will start off in the front
with the ITW representatives.

We understand that the Petitioners had
replied that they had looked at these issues and would
prepare some additional responses. I would be
interested in anything else you want to say with
regard to the product specifically and then also, and
I'm sure Vice Chairman Hillman might cover this in
more detail, just to respond to her question earlier
this morning which is if we are in a situation where
we include the converters, the slitters in the
domestic industry and then exclude whatever related
parties are appropriate, how do we look at this
pricing data?

And I wondered if there was anything that
you wanted to -- maybe, Mr. Malashevich, you might be
the right person to comment on this at this point, but
also pricing in general I would be interested in.

MR. MALASHEVICH: I'll take a stab at

beginning and perhaps my colleagues would add whatever

remarks that they would like, but let me start here.

In our post-conference brief, we identified
certain aspects of the official questionnaires used in
that proceeding which had a tendency to bias upward
the weighted average domestic price. Having made that
point, when the time came to provide written comments
on the draft questionnaires for the final phase, we
submitted a fairly detailed letter essentially making
the same point. The new draft questionnaires had been
improved, but still reflected a tendency for an upward
bias in domestic prices. And it's for that reason we
provided the wealth of pricing data that we've been
able to retrieve from ITW's archives kept in the
normal course of business and you have that thick
volume as part of our filing.

However, it's very difficult to come to
closure on this issue without having the knowledge of
this new quarterly prices which Petitioner having
resisted and opposed our suggestion for more detailed
data now to generate that data and not be in a
position to comment on it in our post-hearing brief
puts us at a considerable disadvantage, as you can
imagine because it appears to be the data we were
asking for originally as part of our post-conference
brief. So I leave that for the commission to
consider.

I also suggest you study the actual
transaction prices that we provided and documented in
that thick volume as another piece of information in
sorting out the pricing data that's been provided.

And two final brief things. One is looking
again at my dubious work of art, looking at the
proportions, it's only a tiny sliver of the market
that overlaps in Commerce between what actually is
imported and what is actually sold by the domestic
industry. Tiny. It doesn't matter.

So if you conclude that the converters are
part of the domestic industry, it does two things,
regardless of who you exclude on the basis of related
parties. It means that a very tiny amount of subject
imports have a share of apparent consumption. Almost
all of them were captively consumed by U.S. producers.
So there practically are no subject imports by volume.

In addition, you have all the excluded
pricing data, and I don't know exactly what you
include. We literally are crunching those numbers as
we speak and we will address that in the post-hearing
Having said all that, I defer to my colleagues if they have additional comments.

MR. LEVINE: This is David Levine. I have only one additional comment, which is to add to my question at the end of Petitioner's presentation. One of the reasons why we feel disadvantaged not seeing this information is, as Mr. Malashevich pointed out, we can't know what the prices really reflect on a product-specific basis instead of on an average for the whole group that the domestic producers provided.

Moreover, even on the breakouts which they claim to have and have done their analysis on, I think they referenced that they were done on the products which they determined were most comparable to ITW's W90. We'd like the opportunity to tell if those truly are the most comparable.

CHAIRMAN OKUN: I see that my red light has come on, Mr. Price. I'll come back. We'll have more time to talk about price with you, Mr. Price.

All right. Vice Chairman Hillman?

VICE CHAIRMAN HILLMAN: Thank you.

Let me then, I guess, try to go to some of the issues that I was trying to explore with the Petitioners this morning, if I could, but let me start...
first with the issue of sort of whose data are we really going to be looking at.

If the commission were to determine that we're going to include the slitter converters within the domestic industry, what is your position on whether there are any related parties that should be excluded from the definition of the domestic industry?

I would, I guess, direct that to counsel, since it is fundamentally a legal issue.

Mr. Levine?

MR. LEVINE: I honestly don't have any specific comment on the related party issue. I certainly know what the commission decided in the preliminary determination. We make no illusions about the fact that ITW is an importer of jumbo rolls from Korea, but we have focused our attention instead on what truly constitutes U.S. production.

VICE CHAIRMAN HILLMAN: The commission majority did not address this in its preliminary determination because we preliminarily determined that the slitter converters were not part of the domestic industry, which doesn't therefore raise the same related party issue. I'm just saying if we were to now make that determination, I think the preliminary determination made it very clear that we regarded this
as a very close call as to whether or not the better argument was that the converters should be part of the industry or should not be and I'm suggesting that if we determine that they are in fact part of the industry, then we must address the issue of if so are there related parties, are there any related parties and should they be excluded. So I guess I would ask if either now or in the post-hearing to make sure that that issue is addressed.

MR. LEVINE: Well, first of all, let me admit that I misspoke. In the preliminary determination, I believe it was with respect to the ITW division which actually is a coater of TTR that the commission determined was a related party. That's ITW's coating products division. And then with regard to your real question, I would like to take the opportunity in the post-hearing brief to address that.

MR. MALASHEVICH: I would only add a non-legal point and that is regardless, it almost doesn't matter who you exclude as a related party because you have to include their shipments in measuring the relevant market and when you examine what actually came in and was resold of subject imports in relation to apparent consumption, you have to include -- whoever you decide to exclude as a
related party,
their shipments still have to go into the calculation
of the relevant market as opposed to the indicia of
performance. And imports just don't matter. They're
negligible.

VICE CHAIRMAN HILLMAN: I'm not sure that
answers the related party question. I understand the
point you're making.

Go ahead, Mr. Price.

MR. PRICE: For the record, we'll answer in
the post-hearing brief, but let me just say one thing,
which is the issue that you've raised earlier today or
a number of you did and that is almost no matter how
you cut the facts in this case, no matter how many
ways you try to re-slice and dice this industry, this
case is a case where there's no injury and no
causation to the industry as a whole and there are a
lot of steps that the Petitioner is trying to go
through in an attempt to salvage a terrible set of
facts, even with those steps it's still a negative.

VICE CHAIRMAN HILLMAN: I understand your
point. Again, I'm trying to get back to what kind of
pricing data am I looking at and, obviously, to some
extent that matters whether I'm pulling out related
parties' data and looking at what do we see. I mean,
I obviously have in front of me our pricing on products 1 and 3, among others, where this issue was relevant and if some of those providing the pricing data are deemed to be related parties, it's not clear whether I'm going to have any of that data to be looking at. So I do need your sense of do you think there are related parties that should be excluded.

MR. PRICE: I will answer in the brief, but what I will say is that if you look at that pricing data, and it's really almost a response to where Commissioner Okun was going to go, this pricing data is just these two huge pools of slit product at this point. There are massive differences within those pools. It's really a valueless set of data.

VICE CHAIRMAN HILLMAN: But that's still not the answer to the question I'm trying to understand, which is, again, if I deem the slitter converters to be members of the domestic industry, then at least one could argue that all of that data is in fact domestic production, domestic prices.

MR. PRICE: Absolutely.

VICE CHAIRMAN HILLMAN: And no longer imported prices. So the question is what am I comparing? I have one column over here of domestic price which arguably could now include all of what is
currently listed in those tables as an import price
and I'm trying to figure out do I have anything left
on the import price side which does get to whether or
not I've taken any of the data out. And I guess
I would like you all to think about whether that's
what we should do, even if we determine that the
converters are part of the domestic industry, what
then do I look at in terms of pricing data to do a
price comparison between imported product and domestic
product?

MR. PRICE: We will answer that in the
post-hearing brief but I just want to make sure that
there's no illusion, even though it's very small,
there is the sliver of direct competition for
commercial sales of jumbos.

VICE CHAIRMAN HILLMAN: I understand that.
I've got product 2 data, I understand that. But
obviously, on the other hand, I'm trying to make sure
we're overlaying this with the point that there's no
question the domestic industry was making that where
the competition is occurring in the market is in the
slitted product and so what I'm trying to get at is
within the scheme of what we're looking at where do we
look at that data and some of that comes back to this
related party issue.
Let me just make I get counsel for the Japanese on this issue of related parties.
Do you have a view now as to whether or not any of the Japanese respondents should be viewed as related parties and excluded under those provisions?

MR. THOMAS: This is Ritchie Thomas. I have no view at this time.

VICE CHAIRMAN HILLMAN: But you will address it in your post-hearing brief?

MR. THOMAS: Yes, ma'am.

VICE CHAIRMAN HILLMAN: Thank you very much.

Mr. Loeb?

MR. LOEB? Hamilton Loeb. The same applies to us.

VICE CHAIRMAN HILLMAN: Okay. Thank you.

MR. PRICE: Let me just respond and say that if there is an exclusion of the slitter converter, I don't think you can look at any of the pricing data and I think you're right, there is a problem here and you're going to have basically say there's not a lot of evidence on pricing that's usable in this investigation.

VICE CHAIRMAN HILLMAN: Okay. Then let's go to the sort of broader issue of the price declines.

I mean, obviously whatever data we have in terms of a
comparative basis or anything else, there's no question that what we can clearly see on this record is a very substantial decline in prices. Some of you have touched in your testimony as to why you think that may be the case, we've talked a little bit before about this issue of whether there's global prices, but I guess there's no question that we see these declines; whether we can look at them on a comparative basis or not and whose data is in or out, there's no question about the fact that prices have gone down very substantially.

I guess I'm trying to get your sense -- obviously you're telling me that you don't think this is related in any way to imports and a lot of the ITW testimony went to this issue of other business problems with respect to IIMAK. I'm struggling with where in the record do I link up your sort of concerns or your statements about what IIMAK did or did not do on the business front with performance indicators as a way of separating out from any of this what happened with respect to import prices. I mean, again, you're telling me a story that the price declines, as I heard it, were not related to imports, they were related to these other things and I guess I'm wanting to hear little bit more about how you link up other things as
causing the price declines.

I think everybody is in agreement that prices went down and went down pretty substantially during this period of investigation and I'm trying to make sure I understand from your perspective what you attribute those price declines to.

Mr. Landry?

MR. LANDRY: This is Jim Landry. Commissioner Hillman, I would answer your question by stating that, again, my responsibility is on a global basis and as I look at price declines in North America and in Europe and Asia-Pacific, to the best of my knowledge, I do not believe they are linked together.

What I believe has occurred in North America that as precipitated the continued downward pressure on price are several factors. Before the period of investigation, price was falling in North America even as demand was increasing. As both domestic producers, coaters, added capacity to the market, they sought places to fill that capacity up and drove the price down. And as we have already --

VICE CHAIRMAN HILLMAN: Can I stop you right there? Because if I look at this data, there has been -- the coaters have operated throughout this period of investigation at very low levels of capacity
utilization, so to the extent that we think an
overhang in excess capacity is pushing down prices,
I'm having trouble comparing it to why now? I mean,
there's been this excess capacity, arguably, if it's
really excess capacity, out there for a long time, so
why now would it produce this decline in prices?

I'm not sure I think that just this capacity
overhang can show me a 20 percent decline in prices
over a three-year period.

MR. LANDRY: Commissioner Hillman, again, my
comments were that the price declines started before
the period of investigation and have continued onward
through the period of investigation. I believe that
in addition to excess coating capacity domestically we
also have the threat to our industry of competing
technologies, of which ITW happens to own and operate
businesses in those technologies.

VICE CHAIRMAN HILLMAN: Okay.

MR. LANDRY: I.e., ink jet printing and
direct thermal and I would suggest from our viewpoint
on the market that in the AIDC market, we believe
direct thermal has at least or greater a market share
than thermal transfer does and the price of direct
thermal has been falling continuously through this
period also.
VICE CHAIRMAN HILLMAN: Okay. Thank you.

CHAIRMAN OKUN: Commissioner Koplan?

COMMISSIONER KOPLAN: I have no further questions.

CHAIRMAN OKUN: Commissioner Lane?

(No response.)

CHAIRMAN OKUN: I was interested in the answer that you were just giving, Mr. Landry, so did you have anything else? You had said there were a couple of other things, so if you just wanted to finish your train of thought there, I would appreciate it.

MR. LANDRY: Thank you, Madam Chairman. Again, my name is Jim Landry. And the point I was making was -- and I'm not going to go back and beat the dead horse again, but I was talking about competing technologies. As those technologies have continued to refine their products to become more competitive with our product TTR, the price has come down on those products which has put pressure on our product for the prices to be depressed downward in our marketplace and, again, we believe as stated in some of the industry journals that there is a consistent strategy by a domestic producer, i.e., Sony Chemicals, to try to drive the price down to a point where this...
is an industry that a fair rate of return cannot be earned by those companies that are not as financially stable as others.

CHAIRMAN OKUN: Yes, Mr. Levine?

MR. LEVINE: I wanted just to clarify what maybe I misheard, but when Commissioner Hillman asked the question I had the impression that there may have been a misunderstanding that our discussion of factors relating to IIMAK's business had something to do with the price declines. Those factors discussed by Mr. Landry were intended to demonstrate why IIMAK is in the condition it's in, not that that's what caused the price decline.

CHAIRMAN OKUN: Okay. Well, that's interesting. All right. So you're saying -- I guess I read it to mean that the things you were arguing generally, intra-industry competition, domestic oversupply, that those were related to prices, but what you're saying is you've focused on IIMAK's management issues that you've raised as being related to their bottom line and not related to pricing, although Sony, I guess you're saying, you, Mr. Landry, are saying you think the prices have come down because of the issues that you just enumerated.

MR. LANDRY: Yes, that's correct, Madam
Chairman.

CHAIRMAN OKUN: Okay. All right.

MR. WALKER: Chris Walker. May I speak?

CHAIRMAN OKUN: Yes.

MR. WALKER: As a relatively new and small player on the U.S. market, I can't say how much I've been enjoying the improved efficiency of manufacturing, the reducing of costs and the reduction in raw materials that we've seen for the first time for many years in thermal transfer. Thermal transfer has been treated as a rich market by the polyester players who at last have realized that they have to be competitive and for the last three years combined with manufacturing efficiency improvements, which is a habit in America today for lean manufacturing especially. We've seen manufacturing costs reduced significantly towards the slitting and the coating. But it is, to be at an old horse, as Mr. Landry said, I can't say how much I've been horrified by the reaction of Sony towards IIMAK. They have had some sort of vendetta, a public statement that they have a problem with IIMAK and are prepared to reduce the price not by 10 percent, a further 10 percent, which mathematically equals exactly the price erosion of the market. This was quoted in this very famous trade
So a combination of domestic competition plus natural reduction in manufacturing costs which as manufacturers it's all our jobs to do has led to an overall price reduction, I would say, and to keep the technology competitive against, as Mr. Landry said, the competing technologies such as ink jet and its our job, and IIMAK are included, in making sure that thermal transfer is competitive for the future so we're around to have a future.

CHAIRMAN OKUN: Okay. And is your response that Mr. Cunningham in responding to the exhibit that everyone had regarding Sony was saying that the part of the article that they're not quoting is the one that said that they didn't start the price war, that the Petitioner is arguing that were it not for these low prices driving down the price already Sony wouldn't be forced into this price war, that it's not domestic competition but subject imports that leave it where it is and that that would be consistent with what Sony is --

MR. WALKER: I'll address that. This is Chris Walker again. Again, as a more recent entrant to the U.S. market for our own specialty reasons, I couldn't ignore the fact in the mid '90s for their
own purposes the major protagonist, the major player on the market, chose to compete head to head with Sony in the distribution channel by leaving their major OEM partner, as I said before.

When you take your price capability and your strength into a lower part of the distribution channel with an ambition to take market share from the other major player in the market, which was Sony, IIMAK surely pushed the prices down. It's a natural phenomenon with specifically Zebra's policy of having "me too" product. So whenever they found the same product, Sony or IIMAK or Zebra with IIMAK product would reduce the price.

I would say from the mid '90s through to the late '90s there was a phenomenon of low pricing being created by competition, by ambition to fill spare capacity. What I would say is the economy, as it turned out, in 2001 was dramatically reduced and to stay ahead I saw the U.S. coaters again fighting to retain market share or retain capacity or fill capacity on the coating machines. I didn't see anything strange outside and thankfully reduced manufacturing costs have been able to keep the prices competitive.

MR. PRICE: I just have one observation
which is there is this phenomena of odd petitions out
there where the majority of the domestic industry
isn't present to testify, okay? And I think that says
a lot and my simple question is where is Mr. Oliverio
at this point? Where is Sony? I think that says more
than anything else. Thank you.

CHAIRMAN OKUN: All right. Thank you for
all those answers.

Vice Chairman Hillman?

VICE CHAIRMAN HILLMAN: Okay. Just a couple
of quick follow-ups.

Mr. Levine, I appreciate your clarification,
but just so I make sure I understand Mr. Landry's
testimony, because I will concede there were sort of
two issues going on here and I just want to make sure
I get them straight.

If I'm trying to understand your
explanation, if it wasn't imports why did prices go
down, as I heard your testimony, Mr. Landry, it was
over capacity by the U.S. coaters, this new technology
of other things that are competing with it, and Sony's
prices. Is that a fair sense of what you said?

MR. LANDRY: This is Jim Landry again.

Commissioner Hillman, I think that's a fair summary.

I would like to add one other point. During this
period, the period of investigation, we have also seen
almost everyone in the industry reducing their product
lines. For example, the Petitioner used to have five
or six different waxes that fall under certain TTR and
as the second largest market share company Sony had
multiple numbers of waxes in the marketplace. As
these companies have reduced their product line,
shrunk it from five or six or three or four down to
one or two, in order to transition in the marketplace,
in order to get customers to accept that new product,
in most cases, those companies had to offer an
incentive for the customer to switch to the new
product. I would like to also add that to my
explanation.

VICE CHAIRMAN HILLMAN: And when you say
customer in that instance, are you here referring to a
distributor? I'm trying to understand how -- it's not
clear to me as someone going into Staples, it's not
clear to me that I'm seeing any need to do any of this
switching, I'm not even aware that we've gone from
cfive to three to one or whatever, I just want to know
whether it's going to fit in my fax machine. So I'm
trying to make sure I understand who's doing this
pushing on price.

MR. LANDRY: Please allow me to clarify.

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I'm sorry, sometimes we forget that what we take as common knowledge not everyone knows about our ind. The sales channels that have been spoken of would be to the OEMs, to the distributors and to some cases to the end users or resellers, as you have seen in some of the charts that were provided today.

Why is there a reduction in the breadth of the product lines? We have heard Petitioner talk about reduced costs to manufacturing. Part of what we propose as a corporation, our 80/20 strategy, is any time you make six products, you're going to have poorer efficiencies than if you make one or two products, i.e., the more focused and concentrated you are on making one or two products that serve 80 percent of the market you're going to be a lot more efficient at doing that.

When you then take that product into the marketplace and try to resell it or to get the customer, if it's an OEM, a distributor or another reseller, in order to get that customer to switch from a product that they may be happy with today a lot of times the number one and number two market share in companies in America had to provide an incentive for their customers to switch to the new product. Not in all cases, but in some cases.
VICE CHAIRMAN HILLMAN: Okay. All right.

Then the sort of second issue that was sort of implicit in some of the things I was trying to understand are these other claims that, Mr. Landry, I think you made in your testimony about IIMAK's problems were the result of a series of poor business decisions and you went through a number of customer accounts and specific issues.

I'm trying to make sure I understand what evidence there is in the record that would link up these events that are again not related to the price decline but they're otherwise related to what you've described as poor business decisions. I'm trying to think about where in the record I'm seeing that these events that you've described here were the cause of IIMAK's problems as opposed to the imports.

MR. MALASHEVICH: You've actually hit on another source of our frustration. Obviously, Mr. Landry is not privy to the APO record of the case and there's a limited amount I could discuss here, but the events Mr. Landry enumerated and the documentation we had available from the public domain to back up those events were recited in almost precisely the same words as our post-conference brief and I recall for the commission I think it's the majority's
determination you enumerated a number of those events
for further investigation in terms of its impact on
the industry.

We expected to receive some sort of analysis
or additional information from the APO record that
would allow us to make the demonstration that you're
asking about. Basically, nothing was received. So
what we have out there is Mr. Landry's experience and
the documents we were able to provide in support of
our point that IIMAK's situation was unique in this
industry and that it was affected by events that had
nothing to do whatsoever with subject imports.

VICE CHAIRMAN HILLMAN: All right.

MR. PICKARD: Commissioner, if I could?

VICE CHAIRMAN HILLMAN: If there is anything
further that could link these up to what we have, sort
of the causal link, the temporal link and everything
else, it's not so clear to me that at least I'm seeing
on this record.

Mr. Pickard?

MR. PICKARD: Commissioner Hillman, I think
there was testimony introduced at the preliminary
phase by a former IIMAK official, Jim Groh, an
executive, who testified as to a causal link between
mismanagement, poor decisions and their current
problems, as were, I think, one or two customer
witnesses who testified along those same lines.

VICE CHAIRMAN HILLMAN: Okay. Again, it's
this issue of linking it, then, to what we have in the
record that I'm trying to do, but I appreciate that.

Mr. Gallette, if I can come back to you, you
had indicated that ITW sells to distributors that
carry both fax and non-fax TTR and, again, this is an
issue of whether there's much overlap in these
distribution chains and you obviously heard Plaintiffs
this morning.

I'm wondering if you can tell me what
portion or what percentage of your sales would go to
distributors that carry both fax and bar code or other
non-fax TTR?

MR. GALLETTE: Commissioner, in trying to
answer that question, I can give you my best estimate
and then try to clarify it in the post-hearing brief
after I think through it a little bit longer.

With our experience, as Jim Landry mentioned
earlier, we had sold fax jumbos into the marketplace
to a common customer that we also sold certain TTR wax
jumbos to, so we clearly saw that customer overlap,
that they represented both products.

VICE CHAIRMAN HILLMAN: And here you're
referring to jumbo?

MR. GALLETTE: Jumbos.

VICE CHAIRMAN HILLMAN: I want to make sure I understand your testimony because I guess I thought I had heard it that there was an overlap in terms of the distribution of the slitted product.

MR. GALLETTE: In addition to that since we sell slit certain TTR to distributors in the U.S., we do through sales communications and conversations with our distributors hear about that they also are selling slit fax TTR but we do not sell slit fax TTR to the same distribution channel. We see it in their product lines, in the mind share of the salespeople that they're out promoting it, that they represent it in their product lines, their catalogs, their brochures, but from an overlap standpoint, from the distributors that we sell to, it is our knowledge of the marketplace not the fact that we are selling to the same distributors both products.

VICE CHAIRMAN HILLMAN: Okay.

Mr. Walker?

MR. WALKER: Commissioner Hillman, thank you. Although it seems to be a small part of this, I would say Stables is distributing both product lines which are easily searchable on a simple search engine.
and our findings just this week, just off the web, we found in Staples Zebra bar code printing ribbons next to fax dedicated ribbon, both ordered, both delivered from a traditional easily available source, although not a participant in the fax market or indeed in the mass market, that would appear to be an IIMAK product in an IIMAK type bag sold alongside whatever it was produced, I have no idea.

MR. PRICE: It actually says "Made in the U.S.A." on it.

MR. WALKER: It says "Made in the U.S.A."

What I would say is that a significant part of the market for industrial bar code and I think somebody mentioned NCR today, which is a major corporate type stationer, it's not to be confused with a regular distributor, Corporate Express, NCR, these are people who service organizations like the Ford Motor Company, like General Motors, end users who have a job to supply everything they need. All their thermal transfer needs, whether it's a fax or whether it's a bar code. And I would say from our observations, although we don't participate in this particular end, it's pretty easy to find a source of both where the client is just ordering up a consumable for a printer, he has no idea or she has no idea what it's going for.
VICE CHAIRMAN HILLMAN: No, I appreciate the testimony and I understand the point. On the other hand, I'm trying to understand how significant is this overlap because I will say from just listening to the testimony it's not clear to me that there is this large overlap. I'm not suggesting that you couldn't go to some distributors and some Office Depot type places and find it, but I'm trying to make sure I understand the portion, the percentage of sales that in fact actually go to a distributor that does both because at least from the data I'm looking at, it's not clear to me that there is much of an overlap between bar code and fax slit product at the distribution end, if you can give me some sense of portion of sales that would go to a distributor that does both.

MR. PRICE: We will address that in the post-conference brief, but we'll come back to the other argument that there are really two issues on the like product. One is this whole six-factor test and one is the semi-finished analysis. They defined the basic scope here by chemistry that go into fax, it includes jumbos that go into slits and TTR. Big package of jumbos, okay? Once they did that, in order to get the products in, they either all have to go in

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or almost all have to go in or none of them go in. If none of them go in, then what happens is all of the imports are going into captive consumption with no harm on the domestic industry because they're being sold in a downstream market where there's no harm and on the slit side there are no imports.

So the only way they get there is all slit products come in. It wasn't my choice in defining this scope, obviously.

CHAIRMAN OKUN: Mr. Price, the red light has been one and it sounds sort of like rebuttal than an answer to the Vice Chairman's question, so we're going to move on.

I don't think there are any other questions from my colleagues. Let me turn to staff to see if staff have questions of this panel.

MS. MAZUR: Diane Mazur from Office of Investigations. In response to any question you raised this morning, Mr. Levine, there will be an APO release tomorrow which will include the commission's verification report of IIMAK and the secretary's office will contact you when it is available.

Staff has no questions.

CHAIRMAN OKUN: Thank you.

Mr. Cunningham, do you have any questions
for this panel?

(Pause.)

CHAIRMAN OKUN: The record will reflect Mr. Cunningham has no questions for this panel.

Before thanking this panel, let me just tell you the time remaining. Petitioners have a total of five minutes for their closing and rebuttal and Respondents also have a total of five minutes for their closing and rebuttal.

We will take a couple of moments for this panel to excuse itself, but before they do I want to thank all of you for your testimony today, for the information you have provided and for all the answers you've given this afternoon.

With that, we'll take a couple of moments before we hear from Mr. Cunningham.

(A recess was taken from 4:28 p.m. until 4:32 p.m.)

CHAIRMAN OKUN: Okay. We are ready to proceed.

MR. CUNNINGHAM: Thank you, Madam Chairman. I want to spend my time today addressing the issue which I really think is the most fundamental issue here, which is the one that Commissioner Hillman and Commissioner Miller have grappled with in
discussions with us, namely, what do we do about price
comparisons here and what do we do about the assembly
in the United States of imported subject merchandise,
can we look at the sales of the assembled subject
merchandise as being imported sales.

Let me suggest three rationales for finding
that under those circumstances the imports of the
semi-finished product cause material injury to the
U.S. industry making the finished products.

Let's do DRAMs first because DRAMs is clear
on this insofar as volume goes. It's probably easier
to see it in Taiwan DRAMs than Korean DRAMs although
Korean DRAMs cites Taiwan DRAMs at page 11 with
approval.

In Taiwan DRAMs, you have the unassembled --
just as you have here, the exact fact pattern you have
here, the unassembled DRAMs called DICE fabricated in
Taiwan and then shipped to the United States, some of
them as assembled DRAMs, some of them as the
unassembled DICE. And then you had assembly in the
United States of those DICE.

The commission said that assemblers were
members of the domestic industry, did not exclude
assemblers on the basis that their operations weren't
the type of operations that are included in the
domestic industry. But they qualified that in a very important way. They said a product of assembly in the United States was a domestic product if it was an assembly of domestic DICE or of imported but not subject DICE. In other words, subject unassembled product was an imported product.

Now, in both of those cases, you could do the price comparisons without having to deal with that because you had lots of assembled stuff imported, but in your volume analysis, as you pointed out, Commissioner Hillman, you use the assembled DICE that were assembled from subject Taiwan or in the later case Korean DICE, the assembled finished product as imports.

I submit to you it makes no sense to say we're going to analyze the volume effect of those sales as imports but we're not going to analyze the price effects of those sales as imports.

Now, let me turn now to the second rationale, which is exclusion of the assemblers. There are two bases on which you can exclude the assemblers here. One is they don't meet the various factor tests that you use. If that's what you do, you have an absolute clear precedent in indigo because that's exactly what you did in indigo, you excluded
the finishers as not being part of the domestic industry but you said we're going to treat their sales to the extent that there were sales of stuff that -- in this case, it was powdered form and they converted it into damp or moist form or something like that, we're going to consider those sales if they were processing subject merchandise as being sales of the imported product.

Let's suppose you exclude them instead as related parties. If you're excluding a producer as related to a foreign subject producer, what you're saying is it's not a U.S. producer because by relationship it's a member of the subject foreign industry, of the respondent foreign industry. That is a necessary consequence of that. That logic also leads you to say the prices of the sales by that producer should be import prices.

The final rationale you can use is Mr. Klett's rationale which is here you have an import of a product, a semi-finished product that is by far the largest cost element of a finished product conferring an advantage on the sales of the finished product and thus indirectly causing injury to domestic producers.

On any of those three you have to reach
those sales as causing injury or you've said something very profound and damaging about the antidumping law.

Thank you.

CHAIRMAN OKUN: Thank you.

MR. LEVINE: Good afternoon. Prices have declined, I don't think there is any dispute about that and, in all honesty, I'm not sure I've got the perfect answer for how to measure what the impact of those price declines may have been. I'm not sure it's relevant.

Pricing pressures that Mr. Landry spoke about I think are to blame for the downward trend and I would add one that we spoke about after our presentation and that is the demand by big purchasers, auto companies in particular, demanding lower prices for this commodity product. There are lots of pricing pressures. I don't think the evidence indicates that those pricing pressures are caused by imports.

We spoke at length about the conditions of the domestic industry as a whole and this is why we focused on the various aspects of IIMAK's business, not to indicate that those aspects of its business were the cause of price declines, but to indicate that those were the reasons for its condition.

Slit fax is a domestic like product. It's
like the subject TTR and I think there's evidence on
the record from today that the jumbos in many cases
can be used for both slit fax and for certain slit
TTR.

Finally, the converters or the slitters are
part of the U.S. industry. They are true U.S.
producers. The value added to the U.S. product is
significant. ITW in fact, as we told you, employs
more workers in its U.S. operations than in its Korean
operations.

Mr. Price?

MR. PRICE: Thank you. This is a price case
according to opposing counsel. Well, this is a very
profitable industry no matter how you cut it. There
is little if any operating profit margin decline under
any set of scenarios here. We have a case where there
frankly is no usable pricing data for several reasons.

In this case, we believe the pricing
declines are due to lower costs and domestic price
competition from Sony and now DNP using domestic, we
believe Sony, raw materials. So there is no evidence
of imports causing injury or causation.

On the issue of negligibility, the CAFC has
not definitively addressed the negligibility
calculation directly and we point the agency to the
Supreme Court's decision in *Chevron* and the dictates of following the plain meaning of the statute in this case.

Finally, I just want to state for the record that Armor is negligible as a matter of law and as a matter of fact. The commission should reach a negative determination in this case as to France, but it should also reach one overall.

Thank you.

CHAIRMAN OKUN: Thank you.

Post-hearing briefs, statements responsive to questions, requests of the commission, and corrections to the transcript must be filed by March 16, 2004. The closing of the record and final release of data to parties is March 31, 2004 and final comments are due April 2, 2004.

With no other business to come before the commission, this hearing is now adjourned.

(Whereupon, at 4:41 p.m., the proceedings in the above-captioned matter were concluded.)
CERTIFICATION OF TRANSCRIPTION

TITLE: Certain Wax and Wax/Resin Thermal Transfer Ribbons

INVESTIGATION NO.: 731-TA-1039-1041

HEARING DATE: March 9, 2004

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.

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