

THE UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)	
)	Investigation No.:
PETROLEUM WAX CANDLES)	731-TA-282 (Second Review)
FROM CHINA)	

Wednesday,
May 25, 2005

Room No. 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 STEPHEN KOPLAN, Chairman, presiding.

APPEARANCES:

On behalf of the International Trade Commission:

Commissioners:

CHAIRMAN STEPHEN KOPLAN
VICE CHAIRMAN DEANNA T. OKUN
COMMISSIONER MARCIA E. MILLER
COMMISSIONER JENNIFER A. HILLMAN
COMMISSIONER CHARLOTTE R. LANE
COMMISSIONER DANIEL R. PEARSON

APPEARANCES: (cont'd.)

Staff:

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SHARON BELLAMY, HEARINGS AND MEETINGS ASSISTANT
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ROBERT RANDALL, INDUSTRY ANALYST
JOHN BENEDETTO, ECONOMIST
DAVID BOYLAND, ACCOUNTANT/AUDITOR
ANDREA CASSON, ATTORNEY
DIANE MAZUR, SUPERVISORY INVESTIGATOR

In Support of the Continuation of the Antidumping Duty Order:

On behalf of National Candle Association (NCA):

ROBERT A. HIGGINS, Vice President, Manufacturing
and Logistics, Candle-Lite, Inc.
GEORGE G. PAPPAS, President, Lumi-Lite Candle Co.
COLTON LA ZAR, Sales and Marketing Director,
Research and Development, General Wax &
Candle Co.
CHRIS GODDARD, Director, Engineering and Quality,
Home Fragrance Holdings, Inc.
MARK W. LOVE, Senior Vice President, Economic
Consulting Service, LLC

RANDOLPH J. STAYIN, Esquire
KAREN A. MCGEE, Esquire
Barnes & Thornburg
Washington, D.C.

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P R O C E E D I N G S

(9:30 a.m.)

CHAIRMAN KOPLAN: Good morning. On behalf of the United States International Trade Commission I welcome you to this hearing on Investigation No. 731-TA-282 (Second Review), involving Petroleum Wax Candles From China.

The purpose of this second five-year review investigation is to determine whether revocation of the antidumping duty order on petroleum wax candles from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Notice of investigation for this hearing, list of witnesses and transcript order forms are available at the Secretary's desk. I understand that those in support of continuation 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. The witnesses are reminded to give any prepared testimony to the Secretary. Do not place testimony directly on the public distribution table. All witnesses must be sworn in by the Secretary before

1 presenting testimony.

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

6 Madam Secretary, are there any preliminary
7 matters?

8 MS. ABBOTT: No, Mr. Chairman.

9 CHAIRMAN KOPLAN: Very well. Let us proceed
10 with the opening remarks.

11 MS. ABBOTT: Opening remarks in support of
12 continuation of orders will be by Randall J. Stayin,
13 Barnes & Thornburg.

14 CHAIRMAN KOPLAN: Good morning. I don't
15 think your microphone is on.

16 MR. STAYIN: There we go.

17 CHAIRMAN KOPLAN: Now it is.

18 MR. STAYIN: You're right. It wasn't.
19 Again, good morning. On behalf of the National Candle
20 Association we thank you for the opportunity to appear
21 before you in support of continuation of the
22 antidumping order.

23 The imposition of the order in 1986 was very
24 effective in allowing the domestic industry to recover
25 from the material injury found by the Commission in

1 the original investigation. Today, revocation of the
2 order would likely lead to the immediate recurrence of
3 material injury to the U.S. candle industry

4 The turnaround in the condition of the
5 domestic industry was the direct result of the
6 dramatic reduction in imports from China after the 54
7 percent antidumping duty was imposed. The industry
8 was able to recover, to restore profitability, expand
9 production and employment, develop new products and
10 new product uses that greatly increased demand for
11 candles in the United States.

12 The continuing positive effect of the order
13 further permitted the industry to thrive during the
14 1990s when candle demand increased strongly. In the
15 1999 sunset review determination the Commission noted
16 both a substantial growth in consumption that had
17 occurred since the original investigation and the
18 domestic industry's participation in that growth.

19 However, since the 1999 sunset review the
20 condition of the domestic industry has weakened. This
21 weakness has been caused by a combination of low
22 growth in demand and continued growth in imports from
23 China, despite the continuation of the order at the 54
24 percent margin and later at a 108 percent margin. The
25 industry therefore is particularly vulnerable to

1 revocation of the order.

2 In the several years prior to the period of
3 this review, imports from China surged to levels many
4 times those reached in the original investigation.
5 Much of this occurred in a surge within essentially a
6 two-year time period.

7 As shown in Exhibit 10 of our brief, imports
8 from China increased from 46 million pounds in 1997 to
9 152 million pounds in 1999. Chinese producers dropped
10 their prices by one-third and more than tripled their
11 exports to the U.S. market from the 1997 level even
12 with the order in place.

13 This experience shows how quickly the
14 Chinese would be able to ramp up exports to the United
15 States were the order revoked. Most U.S. producers
16 question whether they could continue in business in
17 the face of the onslaught that would follow.

18 The continued growth in exports and an
19 increase in the dumping margin rate to 108 percent is
20 the result of unrelenting efforts by Chinese producers
21 and exporters and by U.S. importers to circumvent the
22 order. One effective means by which the order has
23 been circumvented in the last several years of this
24 review is through the use of candles containing a
25 blend of petroleum wax and palm or other vegetable

1 waxes where the non-petroleum wax makes up slightly
2 more than 50 percent of the content.

3 Beginning in 2001, these blended candles
4 first entered the U.S. market, and the Department
5 determined that they were outside the scope of the
6 order. In making these scope determinations, the
7 Department relied upon the Commission's description of
8 petroleum wax candles as those composed of over 50
9 percent petroleum wax. However, this description
10 arose out of the Commission's like product analysis of
11 beeswax candles, which it described as composed of
12 more than 50 percent beeswax.

13 In the original investigation, the
14 Commission found that beeswax candles do not compete
15 with petroleum wax candles. Because of its high cost
16 and unique characteristics and uses, beeswax candles
17 were specifically excluded from the order. The
18 Commission determined that 95 percent of beeswax
19 candles are sold to churches and religious dealers and
20 are priced considerably higher than petroleum wax
21 candles.

22 Because of the different characteristics and
23 uses and the fact that beeswax candles do not compete
24 with petroleum wax candles, the Commission concluded
25 that beeswax candles should not be considered domestic

1 like products.

2 The Commission could not consider blended
3 wax candles as part of its investigation because these
4 candles had not been developed and were not being
5 imported into or sold in the United States at the time
6 of the original investigation. Neither blended wax
7 candles nor palm wax candles were commercially
8 developed in the United States at the time of the
9 original investigation.

10 The National Candle Association has filed
11 two anticircumvention petitions, and the Department
12 has initiated later-developed merchandise and minor
13 alterations investigations of blended wax candles from
14 China. In the initiation notice, the Department
15 stated that, "There is no clear basis for the
16 Department to make a conclusive determination that
17 candles with non-petroleum waxes in a different
18 proportion are not later-developed merchandise."

19 In order to be later-developed merchandise,
20 the subject item cannot have been specifically
21 excluded in the original order. The Commission did
22 not conduct a like product analysis of palm wax or --

23 CHAIRMAN KOPLAN: Mr. Stayin, your light has
24 come on.

25 MR. STAYIN: Okay. Thank you very much. We

1 will then go on with our testimony.

2 CHAIRMAN KOPLAN: Certainly. If you give
3 your prepared statement to the reporter, I'm sure it
4 will be carried in full in the record.

5 MR. STAYIN: (Not audible)

6 CHAIRMAN KOPLAN: Not a problem.

7 MS. ABBOTT: The panel in support of
8 continuation of the order has been sworn, Mr.
9 Chairman.

10 (Witnesses sworn.)

11 CHAIRMAN KOPLAN: Thank you, Madam
12 Secretary.

13 You may proceed.

14 MR. STAYIN: The Commission did not conduct
15 a like product analysis of palm wax or blended wax
16 candles and, therefore, did not exclude them. The
17 U.S. industry did not mention them because they had
18 not been seen in the market.

19 The Commission has consistently defined
20 domestic like products to be those products with the
21 same intrinsic quality and essential characteristics
22 and uses as the subject imports. The similarities and
23 the intrinsic qualities and essential characteristics
24 between petroleum wax candles and blended wax candles
25 are obvious. The only characteristics that a consumer

1 can ascertain when shopping for candles -- that is,
2 how the candle looks, feels and smells -- are
3 essentially the same for both candles.

4 Before you are examples of candles. On the
5 far left you have palm wax and petroleum wax. Palm
6 wax, petroleum wax, and then in front the small
7 pillars, palm wax and petroleum wax. Mr. Love will
8 describe the other candles during his presentation.

9 For each one of these candles -- I bought
10 them yesterday at JoAnn Stores in Woodbridge.

11 CHAIRMAN KOPLAN: When you say far left are
12 you talking about our left or yours?

13 MR. STAYIN: I'm sorry. My left. It's your
14 right. It's your right.

15 CHAIRMAN KOPLAN: Okay. Thank you.

16 MR. STAYIN: In front of it is the sales
17 slip. The same price was charged for the palm wax and
18 the petroleum wax pillars and tapers and smaller
19 pillars. The same price, palm wax or from wax
20 candles. As you see them, you can't tell the
21 difference between them whether it's one or the other.

22 Blended wax candles have essentially the
23 same physical characteristics and uses as petroleum
24 wax candles. They are completely interchangeable and
25 compete head-to-head with the U.S. petroleum wax

1 candles, unlike the beeswax candles.

2 We also recognize that Mexico recently
3 finished its five-year review of its antidumping order
4 against candles from China, which resulted in
5 continuation of its order and the 103 percent duty on
6 all candles from China, including blended wax candles.

7 During the period of review, the product mix
8 of imports from China switched dramatically from being
9 predominantly subject to being predominantly non-
10 subject imports of paraffin/palm wax blends, yet the
11 average unit value of all imports from China was 87
12 cents in 1999 and only 95 cents in 2004. This shift
13 from subject to non-subject did not significantly
14 affect the price of these products.

15 By 2004, the year in which imports of
16 blended wax candles recorded their largest surge, the
17 share of total imports from China accounted for by
18 subject imports had fallen to 22 percent in 2004,
19 while the share accounted for by non-subject imports,
20 primarily paraffin/palm wax blends, had risen to 78
21 percent of imports from China. The shift from
22 petroleum wax candles to petroleum/palm wax blends in
23 order to circumvent the duty, the antidumping duty, is
24 clear and significant.

25 Revocation would eliminate any incentive to

1 continue to circumvent the order. It would permit the
2 Chinese producers and U.S. importers not only to shift
3 back to subject imports on a massive scale, but also
4 to expand the total quantity of imports dramatically.

5 Based on the facts available, including the
6 physical characteristics and uses, interchangeability,
7 common channels of distribution, common manufacturing
8 facilities, equipment and employees, customer
9 perceptions and price, the NCA respectfully requests
10 that the Commission clarify the domestic like product
11 to include all blended wax candles other than beeswax
12 candles.

13 In addition, we ask the Commission to make
14 clear that it did not exclude blended wax candles in
15 its original determination, and, most important, we
16 ask for an affirmative determination to continue the
17 dumping order.

18 Again we thank you very much for the
19 opportunity to be before you. Our first witness is
20 Mr. Bob Higgins.

21 MR. HIGGINS: Good morning. I am Bob
22 Higgins, Vice President, Manufacturing and Logistics,
23 of Candle-Lite, Inc.

24 CHAIRMAN KOPLAN: Could you move your
25 microphone a bit closer to you?

1 MR. HIGGINS: A division of Lancaster Colony
2 Corporation located in Leesburg, Ohio. Candle-Lite
3 has been manufacturing candles since the 1840s. In
4 1972, Lancaster Colony acquired Candle-Lite to
5 complement its other houseware operations.

6 Lancaster Colony is a diversified marketer
7 and manufacturer of three distinct product groupings:
8 specialty foods, glassware and candles, and
9 automotive. Today, Candle-Lite is the largest U.S.
10 manufacturer of candles.

11 Additionally, I serve as the president of
12 the National Candle Association. The NCA is an active
13 organization consisting of approximately 200 member
14 companies, accounting for more than 90 percent of the
15 candles manufactured in the United States.

16 Its mission is to serve and represent U.S.
17 candle manufacturers and their suppliers and to
18 promote a healthy environment for the U.S. candle
19 industry. U.S. retail sales of candles are estimated
20 at approximately \$2 billion annually, excluding sales
21 of candle accessories.

22 As president of the National Candle
23 Association, I am convinced of the importance of the
24 antidumping duty order to the survival of the U.S.
25 candle industry. In my role as Vice President of

1 Manufacturing and Logistics of Candle-Lite, Inc., I
2 can attest to the critical role that the order has
3 played and continues to play in the welfare of our
4 company.

5 Candle-Lite supplies some of the largest and
6 most demanding retailers and private label customers.
7 It offers over 2,000 finished selling units or stock
8 keeping units, including scented and unscented candle
9 styles such as tapers, pillars and votive candles, as
10 well as a comprehensive line of filled-glass candles
11 made from glass produced in Lancaster Colony's own
12 glassware plants.

13 Candle-Lite's highly automated candle
14 manufacturing plant encompasses over 900,000 square
15 feet of state-of-the-art production, warehousing and
16 distribution facilities in Leesburg, Ohio. Candle-
17 Lite is the largest employer in Leesburg, and with the
18 exception of the Highland County School Department it
19 is the largest employer in Highland County.

20 Since 1999, Candle-Lite, among other things,
21 has had to reduce its workforce to compete with the
22 increase of record level cheap Chinese candle imports.
23 In May 1999, Candle-Lite employed over 1,300
24 employees. In May 2005, it employs 750 full-time
25 employees. In preparation for this upcoming holiday

1 season it anticipates hiring an additional 200
2 seasonal employees.

3 The antidumping duty order is critical to
4 Candle-Lite's continued survival. Imports of
5 petroleum wax candles increased markedly in 1998 and
6 have increased each year thereafter. This increase in
7 the record level Chinese imports has had an adverse
8 effect on Candle-Lite's revenue, employment and
9 margins. Faced with intense competition from Chinese
10 imports, the selling price of Candle-Lite's petroleum
11 wax candles has decreased approximately 21 percent
12 since January 1999.

13 In addition, the cost of petroleum wax
14 increased approximately 15 percent since January of
15 1999. There have been similar cost increases for
16 other raw materials as well. These raw material cost
17 increases, coupled with decreased prices of petroleum
18 wax candles sold, has significantly decreased margins.

19 In response to the increase of raw material
20 costs, especially petroleum wax, and the severe price
21 pressure as a result of the continued increase of
22 Chinese imports, Candle-Lite has changed the mix in
23 its product range, began importing petroleum wax and
24 reformulated certain formulas for producing petroleum
25 wax candles.

1 Candle-Lite has substantially increased the
2 number of wax-filled containers that it sells and
3 decreased the number of columns and pillars over the
4 past five years. Varying the product mix results in
5 the use of different raw materials.

6 Beginning in 2001, Candle-Lite encountered
7 palm and petroleum blended wax candles for the first
8 time in its history. The recent appearance of palm
9 and petroleum blended wax candles from China in the
10 United States market has contributed to the decrease
11 in shipments of candles made in the United States,
12 further depressing the price of U.S. produced candles.

13 These palm and petroleum blended wax candles
14 are essentially the same as petroleum wax candles.
15 The blended candles are now readily available in the
16 most popular candle types and sizes and have the same
17 function and purpose as petroleum wax candles.

18 These imports of cheap palm and petroleum
19 blended wax candles from China continue to capture
20 market share and have driven down the price of
21 petroleum wax candles in the United States marketplace
22 because there is no dumping duty collected on these
23 imports.

24 Without the antidumping duty order, Candle-
25 Lite would likely lose market share and experience

1 crushing price pressure from the increase in imported
2 candles from China. Loss of market share and severe
3 price pressure would likely lead to an even further
4 decrease in employment, production, profits, cash flow
5 and capacity utilization and a hesitation to make
6 significant capital investments in the business. Were
7 the order to be revoked, Candle-Lite would most likely
8 dramatically reduce domestic manufacturing of
9 petroleum wax candles.

10 Candle-Lite is not the only U.S. candle
11 producer that is suffering depressed margins as a
12 direct result of the increase in Chinese imports. The
13 increase in Chinese dumped candles since 1999 has
14 affected the domestic industry as a whole.

15 This increase in dumping was recognized
16 through the administrative review process as the
17 antidumping duty on all Chinese producers and
18 exporters increased to 108 percent in April of 2004,
19 which is double the 54 percent rate that had been in
20 effect since the order was issued in 1986.

21 However, the increase in dumping can be
22 traced back to actions by Chinese exporters beginning
23 in 1997 when the Chinese shipped 46 million pounds of
24 candles to the United States. That volume tripled
25 only two years later to 152 million pounds. Only five

1 years later, in 2004, the Chinese shipped 208 million
2 pounds of candles or four times the volume of its
3 shipments in 1997. The Chinese dropped its prices
4 from \$1.52 a pound in 1997 to 87 cents in 1999. In
5 2004, the price per pound was 95 cents.

6 There is no doubt that the antidumping duty
7 order is critical to the health of the domestic candle
8 manufacturers. Since the late 1990s, sales and
9 margins of U.S. manufacturers of petroleum wax,
10 including Candle-Lite, have greatly declined due to
11 increased dumping of products imported from China.

12 U.S. candle manufacturers have experienced a
13 decrease in employment, production, profits, cash
14 flow, capacity utilization and necessary capital
15 investments in the business. Without the antidumping
16 duties it would be very difficult for U.S.
17 manufacturers to compete with Chinese manufacturers
18 selling dumped candles into the United States.

19 Revocation of the antidumping duty order on
20 candles from China would have an immediate and
21 significant impact on the volume and prices of imports
22 from the PRC and would dramatically and adversely
23 impact the state of the United States candle producing
24 industry.

25 I thank you.

1 MR. STAYIN: Mr. Pappas?

2 MR. PAPPAS: I'd like to thank the
3 Commission for the opportunity to present our
4 position. I am George Pappas, president of Lumi-Lite
5 Candle Company, Inc., a family-owned company located
6 in Norwich, Ohio. I am past president of the National
7 Candle Association and currently serve as chairman of
8 the ASTM Committee for Visible Testing Standards and
9 am also a member of the ASTM Fire Safety Committee.

10 Lumi-Lite Candle was founded in 1958. We
11 consider ourselves masters of the art of candlemaking
12 and fragrance creation. We develop proprietary blends
13 of fragrance, color and waxes that are used to
14 manufacture products that provide our customers the
15 safest and highest quality products available.

16 We are a candlemaker's candlemaker in that
17 our private label division has provided quality
18 candles and fragrance products to other candle
19 companies to add to their existing product lines. We
20 also produce private label candles for non-candle
21 company customers.

22 Our company prides itself on its ability to
23 hire and retain the chronically unemployed and people
24 with disabilities. In 1997, we received the Ohio
25 Department of Transportation Friends of Transportation

1 Award for our work and financial contributions to a
2 regional transit system that was built around the
3 company's paid transportation for our employees who
4 did not have a means of transportation. Further, in
5 2004 we received the Ohio Governor's Award for our
6 work in hiring and retaining people with disabilities.

7 Unfortunately, it has become necessary to
8 discontinue the transportation program in 2003 because
9 there were no longer enough company riders to justify
10 the program. Our disabled employees' jobs are now at
11 risk because our net operating income has been driven
12 down by the dumped PRC candle imports in spite of many
13 cost reduction measures and substantial improvements
14 in our production efficiency.

15 In the past, our business was a mix of mass
16 merchandisers, chain stores and specialty gifts
17 stores. The volume was substantial, and we were able
18 to service these companies until they began to request
19 reductions in price to meet the competitive prices of
20 imported Chinese candles. We were unable to meet
21 their requests, and they stopped buying from us as
22 they began to import more and more candles from the
23 PRC.

24 Our present customer base is primarily
25 composed of small, independently owned specialty gift

1 shops. Our customers are also being injured by Big
2 Box retailers who buy most of the candles from the
3 PRC.

4 Lumi-Lite has developed new, safer and
5 higher quality candles to help our customers
6 differentiate their candle offering from the PRC
7 imports. However, customers who like our products
8 have become afraid to purchase from us because Big Box
9 retailers are able to sell for less. Many of our
10 customers are concerned that they may not survive.

11 Our company recovered and grew after the
12 imposition of the dumping order in 1986. Since 1998,
13 our company has contracted despite the existence of
14 the antidumping order. Market share began to erode in
15 1998 when orders were lost to lower cost Chinese
16 candles from our large mass merchandiser and
17 department store customers.

18 During this period sales, employment,
19 revenue and profits declined. Expenditures for
20 capital projects and research and development continue
21 despite falling sales. Expenditures of capital
22 improvement have focused on process improvement. R&D
23 expenditures have focused on candle fire safety,
24 candle smoking and new products. Lumi-Lite has been
25 issued many utility patents for candle safety and

1 several design patents for candles during this period.

2 During the period of review, the Chinese not
3 only increased their dumping margin from 54 to 108
4 percent. They also began circumventing the order by
5 shipping blended candles made of petroleum and palm
6 wax. Until recently, I had not seen a palm or wax
7 blended palm petroleum candle during the entire
8 history of our company.

9 In 2001, importers began filing scope
10 requests claiming that their candles were made of over
11 50 percent palm wax and, therefore, outside the scope
12 of the order. Neither palm nor other vegetable oils
13 are solid at room temperature and cannot be used as a
14 candle wax. The oil must be substantially transformed
15 through a hydrogenation process to produce a wax that
16 has essentially the same physical characteristics of
17 the petroleum wax.

18 Candle producers can use the same equipment
19 to make either petroleum wax candles or blended palm
20 wax candles. These blended wax candles are similar to
21 and in terms of appearance, odor and feel
22 indistinguishable from petroleum wax candles. We
23 believe that a very large volume of these candles are
24 currently in the U.S. market and sold to customers at
25 the same prices as the dumped petroleum wax candles,

1 despite the fact that materials used to make these
2 candles cost more.

3 The Department of Commerce has initiated a
4 later-developed product anticircumvention
5 investigation and a minor alterations
6 anticircumvention investigation of these blended
7 candles. We ask the Commission make it clear that it
8 did not exclude palm wax candles or these blended
9 candles in its like product analysis in the original
10 investigation.

11 When Commerce excluded these blended wax
12 candles from the scope of the Order it created a huge
13 loophole through which palm wax candles containing
14 more than 50 percent palm wax are coming through
15 Customs without duty. In addition, we believe that
16 many candles with less than 50 percent palm wax are
17 being fraudulently entered to avoid the duty.

18 Notwithstanding all of these adversities, we
19 are optimistic that the 108 percent antidumping duty
20 imposed in 2004, a successful circumvention
21 investigation at Commerce and improved enforcement at
22 Customs will again level the playing field and give
23 the U.S. manufacturers a fair chance to compete in the
24 U.S. market. Make no mistake, however, that our
25 survival ultimately depends on the continuation of the

1 antidumping order.

2 MR. LA ZAR: Good morning. I'm Colton
3 LaZar, Marketing Director of General Wax & Candle
4 Company located in North Hollywood, California.
5 General Wax & Candle Company is one of the largest
6 candle manufacturers on the west coast.

7 General Wax was founded in 1949 by my
8 grandfather. I have literally grown up working in all
9 facets of the candle manufacturing business.
10 Additionally, I previously worked as the marketing
11 manager for Blyth HomeScents International from 1998
12 to 2002 where I gained valuable experience marketing
13 candles in the U.S. marketplace. I returned to
14 General Wax & Candle Company in 2003 as the director
15 of marketing.

16 Since 1998, the market in the U.S. has
17 become incredibly difficult due to increased
18 competition from Chinese imports resulting in severe
19 price depression for our company. In the candle
20 industry buyers consider price, quality and service as
21 the three main attributes in their purchasing
22 decision. Price by far is the number one attribute
23 that dominates in selling to the mass merchandisers.

24 Since 1998, the Chinese have steadily
25 dropped their prices, making it more difficult to

1 compete particularly in selling to the large mass
2 merchandisers in the U.S. In one telling example, in
3 1998 General Wax had sales in the \$1 million range to
4 one of the largest mass merchandisers in the U.S. In
5 2005, our sales dropped dramatically to the \$100,000
6 range because the mass merchandiser began to purchase
7 directly from the Chinese.

8 As a result, General Wax has had to downsize
9 its workforce. General Wax reduced its workforce from
10 125 employees in 1999 to 95 employees in 2005. We
11 also had to reduce the variety of finished goods that
12 we were able to offer to purchasers. In 1998, we
13 offered 1,000 finished goods. In 2005, we only offer
14 600 finished goods. Total domestic shipments also
15 dropped.

16 Additionally, we are facing severe
17 competition due to palm/petroleum wax blended candles
18 imported from China that began appearing in the U.S.
19 marketplace in 2001. Prior to 2001, I had not seen
20 these blended wax candles in the U.S. marketplace.
21 These blended wax candles are entirely interchangeable
22 with traditional petroleum wax candles and compete
23 toe-to-toe in the U.S. marketplace with the petroleum
24 wax candles.

25 Because no duties are paid on these blended

1 wax candles, we cannot compete with the low price that
2 these blended candles are being sold in the United
3 States. General Wax is struggling now to meet the
4 incredibly low prices for the dumped Chinese candle
5 imports. It would be extremely difficult for General
6 Wax to maintain its existence without the antidumping
7 duty order.

8 If the antidumping duty order were to be
9 revoked, General Wax would face an even greater loss
10 of revenue. Within a few short months of the order
11 being revoked General Wax will have a significant drop
12 in production levels, decreased purchasing power,
13 lower employment, less revenues, increased costs,
14 losses and a lack of R&D.

15 Additionally, General Wax anticipates the
16 cost of paraffin wax will increase due to the
17 increased cost of oil. The energy cost, workers'
18 compensation and health insurance will all continue to
19 increase, directly impacting our profit and losses.

20 We believe within a year or two of the order
21 being revoked the existence of General Wax & Candle
22 Company would be in serious jeopardy. To counteract
23 the detrimental effects from the increasing Chinese
24 imports, we have engaged in aggressive marketing, and
25 we are trying to emphasize our internet sales. Of

1 General Wax's total 2004 sales, approximately seven
2 percent is from the internet sales. We also hope to
3 develop and offer a wider range of products to help
4 generate more sales.

5 With the continuation of the antidumping
6 duty order, the new dumping rate of 108 percent and
7 positive determinations by the International Trade
8 Administration in the two circumvention
9 investigations, we believe that we can compete fairly
10 in the U.S. marketplace with the Chinese imports.
11 However, I have no doubt that revocation of the order
12 would jeopardize our ability to serve as a U.S. candle
13 producer.

14 Thank you.

15 MR. GODDARD: I am Christopher Goddard,
16 Director of Engineering and Quality at Home Fragrance
17 Holdings, a privately held candle producer that is
18 located in Houston, Texas.

19 Our plant is on 17 acres, which includes
20 187,900 square feet of floor space. Our employment of
21 production workers has declined from 450 in 1999 to
22 200 at present. Candles account for 90 percent of
23 HFH's revenue.

24 Our company offers approximately 2,000 SKUs,
25 which include candles produced in a wide variety of

1 colors and fragrances, as well as candle accessories.
2 Customers can either choose to purchase our core line
3 candles, which include approximately 200 SKUs
4 containing 18 fragrances covering a range of textures,
5 shapes and sizes while featuring the customer's label
6 and packaging, or we can develop and manufacture a
7 complete custom line of private label products for
8 them.

9 CHAIRMAN KOPLAN: Could you move your
10 microphone a bit closer?

11 MR. GODDARD: I'm sorry. Sure. We consider
12 ourselves a pioneer in the design and production of
13 innovative candles and home fragrance products. We
14 have redesigned existing products with new and
15 improved performance features and introduced new
16 products with different sizes, colors, scents and
17 other fashionable characteristics. For example, we
18 originated a concept of candle-scaping.

19 The manufacture of the company's products
20 involves the use of various highly automated processes
21 and technologies, as well as certain hand crafting and
22 finishing. Unfortunately, imported candles from China
23 have had a significant negative impact on our company.
24 As a direct result of lower cost products from China,
25 we have experienced a steady and significant decline

1 in the retail price of scented candles causing serious
2 harm to our competitiveness and profitability.

3 Furthermore, while costs continue to
4 escalate we have been largely unable to pass on such
5 cost increases to our customers, creating mounting
6 pressure on gross margins as they become squeezed at
7 both ends of the profit equation.

8 Additionally, market price erosion has
9 prevented HFH from serving mass merchandisers such as
10 supermarkets, drugstores and discount chains, a
11 distribution channel now dominated by low-cost imports
12 from China.

13 The appearance and quality of HFH products
14 has always been deemed worthy, but the price points
15 have never been low enough despite more than \$12
16 million of investment in equipment and facilities in
17 our quest to remain competitive in the scented candle
18 business.

19 We also have concerns that Chinese blended
20 candles of petroleum wax and soy, palm or vegetable
21 waxes are perceived by the customer as an adequate
22 substitute for petroleum wax candles. This is
23 especially true as the initial purchase decision is
24 made without the benefit of being able to burn a
25 candle. Thus, as long as the appearance of the

1 product is similar there is no obvious differentiation
2 between petroleum and blended candles.

3 These Chinese blended candles began to
4 appear in the U.S. market in 2001. Should these
5 later-developed products remain outside the scope of
6 the existing antidumping order their increasing import
7 volumes would ultimately displace petroleum wax
8 candles in the majority of applications where scented
9 candles are now used.

10 In response to the onslaught of Chinese
11 imports, HFH has taken certain strategic measures in
12 its attempt to remain a viable enterprise in the
13 scented candle business. Fundamentally the company
14 has substantially reduced production of basic smooth
15 and textured candles similar to the ones on the table
16 in front of you, which are our core offerings and
17 previously the most profitable high-volume products.

18 As it is virtually impossible to compete
19 effectively with the Chinese in this product segment
20 due to the unfairly traded imports, we have migrated
21 to increasingly complex candle designs in order to
22 both distinguish our products from baseline Chinese
23 imports and to meet the demands of our key private
24 label customers who want the option of offering a
25 premium candle product.

1 This change in strategy has in the past and
2 will continue to require HFH to invest significantly
3 in equipment, as well as in the research and
4 development necessary to bring such products to market
5 which have more stringent tolerance levels, lower
6 yields and higher production costs.

7 The result has been a steady demand on the
8 company's limited capital resources and a significant
9 decline in the gross margin of our business, making it
10 increasingly difficult to remain profitable in the
11 face of persistent Chinese dumping.

12 Revocation of the standing antidumping order
13 on petroleum wax candles from China would almost
14 certainly increase import volumes, further depress
15 prices across the retail landscape and ultimately
16 threaten the ability of domestic producers such as HFH
17 to continue as a going concern.

18 Thank you.

19 MR. STAYIN: Mr. Love will be our next
20 witness.

21 MR. LOVE: Good morning. My name is Mark
22 Love, Senior Vice President of Economic Consulting
23 Services, consultants to the NCA in this review.

24 I was a participant in the original
25 investigation of Candles From China 20 years ago, as

1 well as was involved in the first sunset review and
2 other trade related activities of the NCA. I have to
3 note that Mr. Stayin and I are not the only ones who
4 were present at the creation of this order. We were
5 reassured when we learned that the supervisory
6 investigator in this case was actually the
7 investigator in the original investigation, so we were
8 happy about that.

9 I do have to compliment the staff on the
10 report. I'm just kind of amazed at how thorough a job
11 was done in so little time, so I have to extend my
12 compliments to the staff.

13 I have with my testimony a set of five
14 exhibits. I don't know if you have them in front of
15 you. Okay. Great. These are just replications of
16 exhibits already submitted into the record, but they
17 might be useful for reference purposes, particularly
18 Exhibit 1 which gives a nice historical series of the
19 quantity of imports since 1983.

20 Okay. I'll begin my testimony with a
21 historical review, which I'll try to keep brief. We
22 think it's important to have that review to understand
23 the effectiveness of the order since its imposition,
24 the current state of the U.S. market and the domestic
25 industry and the likely increases in imports that

1 would occur upon revocation.

2 I will then turn to our estimates of the
3 likely impact of revocation on import volume price and
4 the domestic industry. These estimates that we've
5 come up with and presented in our prehearing brief are
6 based directly on the observed behavior of Chinese
7 producers and exporters during the period of this
8 review, and they lead us to conclude that material
9 injury will occur if the order is revoked.

10 We think the effectiveness of the order is
11 beyond dispute. Mr. Stayin went through the initial
12 impact of the imposition of the order in 1986.
13 Imports from China fell by 80 percent. Their market
14 share fell from 19 percent of the U.S. market to a
15 negligible level. Prices of imports from China went
16 up, taking price pressure off domestic producers, and
17 all these positive effects allowed the domestic
18 industry to recover from the material injury that had
19 occurred.

20 The order, which continued to apply to all
21 Chinese exporters and producers in the following years
22 at 54 percent, also allowed the domestic producers to
23 benefit from and participate fully in the significant
24 growth in demand for candles which occurred basically
25 through the decade of the 1990s.

1 Now, further proof of the effectiveness of
2 the order we think comes indirectly from the continual
3 efforts by the Chinese exporters and U.S. importers to
4 circumvent the order ever since it was imposed. It
5 implies a very strong restraining impact throughout
6 the whole period. We admit that at times these
7 circumvention activities have in fact reduced the
8 effectiveness of the order below what it should have
9 been.

10 For example, in 1987, the year after the
11 order was imposed, transshipments of Chinese candles
12 started to come through Hong Kong. There was a big
13 surge in imports from Hong Kong in 1987 and 1988, and
14 this required Customs, who has done a great job
15 throughout the period, to take vigorous action to
16 reduce those transshipments. They were successful.

17 No sooner had those transshipments stopped
18 than imports from Macao, which are really Chinese
19 imports, surged. In 1990, Customs again had to go in
20 and stop that circumvention. At that point we think
21 the order was very effective.

22 Through the next few years, total imports
23 from China and Hong Kong combined remained well below
24 their peak levels during the original investigation
25 for a number of years and even as the U.S. demand for

1 candles was increasing, so we think that period was
2 very effective as far as the order is concerned.

3 However, in the mid 1990s circumvention
4 began again. An unfortunate element of this
5 circumvention was an increase in the fraudulent
6 declaration by U.S. importers that their shipments of
7 subject candles were out of scope. This is risky
8 business. It's illegal, and we think that for some
9 years that risk had kept the circumvention, this type
10 of fraud, down.

11 However, by the mid 1990s the practice
12 clearly had become widespread, and with the increasing
13 fraudulent entries imports from China began to surge
14 again. You've heard several witnesses already talk
15 about the 1997 to 1999 period when imports from China
16 tripled, even though the 54 percent duty was in
17 effect.

18 Now, once again U.S. Customs had to take
19 action. Based on a confidential investigation in
20 1998, which was requested by the NCA for some time,
21 Customs discovered that well more than half of imports
22 from China, that is total candle imports, were in fact
23 subject imports. This was a surprise frankly.

24 In 1997, the total value of candle entries
25 that were assessed a duty was about \$5 million, and in

1 that same year total imports from China were like \$67
2 million, so the assumption had been up to that point
3 that most imports from China were non-subject, novelty
4 candles, figurines, birthday candles and the like.

5 The investigation in 1998 proved that most
6 of the candles were in fact subject candles and should
7 have been assessed a duty, and that finally started to
8 happen in 1998 and in 1999, and by the year 2000 \$70
9 million of entries of candles from China were assessed
10 a duty, as they properly should have been.

11 Now, this was a seminal event because it
12 provoked certain reactions by the Chinese producers,
13 and those reactions have affected very much the
14 competitive environment during this review period.
15 There were three main ones.

16 First, as noted, you have the Chinese
17 producers dropped their prices. They went from \$1.52
18 per pound in 1997 down to \$1 a pound in 1998. They
19 were just increasing the amount by which they were
20 dumping the candles, clearly an obvious response to
21 try to mitigate the fact that subject imports were now
22 being more properly assessed a duty.

23 The second response was to start to funnel.
24 They had taken a playbook back from the 1980s and
25 starting to funnel transshipments fraudulently through

1 Hong Kong. Once again Customs had to come to the
2 rescue, did a major investigation and put an end to
3 most of those transshipments.

4 The third response was for the Chinese
5 producers and exporters to finally start using the
6 administrative review process. We had gone 13 years
7 with no administrative review before the Commerce
8 Department. Very, very unusual with a 54 percent duty
9 covering all producers and all exporters.

10 We knew that that process would not be
11 helpful to them because we knew if the true prices
12 were accurately reflected in the record at the
13 Commerce Department there would be no reduction in the
14 duty. There would in fact be an increase in the duty
15 because of the price drop we talked about in 1998.

16 Well, sure enough. It took a long time.
17 Slowly but surely the system worked through properly,
18 and we got the duty up to 108 percent, which is
19 basically what it should have been starting in 1999-
20 2000.

21 There was also a fourth response, one which
22 we only became aware of well after the fact, and this
23 of course is the development of the blended wax
24 candles, which you've heard a lot about. I won't go
25 into a lot of detail about that, the origins of that.

1 Others can discuss that better than I, but the
2 importance of this for the purposes of what is going
3 to happen upon revocation is to realize that these are
4 in our view perfect substitutes for subject candles.
5 Very strange.

6 I would like to talk about these samples
7 there. If I leave the microphone will that screw up
8 the transcription?

9 CHAIRMAN KOPLAN: We have a hand-held mike
10 if it's available, but you do have to stay with a
11 microphone so the reporter can pick up what you're
12 saying.

13 MR. LOVE: A microphone. That's all right.
14 I was afraid I won't be able to read the writing on
15 this from here. I'll do my best.

16 Anyway, you have six candles up there. Five
17 now. The blue pillars, eight inch pillar, six inch, I
18 have the four inch, and the last one is the three
19 inch, and then you have two three-inch pillars white
20 and kind of a brown looking one.

21 I just bought these a month ago at Target.
22 I went in, and they were all sitting there on the
23 shelves right together. I have the receipt too, by
24 the way, which means I can return them within 90 days.

25 Okay. This four-inch guy here. Actually,

1 let me read this here. It says, "Enjoy this
2 candle..." --

3 CHAIRMAN KOPLAN: Does that help?

4 MR. LOVE: Does this work? Am I on? Okay.
5 Good. The lighting is terrible over there. I'm
6 sorry.

7 "Enjoy this candle with the knowledge..." --

8 CHAIRMAN KOPLAN: Can you check to make sure
9 that's on?

10 MR. LOVE: Hello? Hello? Is this on?
11 Okay.

12 "Enjoy this candle with the knowledge you
13 are selecting the finest, cleanest, environment
14 friendly candle in its class." Okay. It says, "Top
15 grade pure solid wax for a dripless, long-burning
16 candle" something. You look at the bottom and it
17 says, "Contains 52 percent palm wax." Okay. That's
18 this one.

19 You've got the same language here. You've
20 got the same language here if you look underneath, 52
21 percent palm wax, 52 percent palm wax.

22 This guy. This guy is good. This guy has
23 the same language about enjoying the finest wax in its
24 class and so forth and so on, and then it says, long-
25 burning, high quality, and it says paraffin wax. "Top

1 grade pure solid paraffin wax."

2 These are sold as a set, indistinguishable,
3 same price. Well, they are different prices of
4 course, but the same store, same shelf and so forth.
5 Palm wax. Paraffin wax. This is subject. This is
6 not subject.

7 Same thing here. One of these is subject
8 and one is not. I forget which. One is 52 percent
9 palm wax, and the other is specifically paraffin wax,
10 described the same by the language on the top of the
11 candle. We look at this as a perfect substitute.
12 Thank you.

13 Okay. I refer to Exhibit 3, which shows
14 very clearly the trend in substitution of these
15 blended wax candles for the subject candles, and I
16 want to make clear here that the shift that you see
17 there, which is dramatic. As Mr. Stayin said, in 2004
18 the palm wax candles basically account for 78 percent
19 of total imports.

20 Remember that the coverage of imports from
21 the questionnaire surveys is kind of love, and our
22 view is that you are missing particularly coverage of
23 subject imports, okay? We have evidence as to why
24 that's true, so I don't think that necessarily if you
25 truly had all the information on the 208 million

1 pounds of candles that came in in 2004 that 78 percent
2 of them would be palm wax. I think it could be more
3 like 50/50, but the trend is clearly there, and the
4 substitution is clearly there.

5 What we have is circumvention through this
6 technique, minimal growth in demand over the period of
7 review. The industry had predicted this, by the way,
8 in the last review that the strong growth in the 1990s
9 would slow down and in fact it did, and that has
10 created a vulnerability which the representatives of
11 the four companies here today have testified to I
12 think rather clearly, and I don't need to repeat that.

13 Now, the question is what's going to happen
14 on revocation, okay? You'd think it would be easy in
15 this case. You've got a 54 percent duty on every
16 supplier from China over the whole review period, and
17 a year ago it went up to 108 percent. You'd think
18 this is a no-brainer. It's easy to see that there's
19 going to be a problem.

20 However, it's never easy. The substitution
21 effect that we've seen with the blended candles for
22 the subject merchandise complicates matters. Let me
23 give you my bottom line, which we present in more
24 detail in the prehearing brief.

25 Our prediction is that in the first year,

1 just the first year alone, imports from China, total
2 imports, subject and non-subject, would increase by
3 about 50 percent to well more than 300 million pounds.
4 That's an increase in one year alone of more than 100
5 million pounds, and this represents 25 percent of
6 current production in employment and would have a
7 very, very powerful effect on the output of the
8 industry, their sales and shipment volume.

9 Price effects will be there as well, and we
10 predict that in the first year even a price decline of
11 10 percent would put more than half of the domestic
12 producers into a negative loss position, so I think
13 this would constitute material injury that would occur
14 we think within the very first year.

15 The question is how did we get to that
16 figure? Three effects. First of all, if you just
17 look at subject imports -- not total imports; just
18 subject imports -- once the order goes it would
19 skyrocket because, as has been pointed out, the
20 blended wax candles are more expensive to produce.
21 The economics of cost would shift all those blended
22 candles back into subject imports, okay? That's the
23 first effect.

24 The second basis on which we based our
25 estimates was the fact that exports from China have

1 increased significantly over the last five or six
2 years at an average rate of about 134 million pounds a
3 year. These are exports to the world. A significant
4 portion of that has come to the United States, and we
5 predict that that growth will continue in the next
6 year, and a significant portion of those candle
7 exports will come to the United States without the
8 order.

9 Finally, of course, we would see a shift in
10 some of the exports to the rest of the world to the
11 United States. Some of the questionnaire responses
12 indicate that there is a price differential between
13 prices in the United States and in the rest of the
14 world relating to the order. Without the order
15 there's going to be a move to equilibrate prices
16 between markets, and that will cause a shift of a
17 significant amount of candles from the rest of the
18 world to the United States.

19 Even a shift of only 10 to 20 percent of
20 exports to the rest of the world, which I believe were
21 about 650 million just in 2004, would mean a lot of
22 candles coming here to the United States that are now
23 being shipped to the rest of the world.

24 All those three effects together are the
25 basis for our we think reasonable estimate of the

1 increase of more than 100 million pounds in imports
2 from China after the first year of revocation.

3 That concludes my statements, and thank you
4 very much for your attention.

5 MR. STAYIN: That concludes our testimony.

6 CHAIRMAN KOPLAN: Thank you. Thank you very
7 much for your presentation. I also appreciate the
8 fact that you have submitted your statements to us in
9 advance of this hearing or at the time of this
10 hearing.

11 We will begin the questioning with
12 Commissioner Lane.

13 As a housekeeping matter, I should mention
14 to you, Mr. Love, that your Exhibit 3 has been revised
15 by the Commission and will be made available to you at
16 the next APO release. I'm referring to Table 4-2. It
17 was revised based on importer questionnaire responses
18 accounting for approximately 60 percent of total
19 imports from China in 2004. You will be getting that
20 shortly.

21 Commissioner Lane?

22 COMMISSIONER LANE: Good morning. Thank you
23 all for coming and telling us about your industry.

24 Mr. Love, let me start with you, and let me
25 start with a question as to your Exhibit 3. That

1 exhibit shows that 78 percent of the imports from
2 China are non-subject. You state on page 5 of your
3 testimony that as much as half of the imports from
4 China in 2004 may have been of the petroleum wax
5 blend.

6 If you believe that half of the imports from
7 China are blended, what makes up the balance of the 78
8 percent non-subject candles in 2004?

9 MR. LOVE: My suggestion that 50 percent of
10 total candles are subject is based on our belief that
11 the coverage of imports that you got through the
12 questionnaires is particularly light on the subject
13 imports.

14 We'll see what the final data show, but if
15 you had the full data we believe that subject imports
16 could be as much as 50 percent of the 208 million in
17 2004, so that would leave our estimate of about 50
18 percent that would be non-subject of which most would
19 be palm blended candles.

20 I'm sure there are continued imports of
21 truly non-subject candles that we would agree are non-
22 subject -- figurines, birthday candles, Roman numerals
23 that you put on birthday cakes and that type of thing,
24 but those are a relatively small portion of the market
25 and a relatively small portion of imports, and that's

1 been true since the beginning of this order.

2 Is that helpful?

3 COMMISSIONER LANE: Yes. Thank you.

4 MR. STAYIN: May I comment?

5 COMMISSIONER LANE: Yes, you may. Mr.
6 Staylin?

7 MR. STAYIN: Stayin.

8 COMMISSIONER LANE: Stayin.

9 MR. STAYIN: Yes. If you go to Wal-Mart or
10 you go to K-Mart or Target and you go to their candle
11 shelves you are not going to see -- you are not going
12 to see -- a novelty candle. You're not going to see a
13 numeral. You're not going to see a figurine. What
14 you're going to see are those candles which are the
15 candles that are the highest sellers and which are the
16 core of the business of the U.S. industry.

17 What I'm trying to say is that the non-
18 subject candles that are coming in have got to be
19 these palm wax/petroleum wax candles because you're
20 not seeing what we traditionally thought of as the
21 novelty and the excluded candles.

22 COMMISSIONER LANE: Okay. The next question
23 I have is are the U.S. producers making blended
24 candles?

25 MR. STAYIN: To a small degree they are, and

1 it's just a small number of them. There has not been
2 a demand from the customers for these candles, but
3 there has been a big PR campaign by the U.S. soybean
4 industry to try to encourage the use of soy wax in
5 making candles.

6 The U.S. Department of Agriculture has been
7 funding the soybean industry for years to develop
8 alternative uses for soy oil, and in 1996 they started
9 to make a breakthrough and tried to make a wax from
10 soy oil and to make, therefore, a mixed paraffin/soy
11 wax candle.

12 That really is what started the very idea of
13 bringing a blended candle into the United States. The
14 Chinese said aha, there's this big promotion trying to
15 say that these candles are somehow special, and it
16 turns out they're exactly the same thing.

17 COMMISSIONER LANE: Okay. Maybe I
18 misunderstood you. I thought that we were talking
19 about blended candles as petroleum and these other
20 substances, and then you said that the U.S. producer
21 is not making them because there is no demand for
22 that, but yet at the same time people are buying the
23 Chinese that are the blended.

24 MR. STAYIN: But they're not buying them
25 because they are special because they are blended.

1 They're not buying them because they want palm.
2 They're buying them because that's what's on the shelf
3 at Wal-Mart and what's on the shelf at all these other
4 stores. They're cheap. That's why they're buying
5 them, not because they're palm wax.

6 COMMISSIONER LANE: Okay. Now I understand.
7 So people are going to buy candles, and they're buying
8 them because of price and are not trying to read the
9 fine print like Mr. Love did to see what they were
10 made of?

11 MR. STAYIN: Would you like to respond to
12 that, Bob?

13 MR. HIGGINS: Yes. I would just agree with
14 that. They're buying them on price. That's the big
15 thing. There's no demand for soy candles or blended
16 candles. Not much anyhow.

17 COMMISSIONER LANE: Okay. Mr. Pappas?

18 MR. PAPPAS: Commissioner Lane, the other
19 factor here is that from a domestic manufacturer's
20 point of view this is a much more expensive candle for
21 us to make.

22 The price spread between the imported
23 product which is being sold at the dumped price of the
24 paraffin candle and a candle produced by our firm that
25 has vegetable-based materials in them is really --

1 there's a big spread because even if they were
2 properly priced, you know, basically it costs more to
3 make vegetable candles.

4 COMMISSIONER LANE: From a quality
5 standpoint -- you said that people go in and they buy
6 based on price, but from a quality standpoint if a
7 candle doesn't burn or smokes or whatever what are the
8 quality differences between petroleum-based candles
9 and these candles from vegetable or other substances
10 or a blend?

11 MR. PAPPAS: Basically when we look at
12 vegetable candles we don't look at vegetable as the
13 fuel. That's what they're attempting to be done here.
14 They're trying to say 100 percent palm. That was the
15 original part.

16 If you read the staffer's report there's
17 actually some comments that indicate people tried to
18 do this but had to go away from it because it does not
19 produce a candle that is basically usable. What we
20 see the differences have to do with the nature of the
21 waxes. Vegetable waxes tend to be very linear. They
22 have very sharp melting points, and what happens is
23 that when you use these materials we have issues that
24 may or may not be of interest to the Chinese.

25 Our customers require that candles burn all

1 the way across. They're totally consumed. People
2 want value. They want candles to burn all the way to
3 the bottom. When we have to do this we find that
4 vegetables are, if you will, an appropriate additive
5 no more different than stearic acid or any other
6 traditional -- basically stearates have been used in
7 the past.

8 When these candles burn they tend to leave a
9 shell, or in some cases you have to wick them so large
10 that even though they're vegetable-based products they
11 produce more smoke than a paraffin candle. It's not
12 an easy question. You know, that's the difficulty
13 that we have as manufacturers.

14 We have the Soybean Council, who I think,
15 God love them, they're trying to promote a product and
16 I feel they have a right to do that, but we have to
17 look at how does the candle perform, and that's how we
18 make a decision at the candle company. It isn't soy.
19 It isn't palm. It isn't paraffin. It's the best
20 candle we can make.

21 Currently a lot of the formats coming from
22 overseas we will not make because they won't meet our
23 customers' expectations.

24 MR. HIGGINS: If I could add to that?

25 COMMISSIONER LANE: Mr. Higgins? Yes, go

1 ahead please.

2 MR. HIGGINS: Thank you. Basically there is
3 no difference. The soybean industry is touting it as
4 a natural product that burns safer and cleaner and
5 what have you, but that's not the fact. It depends on
6 how it's wicked and formulated.

7 Paraffin candles burn equally as well, so
8 there is really no difference at a blended candle I
9 should say like 50 percent or less. These other
10 candles, they can burn and pass, but George is
11 mentioning if you try to make it out of 100 percent
12 they don't burn well at all. They have to be blended.

13 They are more expensive so it's obvious
14 they're blending these waxes just to circumvent the
15 duty.

16 COMMISSIONER LANE: Okay. I have a lot more
17 questions, but I guess I'd better stop and wait for
18 the next round. Thank you.

19 CHAIRMAN KOPLAN: Thank you, Commissioner.
20 Commissioner Pearson?

21 COMMISSIONER PEARSON: Good morning to the
22 panel and welcome. Unlike some of the products that
23 we consider for the Commission, I actually know what
24 candles are so I'm enjoying this.

25 I have for starters a very basic question

1 that relates only peripherally to what we're talking
2 about here. This weekend I'll have the opportunity to
3 go camping with a group of Girl Scouts, so I'll go
4 down into the basement and rummage around in a box,
5 and I will dig out my candle lanterns of which I have
6 a small collection.

7 These candles are a long-burning type.
8 They're supposed to go for eight or nine hours,
9 something like that. What kind of candle is that?
10 What's it made out of?

11 MR. HIGGINS: I'm trying to think. Ask that
12 again. What type of candle?

13 COMMISSIONER PEARSON: Well, it's a candle
14 specially made for use in a candle lantern so that you
15 can hang it up inside the tent and play cards or read
16 scary stories.

17 MR. HIGGINS: No, not really. Not to my
18 knowledge. It's probably in a tin. Is it in a tin, a
19 tealight?

20 COMMISSIONER PEARSON: No.

21 MR. HIGGINS: Or a container?

22 COMMISSIONER PEARSON: It's a metal base,
23 but otherwise freestanding.

24 MR. HIGGINS: A metal base? It has a little
25 base? It's a tealight or a food warmer maybe that you

1 can drop in there and light.

2 COMMISSIONER PEARSON: Well, no. It stands
3 up vertically about four inches high.

4 MR. HIGGINS: It might be a household
5 candle, straight functional white wax, pure wax
6 household candle.

7 COMMISSIONER PEARSON: If it's pure wax it
8 would most likely be petroleum wax?

9 MR. HIGGINS: Yes.

10 COMMISSIONER PEARSON: Okay. Well, I'm not
11 sure whether I'll get into this degree of detail with
12 the Girl Scouts, but thank you for clarifying it.

13 Shifting now to another question, Mr.
14 Higgins, in your testimony, which I followed along and
15 found quite interesting, there were some things that
16 were said that didn't seem to me to conform entirely
17 to the information that we had in the staff report, so
18 I went back and tried to understand here.

19 Toward the bottom of page 5 you indicated
20 that, "Since the late 1990s, sales and margins of U.S.
21 manufacturers of petroleum wax, including Candle-Lite,
22 have greatly declined due to increased dumping of
23 product imported from China."

24 I looked at the value of shipments over the
25 period of this investigation, and this is BPI,

1 business proprietary data, and so you wouldn't have
2 it, although Mr. Stayin and Mr. Love would, but as I
3 look at the information that we have available rather
4 than seeing a decrease in sales I'm seeing an
5 increase. I'm wondering. Would you be able to
6 explain that discrepancy?

7 MR. LOVE: Yes. I can make a comment or two
8 on that if I may. I think what he's referring to is,
9 first of all, the significant decline in the average
10 unit value of candle shipments by domestic producers
11 in the aggregate, and that shows through fairly
12 clearly in the staff report data.

13 Also, we provided to you on an APO basis in
14 our prehearing brief an analysis of the environment
15 that Mr. Higgins' firm is operating in, as well as the
16 other three firms here. It's basically they're
17 serving the traditional high-volume mass merchandiser/
18 department store channels of distribution, which
19 accounts for about 80 percent of the whole market, and
20 it's in that area where imports from China, subject or
21 non-subject, have always focused.

22 Of course, with the increase in total
23 imports from China and the blended candles from China,
24 it's created a much more intense pricing environment
25 in those channels so what Mr. Higgins is talking

1 about, Mr. Pappas and Mr. LaZar and Mr. Goddard, what
2 they're looking at is consistent with what Bob has
3 testified to.

4 We try to kind of explain that and show that
5 in our prehearing brief. I can go into more detail if
6 you'd like, but we think it's a true phenomenon what
7 Mr. Higgins is referring to.

8 MR. HIGGINS: Candle-Lite's sales alone have
9 dropped over 30 percent in the last five years, our
10 gross sales.

11 COMMISSIONER PEARSON: Mr. Stayin?

12 MR. STAYIN: There is a distortion in that
13 data in that there is a segment that is somewhat
14 insulated from Chinese competition, and that segment
15 is what has skewed the numbers so that it shows
16 shipments are going up.

17 The large segment, the overwhelming segment,
18 probably 80 to 90 percent of the industry itself, is
19 experiencing the decline. There's this one unique
20 segment that has done very well according to their
21 statistics, and it has skewed the numbers up.

22 COMMISSIONER PEARSON: Are you able to say
23 anything more about that segment, or is that something
24 that would get into the --

25 MR. LOVE: We can expand on that a bit. I'm

1 hesitant to say too much because I'm just scared to
2 death of, you know, revealing APO information, but
3 it's a segment of the market that we refer to as
4 direct sellers, okay, and it involves the essential
5 feature of it is an integration of the operation from
6 production all the way through to sales to the
7 individual customer at the end, okay?

8 One of the models that has been used to do
9 this successfully is the Tupperware model where the
10 producer/distributor will contract with or establish a
11 relationship with individuals who will then in their
12 home present candles and other gift-type articles to
13 their friends, their customers.

14 It tends to be a distribution that sells to
15 individuals with higher disposable income, and because
16 there's complete integration there's no entry point
17 for competition from either import or domestic
18 suppliers to affect the price of the candles that are
19 sold in that fashion.

20 It's very difficult to do this. We've been
21 told by the gentlemen here in this room that there
22 have been a number of attempts to do this and some
23 have failed, but some have been very successful. It's
24 a small part of the market; we estimate about 10
25 percent of the market. It's not going to get any

1 bigger than that. It's just there, and it happens to
2 be shall we say atypical and much different a trend
3 than what these gentlemen here have had to deal with.

4 If you'd like more, I just hesitate to get
5 into numbers and specifics, but it's in our prehearing
6 brief. I'd be happy to go further into that in a
7 posthearing brief.

8 COMMISSIONER PEARSON: Okay.

9 MR. LOVE: Is that helpful?

10 COMMISSIONER PEARSON: Well, frankly it
11 would be helpful to maybe elaborate on it a little
12 further in the posthearing brief because, you know,
13 Mr. Higgins' statement also indicates that margins of
14 U.S. manufacturers have declined, and of course the C
15 table, the summary table that I'm looking at, would
16 contradict that statement.

17 MR. LOVE: Yes. Exactly. Sorry.

18 COMMISSIONER PEARSON: And then, you know,
19 flipping over to the next page there's a reference to
20 manufacturers having experienced a decrease in
21 production. Again I see the production numbers
22 rising. Basically it's no change from the beginning
23 to end of the period with a dip in the middle.

24 There's a reference to profits having
25 decreased. Again I see profits having risen. There's

1 a reference to capacity utilization having gone down,
2 which our data indicates that that's correct, but I
3 note that it seems to be caused not by a decrease in
4 output, but rather by a substantial increase in
5 domestic production capacity so it's a correct
6 statement, but one that might require a little
7 interpretation for us to understand it well.

8 The problem I have is that on the record in
9 the staff report we have some fairly definite
10 information that may or may not require clarification,
11 but it's laid out.

12 MR. LOVE: Yes.

13 COMMISSIONER PEARSON: Then we have the
14 statement by Mr. Higgins, which seems to contradict
15 some of it, so how do I interpret this? You know, is
16 the statement anecdotal, or with proper explanation
17 does it dovetail with what I'm seeing in the staff
18 report?

19 MR. LOVE: I would say both. I would say
20 both. It's true to his experience and his firm over
21 the period of review, but it's also true with respect
22 to the majority of producers who serve the traditional
23 high-volume sales channels in the market, which
24 basically accounts for about 75 to 80 percent of the
25 entire market.

1 I would refer you to Exhibit 15 of our
2 prehearing brief. These are APO data so I hesitate to
3 even characterize them. I would however say that when
4 he says decreasing margins that is true of the vast
5 majority of companies that are serving these high
6 volume channels of distribution that account for 75 to
7 80 percent of the market.

8 It is a true statement for not just his
9 firm, but for all the other companies as well, and it
10 is the anomaly of these direct sellers who are
11 insulated from the import competition from China that
12 cause the discrepancy, okay, so I would urge you to --
13 I would refer you basically to Exhibit 15 of our
14 prehearing brief. It kind of elaborates on that a
15 bit. We can do more of course if you wish in the
16 posthearing brief.

17 COMMISSIONER PEARSON: Okay. Well, I will
18 take a look at Exhibit 15 after I get my reading
19 glasses.

20 Mr. Stayin?

21 MR. STAYIN: I was just going to say that
22 the data in the report is the gross data. What we
23 have done is break out that segment based on the
24 information that were in the responses.

25 When you break out that segment and look at

1 the other data, the rest of the responses that you
2 have, then you will see that it supports the testimony
3 of each one of these individuals here. Without the
4 anomaly you don't have that trend that the report
5 shows right now.

6 COMMISSIONER PEARSON: Okay. Shifting
7 gears, am I correct to understand that you're asking
8 us to go back and redefine what the Commission did in
9 1986 regarding the definition of petroleum wax
10 candles?

11 MR. STAYIN: We're asking that the
12 Commission clarify what the petroleum wax candle is,
13 what the like products are, and that petroleum wax
14 candles are candles that contain petroleum wax.

15 The only reason that you had the 50 percent
16 number is because the Commission was trying to
17 determine -- basically the Catholic church required
18 that all candles be beeswax candles. They then
19 modified it to saying well, if it's 50 percent, over
20 50 percent beeswax, then that will satisfy our
21 requirement in our church.

22 That is how you came up with the 50 percent
23 number for beeswax. The beeswax candles are not
24 candles that competed against petroleum wax candles.
25 They were not like products. What you're dealing with

1 now is another product that is a like product, okay,
2 and that's these blended wax candles.

3 We are asking that you determine that all
4 blended wax candles except beeswax candles are within
5 the like product definition.

6 COMMISSIONER PEARSON: Okay. With the fact
7 that my light is changing and in the expectation that
8 some of my colleagues might have further questions on
9 this, I will pass for now. Thanks.

10 CHAIRMAN KOPLAN: Thank you, Commissioner
11 Pearson. Actually, I would like to follow up on your
12 question.

13 Mr. Stayin, let me stay with you on that.
14 In the NCA response to the notice of institution of
15 this five-year review dated September 21, 2004, you
16 state at page 36, and I quote, "The NCA agrees with
17 the Commission's definitions of the domestic like
18 product and the domestic industry as stated in the
19 Commission's original determination."

20 On page 2 of your comments on adequacy filed
21 October 18, 2004, you state that, "The Commission is
22 urged to conduct an expedited review as authorized by
23 19 U.S.C. § 1675 (c) (3) (B)."

24 However, I note that on March 7, 2005, the
25 Department of Commerce published a notice of

1 initiation of anticircumvention inquiries regarding
2 this order, which is still pending. Final
3 determinations from Commerce are not due until January
4 of 2006.

5 Subsequently in your prehearing brief dated
6 May 16, 2005, you state at page 7, and I'm quoting,
7 "NCA respectfully requests that the Commission clarify
8 the domestic like product analysis and determination
9 to make it clear that domestic like products include
10 all candles other than beeswax candles containing
11 petroleum wax."

12 Is your motivation in urging the Commission
13 to expand the definition of the domestic like product
14 intended to affect the outcome of the Commerce
15 Department's anticircumvention investigation? I must
16 tell you that I regard those investigations as totally
17 separate from my analysis and this second review, and
18 what I'm struggling with here as I look at the history
19 of your filings in this second review, the first I see
20 this issue you're raising today is in your prehearing
21 brief.

22 MR. STAYIN: Yes. That's when we saw the
23 number that 78 percent of candles coming in from China
24 in 2004 were non-subject candles, and we realized that
25 this thing is a much bigger problem than we ever

1 dreamed it was.

2 That volume is so huge. We just had no
3 idea, so we felt that at this point we had to address
4 this issue and ask the Commission to reconsider this,
5 to consider this new product that came into the
6 market. The Commission has the authority to --

7 CHAIRMAN KOPLAN: But it's been in the
8 market since 2001.

9 MR. STAYIN: It's been in the market during
10 the period of review, yes.

11 CHAIRMAN KOPLAN: Right.

12 MR. STAYIN: Right, but it hasn't really
13 reached the volume until we got into 2004. The volume
14 increased. 2001 is when they first started to ask the
15 Department whether or not this was within the scope of
16 the order.

17 CHAIRMAN KOPLAN: Okay. Let me stay with
18 you on this. What exactly do you propose as the
19 domestic like product that is like and most similar to
20 subject imported petroleum wax candles? At page of
21 your brief, you describe, and I quote: "Candles
22 containing a blend of petroleum wax and palm, soy, or
23 other vegetable waxes where the nonpetroleum wax makes
24 up slightly more than 50 percent of the content,
25 hereinafter referred to as 'blended wax candles.'"

1 At page 7, you request the Commission to,
2 and I quote, "clarify the domestic like product
3 analysis and determination to make it clear that
4 domestic like products include all candles other than
5 beeswax candles containing petroleum wax."

6 Is there any lower limit on the percentage
7 of petroleum wax in blended wax candles? Can the
8 balance be any wax?

9 MR. STAYIN: I think I should really ask our
10 clients that. Our position is that all candles have
11 some additives to them, and so you might have some of
12 these things as additives, but the bottom line is that
13 there is no question that these are like products and
14 that the Commission didn't have an opportunity to
15 consider this during the original investigation
16 because they didn't exist, and that's why we're asking
17 you to take a look at it now, because it just came
18 into our market in the period of this review, this
19 five-year review.

20 CHAIRMAN KOPLAN: But you had actually asked
21 us to expedite this review. We wouldn't have even had
22 this --

23 MR. STAYIN: I'll tell you something. The
24 Candle Association has been fighting so many battles
25 to preserve this order, that they voted to ask for an

1 expedited review rather than to incur the expense of a
2 full review.

3 CHAIRMAN KOPLAN: Let me ask you this
4 because you've made this a very important issue for
5 you. Footnote 21 on page I-13 of the staff report,
6 identifies the NCA members that, and I quote, "produce
7 some candles as blends of petroleum wax and vegetable
8 waxes." An e-mail from you is cited as the source of
9 the information. The firms and the levels of
10 production are confidential. However, I can say that
11 the data presented do not necessarily indicate to me
12 that blended candles of less than 50 percent paraffin
13 wax account for a significant share of domestic
14 production. Some of the blends identified in that
15 footnote are of greater than 50 percent paraffin wax
16 and so would fall within the definition of petroleum
17 wax candles. In other cases, the blend is not
18 identified.

19 In your post-hearing submission, could you
20 please provide data on domestic production of candles
21 produced with a blend of petroleum and vegetable waxes
22 in which the petroleum wax accounts for 50 percent or
23 less?

24 Secondly, having identified the domestic
25 producers, please provide information regarding the

1 similarities and differences between these producers'
2 petroleum wax candles and their blended wax candles
3 with less than 50 percent petroleum wax in terms of
4 physical characteristics, interchangeability, channels
5 of distribution, common manufacturing facilities,
6 processes and employees, consumer perceptions, and
7 price? Would you do that for me?

8 MR. STAYIN: Absolutely. I may comment that
9 we have information in our brief regarding all of
10 these issues and evidence that retailers are selling
11 both candles in their shops, in their stores, on the
12 same shelves, as you see before you; and, therefore,
13 what you're finding is they are sold everywhere
14 together, sold exactly as the same candles, and in
15 most cases, the consumer doesn't lift up the bottom to
16 see the country of origin. He just looks at the
17 candle, looks at the price, that looks good, and he
18 buys it.

19 But, yes, I will respond to each one of
20 those questions that you had asked.

21 CHAIRMAN KOPLAN: I appreciate that very
22 much.

23 Mr. Love, in your oral testimony, and I
24 think it was framed on page 6 of your prepared
25 statement, you mentioned that prices in the U.S.

1 market are higher than prices in other markets as a
2 result of the current order. Can you present any data
3 or relative prices of petroleum wax candles in other
4 markets, either now or for purposes of the post-
5 hearing submission?

6 MR. LOVE: We will make an effort to do
7 exactly that. I will state that my assumption about
8 price differentials was based on questionnaire
9 responses from companies to the Commission who we
10 believe were in a position to know this, but we will
11 work on that for the post-hearing brief.

12 CHAIRMAN KOPLAN: Thank you.

13 The NCA brief states, at page 25, citing the
14 staff report, Chapter 2, page 10, and I quote: "Palm
15 wax has actually been considerably more expensive as a
16 wax raw material than petroleum wax." Other than
17 anecdotal information, and I know Mr. Pappas testified
18 this morning, and he touched on this, can industry
19 witnesses provide data on the relative prices of
20 petroleum wax, soy wax, and palm wax?

21 MR. LOVE: The answer is yes.

22 CHAIRMAN KOPLAN: Mr. Pappas?

23 MR. PAPPAS: Generally speaking, in the
24 period involved, it was almost double the cost for the
25 vegetable waxes as compared to the paraffin waxes that

1 we had during the period.

2 CHAIRMAN KOPLAN: Can you all elaborate on
3 that in your post-hearing submission in detail?

4 MR. PAPPAS: We can give Mr. Stayin the
5 numbers, yes.

6 CHAIRMAN KOPLAN: That would be very
7 helpful.

8 MR. PAPPAS: I think also it could be noted
9 that in the staff report there are other comments that
10 indicate the same thing.

11 CHAIRMAN KOPLAN: I appreciate that. I'm
12 looking for data, if I could get that.

13 I see my light is about to come on. I thank
14 you for your answers thus far to my questions, and
15 I'll turn to Vice Chairman Okun.

16 VICE CHAIRMAN OKUN: Thank you, Mr.
17 Chairman, and let me join my colleagues in welcoming
18 all of you here today. We appreciate all of the
19 information you've given us and your willingness to be
20 here to answer questions.

21 Mr. Stayin, let me just ask a couple of more
22 on the like product question, as I look back and try
23 to understand how the Commission came up with the
24 original 50 percent or greater than 50 percent. I'm
25 not quite sure I see where we got to that anyway. So

1 I'm willing to look at it.

2 But what I'm trying to understand is when
3 we're talking, and I haven't had a chance to look at
4 the bottoms, but when you're talking about the
5 definition -- I know the chairman just asked you to
6 put some of this for post-hearing, but if something is
7 considerably less, I'm trying to figure out, is it a
8 percentage that you're looking for when we're talking
9 about blendeds, or if its petroleum wax with 80
10 percent everything else, does it still make a candle
11 that holds up?

12 Mr. Pappas, you may have started to talk
13 about this, about how it holds together, but I'm just
14 trying to make sure I understand whether the blends
15 can go on the high side or on the low side and doesn't
16 matter, and is there a definition that the Commission
17 could use that gets to the ones that you say are
18 competing directly that we've seen in this increase
19 during the period of investigation? Help me out on
20 that.

21 MR. STAYIN: I think that it may depend on
22 whether it's in a container, a wax-filled container,
23 or standing straight up. I would like both Mr. Pappas
24 and Mr. Higgins to comment on that.

25 MR. HIGGINS: Typically, back when we got

1 the original order, there were other additives in our
2 candles, but they were in the range of a half percent
3 to maybe 10 -- even 20 was a stretch, but probably 10
4 percent of other additives like stearic acid and some
5 other ingredients. The more soy wax or palm oil you
6 put in these candles, the more difficult it is to
7 burn. So if a candle contained 10 or 20 percent, it
8 would be considered an additive and not the majority.

9 So I think if it was over 50 percent of
10 another product besides paraffin wax, it was
11 considered that item, like beeswax. If it was 51
12 percent beeswax candles formula, then they considered
13 it beeswax instead of paraffin. But it's more
14 difficult, the more soy and vegetables waxes you put
15 in, for it to burn and for it to be a functional
16 candle.

17 MR. PAPPAS: Unfortunately, candles are as
18 simple as they appear to be. Most people would define
19 them as a piece of wax with string in them. They are
20 much, much more complicated than that. The heart of
21 the fuel of the candle has to do with the fragrance,
22 the wick, the size of the container, the style of the
23 candle, and it's very hard for me to sit here and say,
24 okay, here is a catch-all definition of everything
25 that works. That's the difficulty I have with what's

1 being said here.

2 I don't want to get off the subject, and if
3 I do, you tell me, but I think we can look here to
4 some past experience not with basically the vegetables
5 but with gel candles. We saw this type -- it was a
6 product where they took mineral oil and basically
7 gelled it. They started coming in from China. They
8 were the be-all, end-all. This was a product that was
9 outside the scope. Basically, when Commerce took a
10 very strong look at this, they determined that the
11 mineral oil in it was basically a hydrocarbon chain
12 and was very like paraffin. The result was, all of a
13 sudden, there weren't any more gel candles coming in.

14 This is a replay of the same thing. If this
15 were the feature and benefit that they claim that it
16 is, why aren't they on these candles? Why wouldn't
17 they be in the main display panel featuring the fact
18 that it's vegetable based? It only appears on the
19 bottom of some of them. That's a very small number,
20 and my guess is that if somebody in Customs looks at
21 that candle, they can see that the number that they
22 claim that it has palm wax.

23 My difficulty here is it's hard to sit here
24 and give you a rule because candles are very unique.
25 We have some very unique applications that we use some

1 of these materials in, and they are something that we
2 can't -- we have not been able to expand our line to
3 the breadth that they have here because we basically
4 feel the product doesn't do what our customers expect.

5 VICE CHAIRMAN OKUN: Mr. Stayin, I think you
6 had mentioned the Mexico order as having included
7 blended products. Have you seen that order? Do you
8 know how they defined it?

9 MR. STAYIN: Mexico defines it as all
10 candles from China.

11 VICE CHAIRMAN OKUN: All candles.

12 MR. STAYIN: All candles from China.

13 VICE CHAIRMAN OKUN: No reference at all to
14 types of waxes or anything.

15 MR. STAYIN: Not waxes nor novelties or
16 anything.

17 VICE CHAIRMAN OKUN: Okay. All right. So
18 that would be helpful. I have some other questions to
19 follow up, but I will appreciate the additional
20 information that you've been asked to provide as well.

21 Let me ask a price question. I might have
22 several, but the one that I've been thinking about
23 here, trying to look at this different data that's
24 been collected, and you've referenced AUVs. How
25 relevant, or how much weight should we put on AUV data

1 when you've talked about the product's mix, and do you
2 have a sense of whether the product mix itself has
3 changed over time, recognizing that this candle sells
4 for much less than that candle? I'm just trying to
5 figure out how to look at these AUVs. Mr. Love, do
6 you want to comment on that?

7 MR. LOVE: Yes. I share your concern about
8 the AUV data. It's what, Chesterton said you should
9 use statistics as a drunk uses a lamp post for support
10 and not illumination? And I think there is a little
11 bit of that with respect to the AUV data.

12 For example, the big decline in the AUV of
13 imports from '97 to '98, from \$1.52 to \$1.00; there is
14 no question that that was an absolute decline in the
15 price throughout the market, and the domestic
16 producers have confirmed that. They started really
17 being concerned at that point. However, product mix
18 also, I think, plays a role. My guess is that at that
19 time, as the volumes surged, you had a greater portion
20 of the lower-priced, commodity-type candles coming in
21 and a smaller portion of the novelty candles, the
22 figurines, the higher-unit-value products, and that
23 contributed to that decline. It's just simply a
24 product-mix issue.

25 The problem is I don't know how to evaluate

1 that precisely. I just don't know. We can just go on
2 the basis of what we can learn qualitatively as
3 opposed to quantitatively. So there are real issues
4 with the average-unit-value data, and I think that the
5 price analysis, price comparison, data suffer from
6 that problem as well.

7 So I don't have a good answer. It would be
8 extremely cumbersome and time consuming to try to get
9 a pure price of a particular product over time. It's
10 just inherent -- with the vast variety of types of
11 candles, it's just very difficult to rely completely
12 on AUVs.

13 VICE CHAIRMAN OKUN: Okay.

14 (Discussion off the record.)

15 VICE CHAIRMAN OKUN: Do you want to respond
16 with the microphone?

17 MR. LOVE: I'm sorry. Mr. Stayin was just
18 reiterating or reemphasizing the fact that the AUV
19 data are better than the pricing data because the
20 pricing data, particularly on the importers' side, was
21 just terrible: very incomplete, included domestic
22 shipment data in the import data, pricing data. They
23 were just unusable. So, in that sense, the AUV data
24 are somewhat more accurate than the pricing data.

25 VICE CHAIRMAN OKUN: I have some more

1 questions on prices, but one thing I wanted to come
2 back to, Mr. Love, just to follow up on a question
3 that Commissioner Pearson had about how we evaluate
4 the current state of the industry, and I understood
5 your response, and I, obviously, don't want to get
6 into APO data, and my yellow light has come on.

7 But one thing that I want you to do for
8 purposes of post-hearing is in Exhibit 15, which
9 you've referenced several times, you have determined
10 who to put in there based on whether you called them
11 someone who was a direct seller or not. In looking at
12 that, I have some questions about, in particular, one
13 of the large producers that you chose not to put in
14 there, and if you put that producer back in, the
15 trends change completely. Again, I was looking at
16 their 2004 to see what percentage of sales went to the
17 different channels of distribution, and I couldn't
18 understand why you've chosen to do it that way.

19 So for purposes of post-hearing, if you
20 could go into that, and if we need to be more explicit
21 in a post-hearing question, I can do that as well.

22 MR. LOVE: Yes. I would be glad to do that.
23 I think I know what you're referring to. I think we
24 put that company in as a direct seller for reasons
25 articulated in the prehearing brief, and we had only

1 certain information available on an aggregate basis
2 for that company, which we felt should not be included
3 in Exhibit 15.

4 If we had more precise data on profitability
5 for that company, we perhaps could revise Exhibit 15,
6 but we did not, and we don't think we're going to get
7 it.

8 VICE CHAIRMAN OKUN: Okay. Well, I have
9 some other questions about -- trying to segment it out
10 that way, in any event, but my red light is on, so
11 we'll have time to explore that later.

12 Thank you, Mr. Chairman.

13 CHAIRMAN KOPLAN: Thank you.

14 Commissioner Miller?

15 COMMISSIONER MILLER: Thank you, Mr.
16 Chairman, and welcome to the panel. It's good to see
17 you and good to have you here, and we appreciate you
18 helping us understand your industry better.

19 I'm going to go back again, at least to
20 start, with some questions about the scope issues.
21 The case actually raises a lot of interesting, kind of
22 novel questions for us. But I want to make sure I
23 understand -- first of all, let me just say something
24 about what I see our role here is because Commerce
25 determines the scope of the case. They have defined

1 the scope as petroleum wax candles, and so they do
2 that. They decide it's petroleum wax candles. Our
3 job is just to decide what domestically produced
4 product is like those subject imports.

5 So I'm asking myself much the questions
6 about U.S. producers making blended products. You
7 said they exists, which, for purposes of your case, is
8 a good thing because if they didn't exist, we couldn't
9 say they were like the imports. They have to exist.
10 We have a little bit of data. I know the chairman has
11 asked you for more data about those producers. That's
12 the question. You know, does our record include
13 information about blended candle production in the
14 United States? Do you think the data that we have,
15 the data that we have right now, not just the
16 footnotes, includes such production, to the extent
17 that it does exist?

18 MR. STAYIN: I believe that it does, and
19 questions were asked in the questionnaire about these
20 blended candles, about their substitutability, about
21 the impact. There are a number of questions that went
22 to that issue in the questionnaire that went out. We
23 will get more data from these individual companies, as
24 requested.

25 On the scope question, that Commerce sets

1 the scope, in this particular instance, Commerce
2 relied on the definition in the ITC's like product
3 description, --

4 COMMISSIONER MILLER: Understood.

5 MR. STAYIN: -- which we believe was taken
6 out of context because it was dealing with a product
7 that was excluded and not the product that we're
8 dealing with.

9 COMMISSIONER MILLER: And that's where I'm
10 going next, is to ask you, when I look at the scope,
11 as defined in the original investigation and
12 continues, and it uses the word "petroleum wax
13 candles," why did it use the word "petroleum"? Why
14 didn't it just say "candles"? Was it because of the
15 beeswax candle issue? Is that the only reason it said
16 "petroleum wax candles"?

17 MR. STAYIN: Yes. At the time, in the
18 United States, there were only two kinds of candles
19 being made: petroleum wax, 100 percent; and beeswax
20 candles. Furthermore, the only imports that were
21 coming in were petroleum wax candles. In the report,
22 in the determination, it says the Chinese use only
23 semi-refined petroleum wax. So that was the only
24 product that was coming in at that time. It was the
25 only product being made here at that time, and --

1 COMMISSIONER MILLER: Wait a minute.

2 MR. STAYIN: Beeswax was the other.

3 COMMISSIONER MILLER: Beeswax was made, but
4 you made a conscious decision -- as the industry, you
5 filed the case on petroleum wax candles because even
6 though there was beeswax production in the U.S., you
7 didn't consider it to be competing against the
8 petroleum wax candles. I don't know very much about
9 the beeswax candles.

10 MR. STAYIN: It's true. They did not, and
11 they do not, compete against petroleum wax candles;
12 and, therefore, they were not a like product. They
13 cost three times as much to make. They are much more
14 expensive. They don't compete against petroleum wax
15 candles. You don't see them in the same markets. You
16 don't see them on the same shelves as you see these.

17 So the Commission determined that they were
18 outside the scope. Their market -- 95 percent of
19 their sales go to churches or religious organizations,
20 and they don't buy petroleum wax candles. They use
21 the beeswax candles.

22 COMMISSIONER MILLER: Okay. So the word
23 "petroleum" was there essentially to create that
24 division with beeswax.

25 MR. STAYIN: The distinction from beeswax,

1 yes.

2 COMMISSIONER MILLER: You've made comments a
3 few times from the producers here about blended wax
4 candles being more expensive to produce, but I don't
5 really understand why, the hydrogenation process?
6 Tell me more about the production. Help me understand
7 the production of the candle a little bit to
8 understand why it's more expensive to produce the
9 blended one.

10 MR. STAYIN: Let me make one clarification
11 for my colleagues. There are two different -- one is,
12 how do you make a wax, the blended wax? and these
13 people don't make that.

14 COMMISSIONER MILLER: Right.

15 MR. STAYIN: The other is, how do you
16 produce a candle with that blended wax?

17 COMMISSIONER MILLER: I see.

18 MR. STAYIN: And that's -- I'll leave it to
19 them to respond --

20 COMMISSIONER MILLER: Okay.

21 MR. STAYIN: -- in terms of the cost.

22 COMMISSIONER MILLER: Okay. Then maybe just
23 sort of supplement that. When you talk about it being
24 more expensive, is it because the wax itself that you
25 use would cost more? You don't produce the wax. What

1 do you do? We were just saying that this would have
2 been a fun one for a factory tour. I'm sure I would
3 love to see candles made. Mr. Pappas?

4 MR. PAPPAS: Yes. The production of these
5 products is very small in our company, primarily
6 because of the high cost of the product at retail.
7 Essentially, we process the materials on the same
8 equipment we make our regular candles on. They tend
9 to be a product that is poured, I think, which is
10 described in some of the background material.

11 The significant difference is in the cost of
12 the material, raw material, and basically what happens
13 is that paraffin, in most cases, comes in in liquid
14 form. Because of the small volumes, a lot of times
15 the other products are used in a slab form and then
16 melted down, but that's basically the progress.

17 COMMISSIONER MILLER: As petroleum becomes
18 more expensive, is it still --

19 MR. PAPPAS: We don't know where it's going.

20 COMMISSIONER MILLER: Right.

21 MR. PAPPAS: Actually, our responses to some
22 of the questionnaires were a little different than
23 most because we didn't see that increase in petroleum
24 until the last part of the period. That was actually
25 a very interesting feature in the sense that the

1 flooding of the U.S. market by the People's Republic
2 of China with wax during this period actually
3 suppressed the price that we saw.

4 COMMISSIONER MILLER: When you say "wax," do
5 you mean paraffin?

6 MR. PAPPAS: Paraffin, and that's why this
7 is so untenable to me. Why, when you basically have
8 such an excess supply of this material in your own
9 country, would you use a more expensive material to
10 make product and send it in? It just doesn't make any
11 sense.

12 And what happened, at the end of the period,
13 they basically withdrew from the market, and where
14 producers of petroleum wax weren't able to pass on
15 price increases because -- they couldn't pass them on
16 because of the cost of the wax coming in from China,
17 then they basically would pass on the increase in the
18 price accrued to wax. But it's really kind of
19 critical during this discussion to understand that
20 there was a huge availability of paraffin wax
21 available to the Chinese to make these products, and
22 they chose, chose, to use a more expensive material.

23 Palm basically is made from taking palm oil,
24 and I guess there is some discussion whether it comes
25 from the leaves or where it comes from, but they take

1 this, and, for the most part, in an oil form, it can't
2 meet the definition of a candle wax because a candle
3 wax has to be solid at room temperature, and these
4 materials can't do that. So they have to run them
5 through a process where they add hydrogen where there
6 is a double bond, and I don't want to get too
7 complicated on this, but it allows it then to be solid
8 at room temperature, and you can then mimic the
9 characteristics of a candle wax with these materials.
10 That's the only reason it's come into play.

11 Like I said, it's just incredible to me that
12 there was a very huge supply of cheap petroleum wax
13 available, and what you saw coming in was probably the
14 most expensive thing they could use and selling it for
15 the same price as paraffin. It just doesn't make any
16 sense to me.

17 COMMISSIONER MILLER: But basically, what I
18 hear you saying, then, it's the cost of the palm oil
19 itself and what you have to do to it, the process,
20 that makes it so expensive.

21 MR. PAPPAS: Yes. It's the materials.

22 COMMISSIONER MILLER: Okay. The red light
23 is on, so I'll have to stop with these questions at
24 this point. Thank you.

25 CHAIRMAN KOPLAN: Thank you, Commissioner.

1 Commissioner Hillman?

2 COMMISSIONER HILLMAN: Thank you. I, too,
3 would like to join my colleagues in welcoming you. We
4 very much appreciate your taking the time to be with
5 us and helping us understand your industry and how it
6 works.

7 Maybe if I -- just a little bit so
8 understand it, where do you all source your paraffin
9 wax, and where do you source -- if you're using a
10 vegetable, where do you get it from? Do you purchase
11 it from producers of wax that are making it for the
12 candle industry, or how does that process work?

13 MR. PAPPAS: In our particular case, we use
14 a U.S. domestic producer of petroleum wax. Exxon is
15 our major producer. The vegetable materials that we
16 use come from different processors here in the States.
17 I believe that probably the source is not domestic.
18 You know, we buy it in bags or slab form.

19 COMMISSIONER HILLMAN: Okay. Does anyone
20 else have anything different?

21 MR. LaZAR: Very much like George, General
22 Wax also purchased their paraffin wax domestically,
23 and a very small amount of vegetable waxes may be used
24 to enhance the product, but I'm talking, like, half
25 percent, no more than about 3 percent, and generally

1 those raw materials would come from vendors within the
2 United States, and possibly they might source them
3 from Malaysia or somewhere overseas, but the vast
4 majority of the candle raw material is from the U.S.

5 COMMISSIONER HILLMAN: Then if I can just
6 understand the issue of beeswax. As I heard you
7 describing it, you're saying it's a lot more
8 expensive, but you're also saying palm oil is more
9 expensive, and all of these others are more expensive.
10 So why wouldn't the Chinese have gone into beeswax
11 production? Help me understand the difference there.

12 MR. PAPPAS: If I might, I think you have to
13 understand that beeswax and hydrogenated oils are a
14 little bit different from one another. Beeswax is a
15 naturally occurring material that goes through
16 filtration and purification, if you will, to make it
17 usable, so it's totally produced here. The big issue
18 with the vegetable materials is the supply wasn't
19 available. You know, when the original order came in,
20 there just wasn't much of it around. We didn't see
21 it. It wasn't available, and it's only recently that
22 this material has become readily available.

23 COMMISSIONER HILLMAN: On the beeswax side,
24 why are beeswax candles, again, so heavily in the
25 religious church market? What is it about a beeswax

1 candle that makes it more appealing to a church than
2 it does --

3 MR. PAPPAS: It's canon law. In other
4 words, canon law dictated, during the time that the
5 original order was put through, at one time it was 100
6 percent, and probably the orthodox right, but
7 primarily the Catholic right, actually said you have
8 to have so much beeswax in your candles, and it was
9 reduced to 51 percent.

10 Randy might expand on this. The main reason
11 there were differentiations made, at the time, the
12 industries were so different between candles and
13 church candles, you know, the church business was more
14 profitable, and basically that's --

15 COMMISSIONER HILLMAN: Mr. LaZar?

16 MR. LaZAR: To try to answer your question,
17 this is history that I've been taught about the
18 beeswax. Bees are the ones that gather the wax, and
19 the church values the bees because they found the bee
20 very pure. At first, the only understood them to be
21 all male bees that gathered the wax, so they were
22 considered virgins at that point, and the church
23 wanted to kind of look up to the fact of how pure and
24 natural the bees were and that man or humans should
25 follow like. So burning a beeswax candle is a symbol

1 to try to follow in the right direction.

2 COMMISSIONER HILLMAN: So it has nothing to
3 do with how the candle burns, I mean, that beeswax
4 burns better or cleaner or less smoky. It has nothing
5 to do with the candle; it's a religion, historical
6 issue.

7 MR. LaZAR: A side benefit. It just
8 happened to be as well that beeswax candles, produced
9 properly, do burn very cleanly and are a very good
10 candle as well.

11 COMMISSIONER HILLMAN: Okay. All right. I
12 appreciate that. It's always interesting to take on
13 new industries and new cases, and you learn something
14 new.

15 Let me go from the history and religion to
16 the mundane of pricing. I'm trying to understand a
17 little bit about this issue of just how should we look
18 at the pricing data? I noticed, Mr. Higgins, in your
19 testimony, you described prices in pounds. Other
20 places, we're looking at prices literally according to
21 the particular kind of candle. So maybe it would help
22 me to understand just how you go about pricing your
23 product.

24 Does the industry think of selling candles
25 by the pound, in terms of how much wax, or are you

1 really much more looking at it as it's X amount of
2 money for this size, you know, 10 inch, six inch,
3 whatever, this diameter? How do you all set your
4 prices, and when prices change, do they change across
5 the broad range of everything? How do you go about
6 establishing prices?

7 MR. HIGGINS: It used to be whatever the
8 market will bear, but today it's whatever the Chinese
9 are selling it for.

10 COMMISSIONER HILLMAN: When you say
11 "whatever the market will bear," is the market pricing
12 literally every single individual variation of a
13 candle differently?

14 MR. HIGGINS: Yes, yes.

15 COMMISSIONER HILLMAN: I mean, you say a 10-
16 inch tape is worth X, and eight inches wide and such-
17 and-such round as this. How does the market determine
18 a price?

19 MR. HIGGINS: It's, again, wherever it's
20 sold and whatever they can get for the item.

21 COMMISSIONER HILLMAN: Individually, by
22 individual shape and size.

23 MR. HIGGINS: Yes.

24 COMMISSIONER HILLMAN: A different price for
25 every shape and every size.

1 MR. HIGGINS: Right. It isn't based on a
2 pound or anything like that.

3 COMMISSIONER HILLMAN: Okay. It doesn't
4 matter what the color is, et cetera. Every single one
5 of those things changes the price.

6 MR. LOVE: If I could say, everything does
7 affect and change the price. Scented versus unscented
8 will have a price differential attached to it.

9 COMMISSIONER HILLMAN: Red is a different
10 price than blue?

11 MR. LOVE: Well, I think colored versus
12 uncolored would be somewhat of a differential.

13 COMMISSIONER HILLMAN: Mr. Goddard?

14 MR. GODDARD: Yes. In our experience at
15 HFH, the primary drivers are the cost, not necessarily
16 the price to the consumer, but the cost, are the
17 fragrances used, -- the fragrances can be very
18 expensive per pound -- and then second to that is the
19 wax because it's obviously the bulk of the candle in
20 percentage. Dyes that produce coloring are typically
21 a very small percentage of the cost of the product.
22 So what you'll typically see on the store shelves is
23 differences in candles that are the same size will be
24 the result of their fragrance difference and fragrance
25 load. Some candles carry more fragrance for a better

1 throw, things like that.

2 COMMISSIONER HILLMAN: And is there a
3 typical differential in terms of the sizes? Again, I
4 haven't gone in the market. I'll take a look at
5 these, but is there a general sense that a six-inch
6 candle is X, and if it's X, then the eight-inch candle
7 is so much more, and then the 10-inch is so much more?
8 Is there -- it just depends?

9 MR. LaZAR: Unfortunately, in our business,
10 we don't have a lot of branding, so we look at this as
11 more of a commodity, and the three-by-six is a very
12 good example. There is a benchmark price, so to
13 speak, and the buyers that we may face have very much
14 in mind of what they want to pay for it, and the
15 question is, depending on what they expect out of the
16 candle, if we can achieve and meet those prices.

17 So it's heavily influenced by the market,
18 and, again, in the mass market, price being such a
19 huge factor in a purchase decision, it does come down
20 to price, and, again, buyers will pretty much have in
21 mind what they are willing to pay for a candle.

22 COMMISSIONER HILLMAN: Now, would a mass
23 merchandiser who wants to stock blue candles like that
24 in whatever those are, four-, six-, eight-, 10-inch
25 size, are they going to have to source all of those

1 from the same candle producer in order to have them
2 come out the same color, the same all of that, or
3 could they literally source the 10-inch from you and
4 the two-inch from somebody else?

5 MR. LaZAR: They can and they have.

6 COMMISSIONER HILLMAN: They can and they
7 have.

8 MR. LaZAR: Yes.

9 COMMISSIONER HILLMAN: So if they just tell
10 you they want it to look exactly like this, they can
11 go anywhere they want.

12 MR. LaZAR: They can, yes.

13 COMMISSIONER HILLMAN: Do they, as a
14 practical matter, or is it easier for them, again, for
15 a given product line, to get all of it from a single
16 source, or literally it depends. If you've got the
17 cheaper price on the eight-inch, but he's got the
18 cheaper price on the four, and somebody else on the
19 two, they will source from all three sources just for
20 the price.

21 MR. LaZAR: It's probably more likely to
22 their advantage to try to source from one person
23 versus trying to split it among the three, depending
24 on the size of the merchandizer that we're talking
25 about. But history usually shows that they will

1 purchase it from one particular person for an extended
2 period of time, and they may switch to a different
3 time, but they have, and they can, purchased from
4 multiple companies.

5 COMMISSIONER HILLMAN: Mr. Goddard, did you
6 want to add something on that?

7 MR. GODDARD: Yes. Obviously, it depends on
8 the procurement strategy of the merchandizer in
9 question, but, in our experience, we have provided the
10 same candle with the same fragrance at the same color
11 as a competitor to the same merchandizer. So quite
12 often it is a procurement strategy on the part of the
13 merchandizer.

14 MR. HIGGINS: I guess that was my point to
15 price. The retailer determines the selling price, and
16 we decide if we can sell it for that or not or want
17 to. Some of these products, we sell at cost or even
18 below in some cases, and some we make some margin on.
19 So the retailer really determines the price, but we
20 have to determine if we can afford to make it for
21 them.

22 COMMISSIONER HILLMAN: Okay. I have some
23 follow-ups, but the red light is on. Thank you all
24 very much for those answers.

25 MR. STAYIN: If I may just add another

1 comment, your comment on those four blue candles.
2 Three of them are made in China, and one was made in
3 Vietnam, --

4 COMMISSIONER HILLMAN: Thank you.

5 MR. STAYIN: -- but it's sold just like
6 that, like they are all from the same.

7 CHAIRMAN KOPLAN: Thank you, Commissioner.
8 Commissioner Lane?

9 COMMISSIONER LANE: Thank you.
10 I want to go back to something that Mr.
11 LaZar said in his initial remarks. You talked about
12 you were selling candles to the tune of \$1 million to
13 a certain customer, and then, at one point in 2005,
14 that amount dropped to \$100,000. Did that customer
15 buy candles that were blended candles instead of the
16 petroleum-based candle that you were selling?

17 MR. LaZAR: I'm not 100-percent sure of the
18 whole product line that they purchased from the
19 Chinese that were blended or not, but they were some,
20 and the loss in sales was based on price.

21 COMMISSIONER LANE: But you don't know
22 whether or not it was a blend outside the definition
23 of what we're looking at for petroleum-based candles.

24 MR. LaZAR: It's a little difficult to
25 answer because for the five-year period, we did see

1 some on their shelves that resembled and were very
2 much a replica of what we've sold them in years past,
3 and sometimes you could break them apart, and you
4 could see that they were blended, and sometimes they
5 weren't. So over the course of the time, we did start
6 to see blended candles that were very much like the
7 ones we once sold there.

8 COMMISSIONER LANE: Okay. Now, I have a
9 question on the exhibit here in front of me. As I
10 understand it, the white, tall candles and the peach-
11 colored candles, one is palm oil, and one is
12 petroleum. Now, were they sold for the same price
13 when you bought them at the store?

14 MR. STAYIN: Yes. I'm the one that was
15 responsible for that. They are. One is 52-percent
16 palm, and the rest is petroleum, the other is all
17 petroleum, and the price is exactly the same. In
18 front, there is a price slip, and you'll see taper,
19 taper, same price. The same thing is true for the
20 large pillar and the smaller pillars.

21 COMMISSIONER LANE: Okay. Thank you.

22 Mr. Love, in response to Vice Chairman Okun
23 regarding average unit value, you suggested that
24 average unit value is affected by product mix, but
25 then you continued that pricing data may have suffered

1 from changes in product mix. You may have changed
2 that statement with subsequent observations about
3 pricing data, but let me ask you directly, did you
4 intend to say that the very specific products
5 described in the pricing data were not specific enough
6 or that responses were inaccurate with regard to the
7 specific products?

8 MR. LOVE: My general observation is the
9 latter, that the data provided, particularly on import
10 pricing, was either nonexistent or flawed in the
11 respect that if you looked at the questionnaire, the
12 data underlying those pricing data, it included not
13 just sales of subject imports; it included sales of
14 nonsubject imports and sales of imports from countries
15 other than China and included domestic shipments, and
16 that is simply unusable for purposes of price
17 comparison.

18 COMMISSIONER LANE: Okay. Thank you.

19 Now, Mr. LaZar, I don't want to belabor the
20 quality point, and Mr. Pappas has already told us how
21 complex candle chemical is, but in response to an
22 earlier question, you used the term "enhanced" in
23 discussing adding vegetable wax to candles. What did
24 you mean by that?

25 MR. PAPPAS: There's different types of

1 vegetable waxes available, and the one that I was
2 referring to could help with a specific look, and it
3 can also make the candle harder. For a free-standing
4 candle, there is an advantage to making the candle
5 harder, that it will hold up in heat conditions,
6 especially in shipping, but only a very small percent
7 because it does affect the burn. So that was the
8 reason why I mentioned that.

9 COMMISSIONER LANE: Does vegetable wax
10 improve the burning quality of a candle?

11 MR. PAPPAS: Generally speaking, no. It
12 will harden the candle, but as far as burning it, it
13 takes more energy, and it may cause burning issues.

14 MR. HIGGINS: And that's as an additive.
15 They enhance the candle as an additive, a small
16 amount.

17 COMMISSIONER LANE: Okay. Now, Mr. Stayin,
18 what do you expect us to do with regard to the
19 producers that sell to these specialized markets, I
20 guess what's referred to as "Tupperware-type parties"?

21 MR. STAYIN: They are either Tupperware
22 parties, or they are selling to their own retail
23 outlets.

24 COMMISSIONER LANE: Yes. What do you expect
25 us to do with those producers and the data that we

1 have received from them?

2 MR. STAYIN: We believe that you should look
3 at two separate sets of data: one, the rest of the
4 industry, which accounts for 75 to 80 percent of the
5 U.S. industry, and look at that data to see how the
6 industry is really overall affected, and then you cut
7 that out so you can see the real impact on the overall
8 industry. The rest of that data is there, and it
9 talks about this one sector.

10 But if you really want to see the impact on
11 80 percent of the industry, you've got to carve that
12 amount out. It's a small number of companies, and the
13 volume isn't even that great. It's the pricing that
14 they are able to do because they don't have
15 competition from these imports.

16 COMMISSIONER LANE: Is there a legal basis
17 for segmenting out that particular part of the
18 industry?

19 MR. STAYIN: It's a condition of
20 competition, and, I think, with that in mind, it would
21 be imperative that you do make that distinction.

22 MR. LOVE: Can I make a comment? I think
23 that, of course, you're going to have to look at the
24 industry as a whole when you're evaluating the
25 economic trends and what the likely impact would be of

1 revocation, and if you look at the industry as a
2 whole, just as you have it in the staff report, that's
3 fine with us because we think that there is no
4 question that upon revocation there will be a
5 recurrence of material injury on an overall basis.
6 There is no doubt about that.

7 The reason that we tried to bring up this
8 distinction between direct sellers and the rest of the
9 industry is because it exists. It's an important
10 condition of competition. It's operating in the
11 market, and we have seen during the review period that
12 despite the order, there has been a significant
13 increase in total imports from China, and we think,
14 you know, perfectly substitutable with subject
15 imports, and that has, in fact, had an effect during
16 the review period.

17 Where is that effect occurring? It's
18 occurring in the traditional, high-volume sales
19 outlets that account for 80 percent of the production
20 and shipments of the industry. So we think it's
21 important that you be able to see that the increasing
22 imports and the low prices of imports have had an
23 effect during the review period. That's just an
24 important fact to know. It's separate and apart from
25 your looking at the overall industry and making an

1 assessment as to whether material injury is likely to
2 occur upon revocation.

3 COMMISSIONER LANE: Okay. Thank you.

4 MR. LOVE: Yes, ma'am.

5 COMMISSIONER LANE: Are the Chinese candles
6 sold in other countries mostly palm wax or mostly
7 petroleum wax candles?

8 MR. HIGGINS: Could I hear that again?

9 COMMISSIONER LANE: Are the Chinese candles
10 that are sold in other countries mostly palm wax or
11 mostly petroleum wax candles?

12 MR. HIGGINS: I think that because of the
13 petroleum industry they have and because it's heavy in
14 paraffin, that it's highly likely that the Chinese are
15 selling only petroleum wax to the other markets. It
16 wouldn't make any sense to buy a more expensive wax to
17 sell to other markets when they could sell their
18 petroleum wax, and they get no advantage by adding
19 these palm waxes to these other markets.

20 So I believe that 100 percent of the other
21 markets is petroleum wax. The only reason that they
22 are selling palm wax blends in this market is to get
23 around the duty, to get around the order. Like I
24 said, it didn't exist before, and now it's come in
25 only in the United States to get around the order in

1 the United States. They won't be selling that to
2 other countries in the world because they don't need
3 to.

4 COMMISSIONER LANE: Okay. I have one more
5 question, and I'll try to get it in. How do Chinese
6 palm or other vegetable wax and U.S. petroleum wax
7 candles compare in terms of quality?

8 Mr. Chairman, can I have an answer?

9 CHAIRMAN KOPLAN: Absolutely. I would like
10 to hear the answer to that myself.

11 MR. STAYIN: Does anybody want to answer
12 that other than me?

13 MR. HIGGINS: You're asking how paraffin wax
14 candles versus vegetable wax candles compare in
15 quality?

16 COMMISSIONER LANE: Yes. How the Chinese
17 vegetable wax candles compare to the U.S. petroleum
18 wax candles.

19 MR. HIGGINS: In my own experience, I would
20 have to say that they are very comparable in quality,
21 but they are more difficult to burn. The vegetable
22 wax-blended candles make it more difficult to burn,
23 and the aesthetics and burn quality of the candle, in
24 my opinion, are not as good, but they are very
25 comparable, appearance-wise.

1 COMMISSIONER LANE: Okay. Thank you.

2 Thank you, Mr. Chairman.

3 CHAIRMAN KOPLAN: Thank you.

4 Commissioner Pearson?

5 COMMISSIONER PEARSON: Thank you, Mr.

6 Chairman.

7 Since we last spoke, I had a chance to take
8 a brief look at Exhibit 15 from your prehearing report
9 and prehearing brief, and I understand now the point
10 that you were making. Just going back to what
11 Commissioner Lane was asking about, with our
12 obligation to look at the industry as a whole versus
13 your guidance that we look at it as a condition of
14 competition, if you've got further thoughts on that, I
15 would be glad to hear them.

16 MR. LOVE: We would be happy to address that
17 for you.

18 COMMISSIONER PEARSON: Let me ask about the
19 cost differences between palm wax and soy wax versus
20 petroleum wax. I'm not familiar with the petroleum
21 wax business, but I've had some previous experience
22 with palm oil and soy oil. Palm is generally the
23 lowest-priced vegetable oil in the world market. It's
24 produced very efficiently and at low cost in Malaysia
25 and Indonesia. China is either the world's first or

1 second-largest importer of palm oil from those two
2 countries, depending on what India happens to be
3 doing, so they have a lot of it in China for use.

4 The process of hydrogenation of vegetable
5 oils is fairly straightforward and done all of the
6 time. It is the basic process used to take vegetable
7 oil and turn it into margin, and so that's not
8 something that's unique or something that would be
9 done on a small-scale basis; rather, it's done on a
10 very large scale and at an efficient cost level.

11 With palm oil, you also have the effect that
12 at cool temperatures, like perhaps below 70 degrees
13 Fahrenheit, the consumer grades of vegetable oil will
14 turn solid. So this whole issue of is it a solid or a
15 liquid is going to depend a little bit on the specific
16 temperature, but that's going further than we need to
17 go.

18 The real question is, can you provide any
19 data for the record on the cost of palm wax, soy wax
20 versus petroleum wax because it's just not obvious to
21 me, based on what I know from outside this hearing,
22 that palm wax should be more expensive? Given the
23 current cost of petroleum, close to \$50 a barrel of
24 oil, it wouldn't surprise me at all that petroleum wax
25 would be quite a bit more expensive than palm wax when

1 bought in quantity.

2 So, Mr. Goddard, could you please comment on
3 this, if you could?

4 MR. GODDARD: I can provide one data point
5 that may be helpful. Right now, at HFH, we purchase a
6 range of paraffinic waxes that are candle grade that
7 cost somewhere around 30 to 40 cents a pound. We
8 manufacture a special candle for a particular customer
9 that is predominantly a vegetable, a palm wax, and
10 that wax costs us somewhere around 70 cents a pound.
11 So the price difference is dramatic for us, and in
12 this particular application, the market supports that
13 difference in the price to the customer.

14 COMMISSIONER PEARSON: Mr. LaZar?

15 MR. LaZAR: LaZar. Yes. I would like to
16 comment on that. I used to do product sourcing, and
17 still do, from China, and the quotes that I get are
18 broken down into two forms. One is 100-percent
19 paraffin, and one is with the triple blend, which is
20 the palm wax that you're referring to. And in each
21 and every case, the one that has the palm wax blend
22 costs more, but it's the choice of, of course, the
23 buyer which of the two they would want to bring in,
24 and, obviously, if you brought them in, one is dutied,
25 and one is duty free, duty free being the palm blend,

1 it will work out to be cheaper once it arrives into
2 the United States. But the up-front cost of
3 manufacturing it, it does cost more.

4 COMMISSIONER PEARSON: Okay. Good. Well,
5 thank you. That's helpful and perhaps a little bit
6 more definite than anything that I heard earlier
7 today.

8 Did you have something?

9 MR. LaZAR: Yes. I would like to add also
10 that we have developed information -- I don't know if
11 it's in the record here -- that a barrel of palm oil
12 costs a lot more than a barrel of oil, and the amount
13 of paraffin wax that comes out of a barrel of oil, of
14 course, is relatively small, and you wouldn't
15 necessarily find a perfect correlation between the
16 price of paraffin wax and the price of a barrel of oil
17 in any case.

18 The markets move differently, for a variety
19 of reasons that we don't need to go into, but our
20 understanding is, consistently, the palm wax that's
21 usable for a candle is a particular fraction from the
22 hydrogenation process and that it's just much more
23 expensive and has been than the paraffin wax.

24 We can provide some backup data on that, and
25 we will in the post-hearing submission.

1 MR. STAYIN: And I think that the staff
2 report supports the fact that palm wax is more
3 expensive, has been more expensive, than petroleum
4 wax. Now, as the price of petroleum goes up, then we
5 may see a change in that, but I think that we've had
6 testimony today about how low the price of petroleum
7 wax was in the U.S. market throughout the period of
8 review, and I think that right now you're probably
9 seeing that price coming up, but that's now as opposed
10 to the rest of the period of review.

11 COMMISSIONER PEARSON: Okay. Thank you. I
12 appreciate those comments.

13 Let me shift, if I could, to some new data
14 that we have on the pricing products that our staff
15 provided to us. I don't know, Mr. Love, whether
16 you've seen it, but it takes a look at whether
17 individual U.S. firms have had price increases or
18 decreases in the several pricing products during this
19 period of review.

20 Frankly, these numbers are all over the map.
21 For Product 1, we have a preponderance of producers
22 having a price increase over the POI, one producer
23 having a decrease. For Product 2, we get two
24 producers showing an increase in price and a similar
25 number showing a decrease.

1 Without going through all of it, there is
2 nothing that appears to me like any type of clear and
3 consistent pattern in terms of what happened with the
4 individual pricing products. Perhaps better for the
5 post-hearing than now, although I'm happy to hear any
6 comments, if you could help me interpret what those
7 pricing data are supposed to tell me, that would be
8 great because I remain mystified at this moment.

9 MR. LOVE: I will confess to share a little
10 bit of your mystery myself as well. There are many
11 factors that go into this. It has to do with who the
12 producer is that happened to provide the pricing data,
13 who they were selling it to, their differentials,
14 depending on even within a channel of distribution,
15 which you would refer to as, say, a department store
16 gift, card, specialty, craft chain, even within that
17 there are different pricing pressures that would
18 determine a different trend perhaps for a particular
19 customer for a particular product to a particular
20 customer. And we would just have to take a very close
21 look at it, frankly, and we'll try to do so.

22 COMMISSIONER PEARSON: Okay. Thank you.

23 Mr. Stayin?

24 MR. STAYIN: I think the customer is very
25 important. If you're selling to a mass merchandizer

1 -- Wal-Mart, K-Mart, Target -- with those huge orders
2 that they have and with their insistence that they
3 compare their price to the Chinese price, -- "Can you
4 meet this price? This is what I get from China. Can
5 you meet this price?" -- they look at their costs, and
6 then they have to decide whether they are going to
7 sell it at cost or below cost or whether their
8 particular cost structure enables them to make some
9 little bit of profit.

10 This gentleman, who sells primarily to the
11 mass merchandisers and is the largest -- Candle-Lite
12 is the largest producer of candles in the United
13 States -- has testified that his prices have gone down
14 how much, Bob?

15 MR. HIGGINS: Twenty-one percent.

16 MR. STAYIN: Over the period of review.
17 Now, this guy is selling more candles than anybody
18 else in this room and is the majority -- one of the
19 largest -- is the largest seller -- he is telling you
20 21 percent. That's the experience of most of these
21 people.

22 You get a fellow who has got a small volume
23 who is selling to a very narrow segment, you might see
24 these prices, and, of course, if you're talking about
25 the direct sellers, there is another thing that skews

1 the prices.

2 COMMISSIONER PEARSON: Okay. Mr. Higgins,
3 you had something more?

4 MR. HIGGINS: No, I'm sorry. I was at a
5 disadvantage. I didn't hear the question. I was out.
6 I just responded to what he asked me.

7 COMMISSIONER PEARSON: That's fine.

8 Mr. Chairman, my light is changing, so I'll
9 pass.

10 CHAIRMAN KOPLAN: Thank you, Commissioner.

11 I just want to clarify. Mr. Stayin, when I
12 asked that question in my first round, and
13 Commissioner Miller followed up to that, regarding
14 footnote 21 on page 113 of the staff report that
15 identified NCA members who produce some candles as
16 blends, I wanted to make clear to you that what I'm
17 looking for in answer to that question, and I think it
18 will be clear when you look at the transcript, is that
19 I'm looking for data on domestic blended versus
20 domestic petroleum wax candles. That's what I'm
21 interested in getting from you.

22 It appeared to me that the data in your
23 brief refer to imports, but for purposes of that
24 question, that's what I'm looking for, the data on
25 domestic blended versus domestic petroleum wax

1 candles.

2 MR. STAYIN: As you know, in that data,
3 there is a very small number of companies that we know
4 that make it, and we will go to them and get this data
5 for you.

6 CHAIRMAN KOPLAN: I also am just curious. I
7 also note that, in terms of the HTS, all candles are
8 in a basket category, --

9 MR. STAYIN: That's correct.

10 CHAIRMAN KOPLAN: -- and that's in Chapter 1
11 at page 10 of our staff report. You have made
12 references, both in your brief and in your testimony,
13 that Customs has been doing a fine job of identifying
14 the subject product coming into the country, even more
15 so. How are they doing that when we're talking about
16 a basket category such as this?

17 MR. STAYIN: They are looking at entries.
18 They are looking at data. They are looking at trends.

19 CHAIRMAN KOPLAN: They are asking more
20 questions. Is that it?

21 MR. STAYIN: Absolutely, asking more
22 questions, and what they have done is, in certain
23 cases, have done blitzes where they would just go in
24 and open every carton that's in a shipment over a
25 period of a month, for example, in a particular port

1 to see whether the claim of it being in scope as
2 opposed to out of scope is correct, and they have
3 found and have, in fact, gone after the companies as a
4 result of these blitzes that they have found to be
5 making fraudulent entries in terms of whether it's in
6 scope or out of scope.

7 CHAIRMAN KOPLAN: Mr. Love?

8 MR. LOVE: Yes. I would like to add, one of
9 the major activities back in the year 2000 when we
10 brought this circumvention problem to the Customs'
11 attention was to develop seminars for all of the port
12 people to try to understand this very complex issue,
13 subject versus nonsubject, with samples and several
14 days of training to figure out what's in and what's
15 out, and at the Department of Commerce this is such a
16 vexatious issue, they have posted on their Web site a
17 specific link laying out all of the scope rulings on
18 candles so that there will be no mistake for any
19 importer as to what's in and what's out. They have
20 never done this before, and it's a kind of unique
21 feature of the Commerce Web site. They, in
22 conjunction with Customs, have really tried to sort
23 this problem out.

24 CHAIRMAN KOPLAN: Thank you.

25 MR. STAYIN: I might add to that that at

1 that time these blended candles weren't coming in, so
2 we were dealing with the other out-of-scope candle
3 issues.

4 CHAIRMAN KOPLAN: Okay. Thank you. Thank
5 you both for that.

6 Mr. Stayin, at pages 44 and 45 of your
7 prehearing brief, you argue that while total imports
8 of candles from all sources have declined, imports of
9 candles from China have increased. From the data
10 presented in the staff report at Table 4-2, which you
11 referred to, Mr. Love, as your Exhibit 3, and I would
12 say to you, although you don't have this yet, that the
13 trend continues in the revised table that you'll be
14 getting, these appear to be primarily nonsubject
15 imports. These nonsubject imports from China have
16 displaced other nonsubject imports from other sources.
17 They have not apparently displaced U.S. producers'
18 domestic shipments that have gained market share since
19 '99, and I make reference to the staff report at
20 Tables 1-1 and C-1.

21 Are the blended wax candle imports from
22 China more substitutable for other nonsubject imports
23 than for domestic products?

24 MR. STAYIN: Say the last part again.

25 CHAIRMAN KOPLAN: Are the blended wax candle

1 imports from China more substitutable for other
2 nonsubject imports than for domestic products?

3 MR. STAYIN: No, because the other
4 nonsubject imports are unique, novelty-type candles:
5 a Santa Claus, a figurine. These are candles that are
6 in numerals, birthday cake candles, numerals that you
7 can put out.

8 The out-of-scope candles were not these
9 types of candles in front of you. These candles that
10 are coming in with palm mix, the blended candles, are
11 coming in as pillars or tapers or votives, and that's
12 different.

13 The other thing I might say --

14 CHAIRMAN KOPLAN: Can you document this for
15 me in any way in the post-hearing? I understand your
16 argument, but is there any documentation you can
17 provide?

18 MR. STAYIN: The scope reviews are all
19 attached to the staff report, and it indicates every
20 one of the candles that have been included and those
21 that have been excluded. Just for an example, if you
22 take --

23 CHAIRMAN KOPLAN: Let me ask you this. Are
24 they better or worse substitutes for domestic products
25 that subject imported petroleum wax candles? Are they

1 better? Are the blended wax candle imports from China
2 better or worse substitutes for domestic products than
3 subject imported petroleum wax candles?

4 MR. LOVE: I believe the answer is they are
5 no more or less substitutable, if I understand your
6 question.

7 CHAIRMAN KOPLAN: Yes. That's the question.

8 MR. LOVE: Okay. I think the general
9 assessment is that they are no more or less
10 substitutable than subject imports from China.

11 CHAIRMAN KOPLAN: Okay. Let me stay with
12 you, if I could, Mr. Love. Let me stay with you.

13 The staff estimates elasticities in the
14 range of four to eight regarding substitutability
15 between domestic petroleum wax candles and subject
16 petroleum wax candles imported from China. Do you
17 agree with staff? That's at Chapter 2 at pages 27 and
18 28 of the staff report.

19 MR. LOVE: We would agree with the staff,
20 yes, at the higher end particularly.

21 CHAIRMAN KOPLAN: Okay. I appreciate that.

22 Mr. Stayin, the NCA prehearing brief
23 compares the financial performance of the domestic
24 firms you characterize as direct sellers to other
25 domestic producers and then continues, at page 39, and

1 I quote: "With integrated control for production
2 through distribution through sale to the final end use
3 customer, there is no point at which import supply can
4 compete for sales to the retail end of these
5 operations. Thus, price pressure from imports from
6 China has much less influence on the profitability of
7 these few candle producers."

8 Are you effectively arguing that the
9 Commission exclude direct sellers from its definition
10 of the domestic industry?

11 MR. STAYIN: No, we are not because we have
12 said they are indirectly affected in the marketplace
13 by virtue of the fact that a Wal-Mart or a Target will
14 price their products as low as possible in order to
15 sell as many candles as possible.

16 So, in the arena of consumers, when they go
17 to buy, there will be a bit of this effect in terms
18 of, well, I can go buy a candle at Wal-Mart just like
19 that, and so they will get that kind of a push-back
20 from consumers. What you don't have is that they
21 don't have the choice in terms of the direct seller,
22 the person who is selling to the consumer, doesn't
23 have a choice of where he is getting his candles. He
24 gets it from the producer that owns him or her, their
25 store, or who they are working for directly, so they

1 are only going to sell those. But in their ability to
2 be successful in selling in the marketplace, they do
3 have some effect from Wal-Mart-type operations.

4 CHAIRMAN KOPLAN: Does the reported
5 existence of a market segment in which subject imports
6 do not compete make the domestic industry less
7 vulnerable to injury from subject imports?

8 MR. STAYIN: Absolutely not. You're talking
9 about a very small segment. The overall domestic
10 industry is being severely affected already.

11 CHAIRMAN KOPLAN: Okay. I appreciate that.

12 I see my yellow light is on, so I'll turn to
13 Vice Chairman Okun.

14 VICE CHAIRMAN OKUN: Thank you, and thank
15 you again for all of the information we've received
16 thus far.

17 Let me just follow up briefly again on how
18 we evaluate the industry, and I think a number of my
19 colleagues have asked the question for post-hearing
20 with regard to how you would have us conduct the
21 analysis, both with regard to the industry as a whole
22 and not the segment of the industry where you see the
23 most competition in what's happening there.

24 I just want to be clear, Mr. Love, on the
25 point I made earlier about when I looked at your

1 analysis because you had excluded a domestic producer
2 because you argued that its primary focus is on sales
3 directly to end use customers for its own retail
4 establishment. And, again, the figures I looked at,
5 and, again, I could be wrong about this, but, to me,
6 it looked like less than 50 percent of its sales were
7 to that channel. To me, again, the primary focus, I
8 think, would be higher than that. So, to me, it
9 seemed like, at least for that, there had to be an
10 apportionment of that particular company's -- when I
11 did that, it changed all of the trends that you're
12 talking about.

13 So, again, to the extent that you're making
14 the argument that we need to look at the information
15 as a condition of competition, I think that you need
16 to make clear for me how you decide to break out the
17 data and whether there is a more proportional way to
18 do that, if one were to choose to look at it that way.
19 So that can all be covered post-hearing.

20 I want to make sure, Mr. Stayin, that I
21 wasn't confused in listening to your response to the
22 chairman a minute ago about nonsubject and subjects.
23 When you were talking about whether they were
24 substitutable -- I think the chairman had asked
25 whether the Chinese blended product was taking market

1 share from nonsubjects, and you started talking about
2 things that were not in the order, the novelty
3 candles. To me, I think the issue there is the
4 nonsubjects that are not Chinese. In other words,
5 there are nonsubject imports that are not nonsubject
6 Chinese.

7 MR. STAYIN: I'm sorry. I misunderstood.
8 You meant nonsubject countries --

9 CHAIRMAN KOPLAN: It's my fault. She is
10 right.

11 VICE CHAIRMAN OKUN: Okay. So if you could
12 just talk a little bit about the other nonsubjects
13 that are not nonsubject Chinese.

14 MR. STAYIN: The reality is that, yes, the
15 Chinese have been taking away from imports from other
16 countries a significant amount.

17 Mark, do you want to comment on that?

18 MR. LOVE: Yes. I think, during the period
19 when demand was very strong in the late nineties, you
20 saw a big increase in nonsubject imports other than
21 from China, okay, and that was a function largely of
22 the incredible growth in demand over that period. It
23 was a rising tide lifting all boats.

24 I think that's fair to say, and these
25 companies generally are trading fairly, with the

1 exception of Hong Kong, of course. Two of the biggest
2 suppliers are Mexico and Canada, so it's almost like a
3 NAFTA issue. They are kind of integrated into the
4 U.S. market, and it has occurred during the last few
5 years as demand has stagnated badly, and China has
6 come in. It has definitely affected imports from
7 Canada, imports from Mexico, and other countries that
8 just can't compete with China.

9 The only way that the domestic producers
10 have kept their roughly 50-percent market share -- I
11 think that's public -- has been basically to drop
12 their prices a lot, and you see the price drops in the
13 data that are available. Maintenance of that market
14 share, I don't think, is going to last unless
15 something is done about the circumvention, and if you
16 revoke the order, that market share is going to drop
17 like a stone within a year or two.

18 VICE CHAIRMAN OKUN: Okay. Just help me
19 out. In terms of the nonsubject imports that were in
20 here, then, if we had nonsubject candles here, and we
21 were looking at them, from Canada or Mexico, would
22 they be petroleum-based candles, --

23 MR. LOVE: Yes.

24 VICE CHAIRMAN OKUN: -- or would I see any
25 of this blending?

1 MR. LOVE: No, no.

2 VICE CHAIRMAN OKUN: The only place I would
3 see blending is if made in China.

4 MR. LOVE: Absolutely, absolutely.

5 MR. STAYIN: The only source of blended
6 candles at this time, in the entire time that we're
7 aware of --

8 VICE CHAIRMAN OKUN: All right. I'm
9 fascinated by this Mexico thing. The Chinese, did
10 they sell blended product into Mexico that you know
11 of? Do you know?

12 MR. LOVE: As far as I'm aware, they don't
13 sell anything into Mexico.

14 VICE CHAIRMAN OKUN: Nothing. Really?

15 MR. LOVE: Well, I could be incorrect on
16 that, but I'm not aware that --

17 VICE CHAIRMAN OKUN: You think that they are
18 only selling blended product in the United States. I
19 think it's Mr. LaZar. You seemed to have some
20 familiarity with what's coming in.

21 MR. LaZAR: The store checks that I have
22 done in Mexico, including Wal-Mart stores and then
23 some of their craft stores, I really haven't seen much
24 -- I haven't seen Chinese imported candles in there,
25 so I can't comment if they have been blended from

1 there or not. Mexico does have a lot of their own
2 production, and I have seen traces of U.S. production
3 in Mexico.

4 VICE CHAIRMAN OKUN: Okay. And then the
5 other thing that I needed some clarification on, and
6 this is going back a while now, Mr. Stayin, when we're
7 talking about Table 4-2, which is your Exhibit 3,
8 which, as the chairman has noted, has been revised,
9 but for my question doesn't matter whether it's
10 revised or not, which is when we were talking about
11 what would happen if the order is lifted, when you
12 were talking about the percentages and what you think
13 is actually subject product versus nonsubject, subject
14 product under the current definition, are you talking
15 about you would then be calling subject product
16 subject product that included these blended candles?

17 MR. STAYIN: I was talking about the
18 nonsubject, subject being the petroleum wax candles
19 and nonsubject being the ones that are over 50 percent
20 palm.

21 My point was that if you lift the order, the
22 Chinese will have no reason at all to continue to sell
23 petroleum wax candles in this market because it's more
24 expensive to produce it than to use their own
25 petroleum wax and ship 100 percent what are not

1 subject candles to the market.

2 So I think if you drop the order, palm
3 blends would disappear, and the only thing you would
4 find in the United States would be the efforts of the
5 soy industry to try to bring fruition more sales of
6 soy wax candles, which has not been great. It hasn't
7 taken hold yet. It is being done, but it's not a big
8 part of the purchasing and the sale.

9 VICE CHAIRMAN OKUN: Did you want to add
10 something, Mr. Higgins?

11 MR. HIGGINS: Yes. I wanted to add that
12 even though the materials cost more for the blended
13 candles, the Chinese offer them cheaper than the
14 paraffin wax candles.

15 VICE CHAIRMAN OKUN: Okay. All right.
16 Well, let me ask some forward-looking questions, which
17 usually we spend a lot more time on, but because of
18 the presence in the market already, I would have to
19 spend time on other things, I guess.

20 Forward-looking, what's demand look like,
21 from the industry folks? What do you see going on in
22 demand for your product when you're looking at your
23 market analysis, and how long out do you look?

24 MR. HIGGINS: We generally look out about
25 two years. This year's forecast is forecasting about

1 the same as last year, and next year is forecasting
2 down in sales.

3 VICE CHAIRMAN OKUN: And the reason you have
4 a downward forecast in the next year is based on?

5 MR. HIGGINS: We just have no optimism we're
6 going to get the same orders we got this year at all
7 because they just keep getting more and more Chinese
8 products in the mass --

9 VICE CHAIRMAN OKUN: So even with an order
10 in place, the market forecast with this order in
11 place, you say you forecast going down. Is that
12 accurate?

13 MR. HIGGINS: Yes, particularly because they
14 have been able to get around the order.

15 VICE CHAIRMAN OKUN: Okay. I just wanted to
16 make sure I understood that.

17 Mr. Pappas?

18 MR. PAPPAS: Generally speaking, we've had a
19 decline in sales, but we've been able pretty much to
20 try to level that out, and that's what we've been able
21 to do.

22 I think, going back a little bit to
23 Commissioner Pearson's question, the industry
24 struggled in the beginning, and I think a lot of us
25 really weren't sure what was going on, so we were

1 trying to meet price points and, I think, put out
2 lower pricing just to try to hold onto the business
3 but have begun to realize that we can't do that. We
4 can't continue, not for this length of time. We're
5 going to have to basically have our prices go up, or
6 we're not going to be in business.

7 So I guess we're looking at a decline
8 primarily because we think there is going to be some
9 resistance to the fact that we're going to have to
10 raise prices, regardless of what's going on here.

11 VICE CHAIRMAN OKUN: Okay. Mr. LaZar?

12 MR. LaZAR: Yes. I would like to comment a
13 little bit, and I may give away a little bit of
14 information here. But we have shown a little bit of
15 increase in business, General Wax and Candle Company,
16 with our stick business. What I'm talking about is
17 our tapers, our thinner candles. We believe it's a
18 result of the increased duties that were placed on the
19 Chinese candles a year ago, and these candles have not
20 been in the marketplace with palm blend. It just
21 doesn't seem to be able to be made at a quality that's
22 acceptable even to the buyers.

23 And as far as continued growth in the candle
24 industry, we believe that the mass merchandisers have
25 pretty much maximized their shelf space. So as we

1 continue to fight with the Chinese for that shelf
2 space, we don't see a lot of increased opportunities.
3 However, there will be what we believe is a small
4 growth as the population growth increases.

5 VICE CHAIRMAN OKUN: Thank you.

6 Mr. Chairman, could I ask Mr. Goddard to
7 just comment on that, just for completeness of the
8 record?

9 CHAIRMAN KOPLAN: Certainly.

10 VICE CHAIRMAN OKUN: Thank you. Mr.
11 Goddard?

12 MR. GODDARD: I think it would be preferable
13 for HFH to provide that information as an answer in
14 the post-hearing brief.

15 VICE CHAIRMAN OKUN: That's fine, and if
16 there is any additional information that you all have
17 that you consider business proprietary in how you do
18 your forecasts out, I would appreciate seeing that as
19 well.

20 Thank you, Mr. Chairman.

21 CHAIRMAN KOPLAN: Thank you.

22 Commissioner Miller?

23 COMMISSIONER MILLER: Thank you, Mr.
24 Chairman.

25 Let me stay, if I could, sort of on a

1 similar line of questioning because I do also feel a
2 bit like I've spent a lot of time understanding the
3 scope and the like product issues, and there are still
4 some basics about the marketing of candles and what's
5 going on now and in the future that I still want to
6 explore a little bit more.

7 In particular, some of my question is
8 prompted by the chart that we have in our staff report
9 regarding the channels of distribution and the
10 different sales outlets. You've talked about the mass
11 merchandisers and what's happened with your accounts
12 at the mass merchandisers.

13 We have one line that talks about own retail
14 outlets/private labels. Okay? And actually, on the
15 importing side, that apparently seems to have picked
16 up a lot of the mass merchandisers. I wouldn't think
17 of them as an own retail outlet because it's not a
18 candle store. Right. But we know the mass
19 merchandisers do a fair amount of direct importing, so
20 it's coming up there.

21 But, otherwise, is there more of a trend to
22 candle companies having their own retail outlets? And
23 you also talk about the private labels, and I want to
24 understand who the private labels are. When I walk
25 into the malls, I see Illuminations. I know there are

1 other candle stores around the malls that you all
2 know. You guys who are in the marketing, in
3 particular, really know what's going on.

4 Maybe I should go to Mr. LaZar and let him
5 talk a little. You're the marketing guy back there.
6 Tell me just a little bit about these different
7 candles and how they are competing with each other,
8 and why do I go to Illuminations rather than Target or
9 Wal-Mart, or do I?

10 MR. LaZAR: Well, you would know. If you go
11 to Illuminations, and maybe they have a product there
12 that you're more loyal to, or you find that there
13 might be a certain scent or shape there that you find
14 appealing that you can't find elsewhere, I'm not
15 really sure -- you would know that.

16 COMMISSIONER MILLER: I'm saying "I," but
17 your general customer out there, you know. I'm just
18 trying to understand how these different outlets
19 compete against each other and if some are growing and
20 some are losing, putting together some of the
21 different statements I've heard today.

22 MR. LaZAR: Okay. Well, again, the industry
23 hasn't really broken out and branded products very
24 well. Some of the ideas that your Wal-Marts and some
25 other super-sized stores are trying to throw on their

1 private label to bring some brand recognition that
2 would be directed to their stores only to try to get
3 repeat customers to become familiar with their product
4 and to become a member of their product -- I'm trying
5 to answer your question. I'm not sure exactly which
6 direction you're looking for me to go in.

7 COMMISSIONER MILLER: You know, to the
8 extent that we have the own retail outlets, the candle
9 companies, who all is doing that? I mean, you guys
10 know who they are.

11 MR. LaZAR: Yes. Some of the ways to get a
12 brand recognized is you can do it through self-
13 branding, and that's opening up your own stores.

14 COMMISSIONER MILLER: Have any of the
15 companies here?

16 MR. LaZAR: Well, one of the more popular
17 ones I was going to mention that you might be familiar
18 with is Yankee, which has many stores across the
19 country, --

20 COMMISSIONER MILLER: Right, right.

21 MR. LaZAR: -- and that's self-branding.

22 Other ways is advertising. I've seen S.C.
23 Johnson advertise on TV candles and other fragrance-
24 delivery systems that also would go hand in hand with
25 candles. And then there is innovation, trying to

1 build a product that no one else has, and, again, in
2 the candle business, it's very hard to differentiate.
3 So the self-branding is probably the most common of
4 trying to get people to recognize your product.

5 COMMISSIONER MILLER: Okay. Do you see that
6 as a growing area, a successful, growing area, or not
7 really; they are subject to the same pressures as the
8 mass merchandisers?

9 MR. LaZAR: Recently, I have seen it as a
10 growing area, and I think a lot of it has to do with
11 that candles really took off in the nineties. People
12 found that they can bring home a scent. A scent was a
13 great reminder of some pleasant memories. We called
14 it "aromatherapy," and that really took off heavily in
15 the nineties, and candles became very popular, so it
16 gave a lot of opportunities for candle manufacturers
17 to go ahead and sell their own product through their
18 own stores.

19 But I guess what I'm seeing now is that
20 we're capping out, and that there's just so many
21 people buying candles that more and more people are
22 trying to produce and to come into what they think is
23 a lucrative market, but as more people entered into
24 the market, the margins have become smaller, and it's
25 getting more difficult.

1 COMMISSIONER MILLER: Okay. Mr. Higgins,
2 you look like you wanted to --

3 MR. HIGGINS: Yes. Candle-Lite, also in the
4 nineties, started expanding and opening retail stores,
5 and we found we couldn't make it profitable or worth
6 our while, and we started shutting them all back down,
7 and we're down to just one or two now.

8 COMMISSIONER MILLER: Okay. So it didn't
9 work for your company. Well, wait a minute. You said
10 it didn't work for Candle-Lite.

11 MR. HIGGINS: That's right.

12 COMMISSIONER MILLER: Okay. Anybody else?

13 MR. GODDARD: I can add one more data point
14 there. HFH was founded as a direct-retail seller, and
15 it slowly migrated away from that, and last year we
16 sold the last of our dedicated retail outlets. We
17 have one store now which is a warehouse outlet
18 attached to the factory itself.

19 So our trend has been away from a branded,
20 direct-retail-outlet type of sale to a private label
21 for large merchandisers. We sell to people like Bed,
22 Bath & Beyond and Pier 1 and those types, and they
23 have their own private labeling that we provide for
24 them.

25 COMMISSIONER MILLER: Okay.

1 Mr. Pappas, do you want to add anything to
2 the answer?

3 MR. PAPPAS: As a company, other than a
4 company store, we've never had direct retail outlets.
5 I tend to agree with Chris, it's something that came
6 in, was very popular, and then went away. Our main
7 focus basically is through our own branded products in
8 the specialty gift trade, but, here again, we're
9 relying on our customer, and we have a very loyal
10 following, but they are a casualty of the same thing
11 we're talking about.

12 We want to talk about the industry, but you
13 have an entire gift industry that's being hit with
14 these same issues in the sense that they are in the
15 same mall with Target or Wal-Mart or whoever and
16 trying to differentiate their product but basically
17 have to deal with the fact that you have lower-priced
18 products and, in some cases, products that are being
19 dumped in the store next to you.

20 So we see it more as a fact that it's
21 affecting our customer as well as affecting us.

22 COMMISSIONER MILLER: Okay. One question
23 that struck me as I was listening at one point
24 earlier, what are the labeling requirements, the
25 domestic labeling requirements, for candles? Are they

1 all -- this goes back to the blended issue and,
2 Mr. Love, when you were talking, what is the sort of
3 FTC kind of labeling requirement for candles in terms
4 of their composition?

5 MR. STAYIN: I don't think the FTC has a
6 labeling requirement other than you can't claim that
7 they're made in the U.S.A., it's that type of a
8 question, but they don't have a requirement as to what
9 specifically needs to be put on those candles. States
10 sometimes have labeling requirements, but you'll find
11 most candles don't tell you what's inside the candle.

12 COMMISSIONER MILLER: Okay. So --

13 MR. STAYIN: But there's weights and
14 measures.

15 MR. HIGGINS: The only requirement I'm aware
16 of is the weights and measures, which put the amount
17 on the product.

18 COMMISSIONER MILLER: Right. Okay. So the
19 fact that the one label you read, Mr. Love, said
20 paraffin was just -- it was just the decision of the
21 company to label it as paraffin? They are not
22 typically labeled in terms of what kind of wax it is?

23 MR. LOVE: That is absolutely correct. Yes.
24 This is purely the discretion of Target or whoever
25 made those candles for Target as they had specified.

1 And there is no requirement that they have to say
2 52 percent palm wax on the bottom label either.
3 That's done for other purposes.

4 COMMISSIONER MILLER: So, Mr. Stayin, when
5 you said earlier in response, I think, to some
6 questions from the chairman that you weren't aware of
7 how much of a problem it was until we were in the
8 midst of this proceeding. I mean, are you saying in
9 part on the shelf, you, the companies, weren't aware
10 that the wax -- you can't tell from looking at it on a
11 store shelf what kind of wax it's made of?

12 MR. LAZAR: Just to comment on that real
13 quickly, the majority of those pillars that do have
14 palm in them would be cored inside and the paraffin is
15 on the outside. So you can't tell unless you really
16 break that candle apart.

17 COMMISSIONER MILLER: Okay. So if you break
18 it apart, you can tell? I mean, I couldn't tell,
19 probably.

20 MR. LAZAR: Yes. I believe I could tell
21 most of the time, if you broke it in half.

22 MR. PAPPAS: And this is a major problem for
23 Customs because we're talking about things here that
24 can only be done through an analysis of the material.

25 COMMISSIONER MILLER: Tests?

1 MR. PAPPAS: Yes.

2 COMMISSIONER MILLER: Okay.

3 MR. PAPPAS: So it's very easy -- you know,
4 it's not an obvious thing. It's something you have to
5 go look for if you're going to find it.

6 COMMISSIONER MILLER: Okay.

7 MR. STAYIN: It's really difficult to find a
8 palm wax candle in many stores and yet we know that
9 they're importing huge volumes of it, but it's not
10 identified on the label. You don't have to do it.

11 COMMISSIONER MILLER: Well, you can't tell.
12 Okay. All right.

13 I appreciate your answers. Thank you.

14 CHAIRMAN KOPLAN: Thank you, Commissioner.
15 Commissioner Hillman?

16 COMMISSIONER HILLMAN: Thank you.

17 If I can go back a little bit to the issue
18 of demand and what's happening in terms of consumption
19 in the U.S. market, in response to Vice Chairman
20 Okun's questions, a number of you commented on what
21 you thought demand for your products, from your
22 companies, would be. But we were starting to get a
23 little bit to the issue of just overall in this
24 country.

25 Do you all have a sense of forecasts out

1 there for consumption of candles? I mean, you said
2 that the aromatherapy movement or whatever we're going
3 to call it in the '90s significantly increased overall
4 consumption for candles. Is it going to come back
5 down? Is it going to stay flat? Where do you see
6 overall consumption going and what drives it?

7 MR. STAYIN: Mike, do you want to just start
8 with this?

9 MR. LOVE: I'll start with my understanding
10 and that is that --

11 COMMISSIONER HILLMAN: Are there industry
12 forecasts out there?

13 MR. LOVE: No. Not that we're aware of.
14 Individual companies do their own to a certain extent,
15 but largely related to their own performance as
16 opposed to the overall demand. We know that apparent
17 consumption has been pretty flat over the last six
18 years. This simply reflects the end of that large
19 very rapid growth period that has been discussed
20 earlier. I think now the overall demand is really
21 going to be a function of economic conditions. It's
22 going to track pretty much GDP growth or decline and
23 possibly reflect a little bit of population increase.
24 It's going to be a very stable trend related to
25 economic cycles. You saw that very clearly in the

1 decline in apparent consumption in 2001. That was
2 clearly recession-related. And you have a fairly good
3 increase in demand in '04, which you see in the data,
4 which I think reflects the economic recovery and so
5 beyond that, I wouldn't go beyond that. I don't see
6 any demand shifting factor other than that,
7 personally, but that's just my view.

8 COMMISSIONER HILLMAN: Go ahead.

9 MR. LAZAR: I was just going to comment that
10 the size of the General Wax & Candle Company is very
11 small in comparison to some of these other guys and
12 that we're not even a percent of the market, so
13 honestly, opportunity may be greater for us in some
14 areas, but as far as forecasting, I really think we
15 did peak out, like I said, with the aromatherapy and
16 that the overall look in the near future is going to
17 be very, very little, if any, growth. And it will be,
18 again, I think, more to do with population growth.

19 COMMISSIONER HILLMAN: Okay. Nothing in
20 terms of a trend or a technology that is going to
21 change any of this?

22 MR. STAYIN: The activity here in Washington
23 may make a change in things. Obviously, if the order
24 were revoked, obviously, that would have a tremendous
25 effect on demand for U.S. candles. Also, if the

1 Department of Commerce in its determination finds that
2 these palm wax candles are later developed products,
3 it will take those candles out of the market and you
4 will have 108 percent duty being applied to all
5 imports of candles from China other than these
6 novelties. So the increase in demand for U.S. candles
7 could substantially increase over the next couple of
8 years if certain things occur.

9 COMMISSIONER HILLMAN: But if we look at
10 demand overall, I guess I'm trying to understand --
11 I've heard the answers that you all think there's not
12 a sort of trend out there that's going to push demand
13 way up, but if prices go up, is this the kind of
14 discretionary item where your average consumer says,
15 gee, I'm not going to burn candles tonight for dinner
16 because they actually cost enough that I'm only going
17 to save them for whatever special occasion there may
18 be? I mean, at what point does the fact that you can
19 get currently very cheap candles drive more people to
20 burn candles more often than they might were they more
21 expensive per item? How much of the increase in
22 consumption is the availability of very low priced
23 candles, where people are burning them where they
24 didn't use to?

25 MR. HIGGINS: I've been in the candle

1 industry since 1978 and my experience is that the
2 candle industry has been fairly recession proof where
3 it really didn't matter, the price of the product. As
4 inflation went up or cost of living went up, more
5 people tended to entertain at home and buy more
6 candles, so we've never really been affected that much
7 by the price of the product.

8 COMMISSIONER HILLMAN: That's very helpful.
9 That's very helpful.

10 Mr. Pappas?

11 MR. PAPPAS: We've seen actually the
12 barometer for us is the cost of gasoline and energy.
13 Most people who buy our products are basically between
14 25 and 55, female, and basically shop with
15 discretionary income, basically what's left over after
16 they buy their groceries and whatever. And we've
17 found that to some degree that when energy goes up,
18 especially gasoline, it reduces disposable income. We
19 actually -- when gasoline came down a little bit
20 recently, our sales went up and there's no question
21 that energy has an effect on it.

22 COMMISSIONER HILLMAN: Okay. If I can then
23 turn back to some of the financial data, you're
24 arguing -- I understand very well the issue that
25 you're arguing in terms of how to look at the data

1 that we have in terms of taking out the companies that
2 are to some degree engaged in direct selling. If we
3 should not do that, if our view is that that's really
4 not the appropriate way to look at the data and that
5 we should look at the data as it's given to us, the
6 industry as a whole, do you still believe that the
7 data shows us a vulnerable industry?

8 Again, I'm trying to understand where you
9 get to your contention that the industry is
10 vulnerable, if I look at -- again, production is up,
11 very slightly, but nonetheless up. If I look at
12 operating incomes in the teens and high teens, to some
13 degree, and increasing over this period of
14 investigation. Again, I go through the traditional
15 factors that we would look at in terms of making a
16 determination. If I don't do what you've suggested,
17 do you still think the industry is vulnerable and why?

18 MR. LOVE: Yes, certainly. The answer is
19 yes, of course. I think whether you look at the
20 industry as a whole, all data as a whole, or in the
21 subset that we've been focusing on, I think the
22 quantity effects are still going to be the same. We
23 believe our estimates of the growth and imports after
24 revocation, all of which would be subject import
25 growth, are conservative. We're talking 100 million

1 in the first year, which is a huge portion of current
2 domestic production and shipments and that's at risk.
3 And we know that prices have declined over the period,
4 so there's been price depression, if you will, so that
5 indicates some vulnerability to the existing increases
6 in imports.

7 I think with respect to the operating
8 profitability, I think that the price declines that
9 you have seen over the period and price declines that
10 would occur after revocation could easily wipe out
11 most of that profitability.

12 But, again, I don't think you can really
13 fairly address the issue without acknowledging the 80
14 percent of the U.S. industry and market where there is
15 in fact a serious problem right now.

16 COMMISSIONER HILLMAN: I understand that.
17 I'm just -- again, I'm looking at these numbers and
18 saying, okay, profits are going up and they're
19 healthy, very healthy. Again, production is not going
20 down overall for the industry. Again, a lot of the
21 other factors that we would look at and to me they
22 would not suggest necessarily a vulnerability.

23 Yes, you've seen the price declines that
24 you've talked about and yet the industry's profits go
25 up, so how is it that I'm supposed to assume that the

1 next set of imports is going to somehow significantly
2 change the financial picture from what we're looking
3 at today?

4 You already have a healthy volume of
5 imports, you already have whatever effects of price
6 suppression as you're describing it, they're already
7 here in the data, and yet I see an industry that's
8 pretty profitable and producing at a pretty high
9 level. So why is tomorrow going to be so dramatically
10 different?

11 And maybe because a lot of the data is --
12 some of the data at last is confidential, if there is
13 something further you want to say on this, but,
14 again --

15 MR. LOVE: If I could just authority one
16 more thing that's non-APO.

17 COMMISSIONER HILLMAN: Yes.

18 MR. LOVE: It's kind of a triage effect
19 here. There are some people right now on the front
20 line that are getting very hurt, okay? And you move
21 from that extreme through to the direct sellers that
22 we were talking about, they will be the last to go,
23 but I think the indirect competition that Mr. Stayin
24 was referring to will eventually affect them. It
25 might not be in the first year after revocation, but

1 they are definitely vulnerable and they have told us
2 that they are vulnerable, that they are worried about
3 that indirect competition. And that's what I base it
4 on.

5 COMMISSIONER HILLMAN: Okay. Then the last
6 question I have is more of a data question.

7 Mr. Love, you stated in your testimony that
8 the importer questionnaire data that we do not have,
9 whatever 40 percent that we don't have data on, is
10 going to be much more heavily skewed with respect to
11 subject product.

12 Again, if there's anything you can say in
13 the post-hearing brief about why do you think that's
14 the case and try to help us sort through what do we
15 make of the data that we do have. In other words, I'm
16 trying to understand how much of the non-subject
17 Chinese product is novelty product that we would all
18 agree ought to be non-subject product versus how much
19 of it is the blended product over which we've had all
20 of this discussion today. Anything that you can help
21 me understand what portion of what we're deeming
22 non-subject is what we would all agree is non-subject
23 as opposed to the blended product and then, again,
24 where do you have evidence for your assertion that a
25 higher percentage of what we don't have would be

1 subject imports.

2 MR. LOVE: I understand entirely and we'll
3 address that. Can I make one point? One example
4 would be, for example, in 2001, we know that the
5 actual amount of duties that were assessed on candles,
6 the value of entries from China that actually got a
7 duty assessed on it was about 58 million, okay? This
8 we know. And that's probably low because there were
9 circumventions still going on. That translates into
10 58 million pounds of subject imports in 2001.

11 If you look at the staff data, they're not
12 the revised that Mr. Koplan referred to, but in 2001,
13 Exhibit 3 shows 19 million pounds from China of
14 subject. So we know that it had to be at least 58
15 million and it's probably more if people were honest
16 about it and these numbers show 19 million. That's
17 the order of magnitude of understatement that concerns
18 me.

19 COMMISSIONER HILLMAN: Okay. I appreciate
20 those responses. Thank you very much.

21 CHAIRMAN KOPLAN: Thank you.

22 Commissioner Lane?

23 COMMISSIONER LANE: My first question,
24 I think, is probably for Mr. Higgins or for maybe
25 Mr. LaZar.

1 If the order is lifted, one of you said that
2 China then would go back to producing only
3 petroleum-based candles. How soon could they do that
4 and is there any problem with their current equipment
5 converting it to only petroleum-based candles?

6 MR. HIGGINS: They could go very quickly
7 because there's a large supply of petroleum wax over
8 there. They obviously would do it because that raw
9 material is cheaper than the vegetable oil or the palm
10 oil and there is no difference in the equipment. They
11 could just convert tomorrow, would be no problem
12 whatsoever.

13 COMMISSIONER LANE: Okay. Thank you.

14 MR. LAZAR: Just to add to his comment, I've
15 been to China, I've been to about 20 different candle
16 factories in China and they can switch on the fly.
17 There isn't a difference in equipment, as Mr. Higgins
18 pointed out, and it would just be a matter of how
19 quickly they can get that wax and I would predict
20 within a week.

21 COMMISSIONER LANE: Okay. Thank you.

22 Now, this is for Mr. Stayin or Mr. Love. In
23 looking at what is likely to happen if the order is
24 revoked, I understand your answer about the Chinese
25 simply moving to 100 percent petroleum wax candles.

1 However, I'm not sure that that is the point.

2 Looking at your Exhibit 3, we see 78 percent
3 of the volume and 75 percent of value of Chinese
4 imports that are non-subject in 2004. Doesn't that
5 mean that revocation would affect only 25 percent of
6 the Chinese imports based on 2004 import mix? And
7 doesn't that mean that the impact of revocation is
8 likely to be diminished from what it might have been a
9 few years ago?

10 MR. STAYIN: Mark, do you want to start with
11 that?

12 MR. LOVE: As I mentioned during my
13 testimony, the first effect of revocation would be the
14 shift of all those blended candles back into subject
15 imports, so if you forgot this whole discussion and
16 just looked at subject imports, in my view, there's no
17 question that they're going to explode and they're
18 going to do so many times over. And part of that
19 would be that the subject imports as they exist now
20 will be augmented by all the palm wax candles that are
21 coming in now and the subject imports will just
22 skyrocket. But that's the substitution effect that I
23 referred to and you could argue, well, okay, so that's
24 not going to change the overall volume of imports,
25 really, if that's the only thing that happened, and

1 the would affect your analysis, of course.

2 Two things. One is that the petroleum wax
3 candles are cheaper and there would be a price
4 depression effect just by the substitution alone, but
5 it's clear to us that there will be an additional
6 significant growth in subject imports totally
7 unrelated to the substitution. China is increasing
8 its production dramatically. It's increasing its
9 exports to the world by 140 million pounds each year.
10 A lot of that is going to come here if the order is
11 revoked as well as the fact that there are candles now
12 being shipped to the rest of the world, paraffin wax
13 candles, that would be shifted back over here.

14 Even if we assumed, I should say, that of
15 total imports only 22 percent are now subject, which
16 I don't agree, it's more than that, I'm sure, still,
17 even at that, with 108 percent duty, you're talking
18 about an average duty on total imports from China in
19 excess of 20 percent. That's a lot. I mean, if you
20 look at the margins that a lot of these people are
21 working under, a 20 percent margin means the
22 difference between a small operating profit and a big
23 loss.

24 So I see all the way around, I see
25 significant effects; effects that you, the commission,

1 would consider significant.

2 COMMISSIONER LANE: Okay. Thank you.

3 Now, Mr. LaZar, I'm not sure I understand
4 the blending concept based on something you said.
5 I assume that generally a blend would be homogenous,
6 but you mentioned the palm wax core, so would you
7 explain to me? And does that mean that with a palm
8 wax core, what is burning? Is it initially the palm
9 wax and not the petroleum wax?

10 MR. LAZAR: It's the other way around. If
11 you were to light those candles, the consumption would
12 be from the paraffin first as the palm is cored inside
13 and the flame may not reach it for several hours. So
14 you won't even notice or see any difference, but once
15 it reaches the palm -- am I confusing you some?

16 COMMISSIONER LANE: Well, the core is
17 horizontal instead of vertical?

18 MR. LAZAR: The shell of the candle will be
19 paraffin. Inside that shell you will find the palm.
20 Does that make sense?

21 COMMISSIONER LANE: No. Because the wick is
22 in the middle and so doesn't it burn down?

23 MR. LAZAR: That's right, but the top part
24 of the shell is paraffin. It's the first fuel that
25 the flame will consume.

1 COMMISSIONER LANE: Okay. Okay. Thank you.

2 All right. Now, another question. How many
3 firms have entered the domestic candle manufacturing
4 industry since the issuance of the antidumping order?
5 And how many, if any, have entered the business since
6 2001?

7 MR. STAYIN: I'm sorry, I was talking to Mr.
8 Higgins when you started your question. Would you
9 please repeat that?

10 COMMISSIONER LANE: How many firms have
11 entered the domestic candle manufacturing industry
12 since the issuance of the antidumping order and how
13 many, if any, have entered the business since 2001?

14 MR. STAYIN: I would have to go back to the
15 staff report. Off the top of my head, I don't recall,
16 but I did report the numbers that we know entered and
17 those that left and it's about -- there are some very
18 small ones that entered and several that have left the
19 market during this period of review. So there has
20 been exiting and there has been some entering, but
21 I've given specific information on that to staff and
22 it is in a confidential part of the staff report.

23 COMMISSIONER LANE: Okay. Thank you.

24 Now, one more question and this is really a
25 strange question, but it sort of struck me when I read

1 the report that it talked about soy-based candles
2 being edible. Is that true? And why would anybody
3 want to eat a candle?

4 MR. PAPPAS: We've heard that also. It's
5 not one of our marketing claims. I think there was
6 one attachment, I think, to the pre-hearing brief that
7 was a project, I think the Indiana Soybean Board, some
8 of their people tried to look at an edible birthday
9 cake candle and I think that's kind of where all this
10 got started. We highly don't recommend that you eat
11 candles. No.

12 COMMISSIONER LANE: Thank you.

13 Mr. Higgins, did you want to add something
14 to that?

15 MR. HIGGINS: I was going to say they tried
16 to market this as a natural product or a natural
17 candle and it's edible, not that they recommend that
18 you eat it, but it is edible. But paraffin wax is
19 also, if you want to put it that way. You can eat
20 paraffin. They make candy lips and things out of
21 paraffin wax, so it's edible as well.

22 COMMISSIONER LANE: Okay. Thank you.

23 MR. HIGGINS: Not any more natural.

24 COMMISSIONER LANE: Mr. LaZar?

25 MR. LAZAR: I just want to comment that the

1 vast majority of candles have fragrance in them and it
2 would be very unwise to eat a candle with fragrance.

3 COMMISSIONER LANE: Thank you.

4 Mr. Chairman, I don't have any other
5 questions.

6 CHAIRMAN KOPLAN: It's not like the movie
7 "Some Like It Hot," I take it.

8 Commissioner Pearson?

9 COMMISSIONER PEARSON: I would just note
10 following up on the issue raised by Commissioner Lane
11 that there are crayons now that also have a soy-base
12 brand, it's in large part because kids like to chew on
13 them, even if adults don't. I assume that that same
14 concept may apply to candles, although I've not
15 observed it in my household.

16 MR. PAPPAS: Commissioner Pearson, if
17 I could add, paraffin wax is also edible. Most of the
18 products that we use are FDA-approved and it's a very
19 common ingredient in chewing gum. It's a common
20 ingredient in chocolate as an extender, so, yes, it's
21 not without reason, but some of these things can be
22 eaten.

23 COMMISSIONER PEARSON: I can assure you I've
24 not lost any sleep worrying about the digestibility of
25 candles or anything like that.

1 I had a question tying into some of the
2 earlier ones. You seem to be arguing that the
3 domestic industry has been affected both by subject
4 imports and by Chinese imports that are outside the
5 scope as established by Commerce, but the record
6 suggests that most of the imports now are those
7 outside the scope. So are you arguing that as a
8 matter of law the commission can consider the effects
9 of all imports upon revocation, out of scope as well
10 as subjection? And, if yes, can you explain the
11 statutory basis for that argument?

12 MR. STAYIN: Our position is that what the
13 commission needs to look at is what is going to happen
14 to the U.S. industry if revocation occurs, is material
15 injury like to recur? What we're saying to you now is
16 that we already have some injury, but the order is
17 working well enough to keep these people in business
18 and to keep them in the marketplace. If the order is
19 revoked, then what will happen? And what we're saying
20 is that you will have a huge influx of subject candles
21 because they're not going to be sending non-subject
22 candles into the market. It's too expensive for them
23 to make non-subject candles. They make more money on
24 subject candles. So what you're going to see is a
25 huge influx of paraffin wax candles should the order

1 be revoked.

2 We know they can do it, we saw the
3 experience in 1997 when they had 45 million pounds in
4 the market, they dropped their prices by one-third and
5 it went up to 152 million pounds in two years. They
6 have that capability. They have a huge volume they're
7 selling overseas. They make more money on their
8 candles in the U.S. market than they do in overseas
9 markets, so they're going to ship those candles to
10 here and bring them in.

11 So the non-subject is not really an issue
12 because you're not going to have those non-subject
13 candles in this market when this order is revoked.
14 They will immediately revert back to paraffin.

15 You've head the testimony, they can do it in
16 a week using the same equipment, the same employees,
17 the same facilities, all it is is a cheaper wax if
18 you're using paraffin.

19 COMMISSIONER PEARSON: So your argument is
20 that we should just use our traditional analysis for
21 revocation of the order on subject product. Under the
22 conditions of competition that you've described, you
23 see basically all of the non-subject Chinese product
24 shifting to subject.

25 MR. STAYIN: Just think of the picture.

1 Last year, the Commerce Department found that the
2 Chinese producers are selling their products in this
3 market at a margin of 108 percent. Now, if they don't
4 have to pay a dumping duty of 108 percent, imagine
5 what they're going to be able to sell their subject
6 candles for when that duty is taken off. And the
7 capability they have in terms of the huge volume of
8 paraffin wax that is in that country that they can
9 use, the huge volume of candles they're already
10 selling elsewhere, you're going to see an avalanche
11 into this market and there's no way it's going to be
12 stopped. It will devastate the entire industry. And
13 that's what we're trying to focus on, what will happen
14 if it's revoked and it's quite clear what will happen
15 and we're really hoping, obviously, that the
16 commission will agree with us, that the order must be
17 kept in effect.

18 We have great prospects for this order.
19 Once this 108 starts hitting and we do believe we'll
20 be successful in the later developed product argument,
21 then this industry has some real hope down the road,
22 but we have to have the order first and foremost to
23 stay in business.

24 COMMISSIONER PEARSON: Did you have
25 something to add, Mr. Higgins?

1 MR. HIGGINS: I was going to add to it,
2 which may not concern you as much, but we also need to
3 get the non-subject candles in this order, which is
4 these blended candles or it's going to devastate us,
5 too.

6 COMMISSIONER PEARSON: Okay. Shifting
7 gears, in this case, there are significant funds
8 flowing to the domestic industry that have come from
9 the Continued Dumping and Subsidy Offset Act. I think
10 I'm correct if I understand that the CDSOA funds have
11 no affect on operating income, but rather in this case
12 they have a meaningful effect on net income.

13 Mr. Love, particularly in your Exhibit 15,
14 as you look at the segment of the industry that that
15 table applies to, we see that the CDSOA funds are
16 really quite a substantial portion of net income.

17 In that case, ought we to take the CDSOA
18 funds into account as we assess the condition of the
19 domestic industry?

20 MR. LOVE: That's a good question. I think
21 you can acknowledge it and that it has been a factor
22 in helping companies, those even in this room,
23 continue to do product development and R&D and the
24 like. However, in terms of evaluating the competitive
25 conditions in the market, pricing, operating

1 profitability, which is what you're really looking at
2 when you're looking at what are the effects of imports
3 and might the effect of imports be, I think it's
4 irrelevant in that sense. So that's how I would view
5 that.

6 COMMISSIONER PEARSON: How about in
7 assessing vulnerability?

8 MR. LOVE: Well, you know, I was proven
9 wrong because I didn't think the Byrd amendment would
10 pass in the first place and at every point in time
11 over the last year or two it seems like it may go
12 away. So in that sense, I think the industry is
13 vulnerable. A small attempt at humor. I'm sorry.

14 Anyway, I don't think that that should have
15 any bearing on whether the industry is vulnerable
16 because frankly if a company is going to suffer from
17 low profitability and negative profitability, that
18 doesn't necessarily mean they're going to remain a big
19 producer of candles even with the Byrd amendment
20 money. So I wouldn't agree with that.

21 COMMISSIONER PEARSON: But isn't receipt of
22 the Byrd money contingent on producing candles? I
23 mean, a firm could not cease production of candles and
24 still receive the Byrd money.

25 MR. LOVE: That is correct. That is

1 absolutely correct. However, it alone is not itself
2 enough justification to keep operating at significant
3 losses and so you would see shrinkage of a company
4 that is experiencing losses on an operating basis as a
5 matter of course, even with the Byrd amendment money.

6 Other folks, do you want to --

7 MR. LAZAR: Yes, Commissioner, if you would
8 just take into consideration not all the candle
9 companies receive the Byrd amendment. I was with a
10 candle company formerly that did not receive it and
11 they've had huge layoffs, a lot to do with these
12 Chinese candles coming in that are bypassing the
13 duties, that we didn't feel they were playing fair and
14 as a result of their low prices there's been large
15 layoffs in the industry.

16 MR. STAYIN: I think that the commission
17 really needs to focus on operating profit, not on
18 income that comes from any other source. Operating
19 profit on the sale of candles, I think is what the
20 focus is.

21 MR. LOVE: And I would note also that the
22 fact of the matter is that the amount of distribution
23 through the Byrd amendment is going down very
24 dramatically, obviously because the share of subject
25 imports as a percent of total is going down because of

1 the blended candle problem. So we know for a fact
2 that coverage is much reduced now today, this year and
3 last year, than what it was a couple of years ago, so
4 those monies are going away as the subject imports
5 decline as a percent of total.

6 MR. HIGGINS: As a division of a
7 corporation, I can tell you our corporation views it
8 as compensation for past losses, for the money they
9 invested and maybe didn't get back what they expected
10 in the past and going forward again. The Byrd
11 amendment might not be around very long, much longer.
12 And also there is still a reluctance to invest in our
13 industry if in fact the Chinese are eventually just
14 going to take it over with non-subject merchandise or
15 just circumvention.

16 COMMISSIONER PEARSON: Mr. Chairman, if
17 I could have just --

18 I'm sorry, Mr. Stayin?

19 MR. STAYIN: My understanding is that most
20 of these companies are plowing it back in to become
21 more productive, more efficient, to make themselves
22 more competitive in this market and that's what
23 they're using those monies for.

24 COMMISSIONER PEARSON: Mr. Chairman, if
25 I could just observe that in this period of review,

1 it's the Continued Dumping and Subsidy Offset Act
2 funds show up as a meaningful benefit to the domestic
3 industry relating to subject imports and so that's why
4 I'm wrestling with this, whether we ought to look at
5 it and, if so, how, if there's any guidance in the
6 statute in that regard.

7 Mr. Stayin, I'd be glad to read about it in
8 the post-hearing.

9 Thank you, Mr. Chairman.

10 CHAIRMAN KOPLAN: Thank you, Commissioner.

11 You haven't responded to that request,
12 Mr. Stayin.

13 MR. STAYIN: Oh, yes. I'm sorry. Yes. We
14 definitely will respond. I was writing a note to
15 myself to do that.

16 CHAIRMAN KOPLAN: I just wanted to close the
17 loop on that.

18 MR. STAYIN: Thank you.

19 CHAIRMAN KOPLAN: I'm curious, can you tell
20 me when Commerce will issue it's preliminary
21 determinations regarding your anti-circumvention
22 inquiries with regard to later developed merchandise
23 or merchandise of minor alterations?

24 I ask that because in their Federal Register
25 notice, they indicate that they're going to notify the

1 ITC in the event of an affirmative preliminary
2 determination. I know we vote on July 12th, and I'm
3 curious if you have a date or is there a scheduled
4 date for their preliminary determination?

5 MR. STAYIN: Not to my knowledge. I'd be
6 very surprised if they had a determination before
7 then.

8 CHAIRMAN KOPLAN: Okay.

9 MR. STAYIN: My expectation is early fall,
10 at the earliest.

11 CHAIRMAN KOPLAN: The only date that is in
12 there that apparently is required is 300 days after
13 initiation they need to go to final, which would take
14 us into January of next year.

15 MR. STAYIN: Right.

16 CHAIRMAN KOPLAN: Okay. I was just curious
17 on that.

18 I have one other question and this is for
19 the industry witnesses.

20 In the first review, as reported in the
21 commission's views at page 10, as noted in your
22 current pre-hearing brief at pages 27 and 28, the
23 reported growth and apparent U.S. consumption as more
24 rapid for higher value candles and both domestic
25 producers and importers had changed their product mix

1 over time to include more higher value candles.

2 My question is in two parts. First, has
3 there been a continuation of the trend toward more
4 higher value candles and, secondly, your pre-hearing
5 brief describes direct seller companies at page 39 as,
6 and I quote, "While they have a limited consumer group
7 from which they draw their sales, their appeal is
8 based on a highly branded image to a small, high end
9 premium market."

10 Isn't this a continuation of the trend both
11 you and the commission noted five years ago?

12 Could I hear from the industry people on
13 that? Is that the trend now?

14 MR. PAPPAS: That's what we would all like
15 to happen.

16 CHAIRMAN KOPLAN: It's not happening

17 MR. PAPPAS: We're attempting to do it, but
18 the -- in our particular case, we have worked very
19 diligently on making safer products which actually
20 cost more. It's very hard to get them to pass through
21 at retail because they're being compared to basically
22 product that does not have those features in it.

23 Product safety in candles is a major issue.
24 Currently, almost 5 percent are residential candle
25 fires. It's something that people don't seem to worry

1 about until they have one. But these are trends,
2 differentiation in product that should be going
3 forward, but they can't go forward because when
4 they're shopped against imported product, it basically
5 tends to be -- the price is what determines what it's
6 sold for, whether the feature goes forward or not.

7 CHAIRMAN KOPLAN: Are you saying that the
8 quality of the imported product is less than yours
9 because it doesn't --

10 MR. PAPPAS: I'm not saying the quality is
11 less.

12 CHAIRMAN KOPLAN: From a safety standpoint?

13 MR. PAPPAS: I think you actually -- you
14 could ask the Consumer Product Safety Commission.
15 I sit on the fire safety committee. They have
16 indicated that's an issue from time to time. But what
17 I'm referring to is we have actually developed
18 patented processes to self-extinguish the candle, to
19 put features in it that just weren't available in
20 candles before and it's very, very hard to pass these
21 increasing costs on because consumers don't recognize
22 the difference.

23 CHAIRMAN KOPLAN: I know that you do have
24 that role, sitting on that committee.

25 MR. PAPPAS: Yes.

1 CHAIRMAN KOPLAN: Is there any material that
2 comes out of that that might be helpful to us in terms
3 of what you're talking about?

4 MR. PAPPAS: I'm not sure how to answer that
5 question.

6 CHAIRMAN KOPLAN: Okay.

7 MR. PAPPAS: You know, you could look at --
8 I mean, it's very easy to go to CPSC.gov and look at
9 recalls and I think the data speaks for itself, but
10 what we find is that it's been very difficult. One of
11 the questions, I think, that didn't quite get answered
12 is that there is a voluntary labeling requirement now.

13 CHAIRMAN KOPLAN: Voluntary what?

14 MR. PAPPAS: Labeling requirement for fire
15 safety. There again, it's not required. There's some
16 question whether it should be or not. And that we
17 find retailers now are asking candles to meet the fire
18 safety standards.

19 I think this has actually caused the quality
20 of some of the imported candles to go up because they
21 really weren't being looked at before.

22 CHAIRMAN KOPLAN: Thank you for that.

23 Does anybody else want to add to that?

24 Mr. Goddard?

25 MR. GODDARD: Yes. At HFH, we've seen a

1 steady pressure from the market to move into the
2 differentiated premium candle area, but I'm not sure
3 that that's a general industry trend as much as it is
4 market forces from the imports that have removed the
5 option for us to sell into what we would consider to
6 be the commodity fragrance candle market, where these
7 candles were purchased, for example. Those
8 distribution channels are no longer available to us
9 because of the price pressures that we see.

10 So as a domestic supplier, we are moving
11 into the premium area and seeing that trend, but we
12 think we're forced in that direction because of the
13 imports. It wouldn't be that way without the Chinese
14 candles.

15 CHAIRMAN KOPLAN: Thank you.

16 Mr. LaZar?

17 MR. LAZAR: Quality improvement, the one
18 that we keep hearing over and over is better fragrance
19 throw, both cold throw when it's not lit and then when
20 it's lit, what we call more of a warm throw.

21 There is a big drive for that, but
22 unfortunately we can't get an increased price in
23 selling it that way. It's just pressure that make our
24 candles smell better, but don't raise your costs, if
25 anything, lower your cost.

1 CHAIRMAN KOPLAN: Mr. Higgins?

2 MR. HIGGINS: Yes. We sell primarily to the
3 mass merchandising industry and because the Chinese
4 keep coming in with unique looks and what have you and
5 fragrance requirements and what have you, it is
6 getting higher cost for us. They're more labor
7 intensive but that's easy for them to overcome in
8 China, but it's harder for us to overcome and we can't
9 get the price increase for what product they're
10 demanding or looking for.

11 CHAIRMAN KOPLAN: Thank you.

12 I thank each of you for your responses.
13 That concludes my questioning.

14 I'll turn to Vice Chairman Okun.

15 VICE CHAIRMAN OKUN: Thank you. I don't
16 have any further questions, but I will look forward to
17 post-hearing briefs and seeing the answers the
18 questions that have been posed throughout the
19 afternoon. Thank you again for being here.

20 CHAIRMAN KOPLAN: Thank you.

21 Commissioner Miller?

22 COMMISSIONER MILLER: Yes, Mr. Chairman.
23 Your questions about the Commerce Department's
24 investigation made me just partly out of curiosity and
25 partly out of an understanding of what the future may

1 hold --

2 Mr. Stayin, has Commerce ever made an
3 affirmative determination under the later developed
4 merchandise provision?

5 MR. STAYIN: Yes.

6 COMMISSIONER MILLER: They have?

7 MR. STAYIN: Yes, they have.

8 COMMISSIONER MILLER: See, I'm almost to
9 nine years here, I don't remember Commerce coming to
10 us in my time here asking for us to act or take a
11 position or interpret or whatever.

12 MR. STAYIN: It may be that in those cases
13 the basis for their decision was not something that
14 came out of the ITC's like product analysis. This
15 case, the importers have basically focused on one
16 sentence in the entire determination and ignored other
17 language in that determination such as commercial
18 production of candles uses natural waxes, paraffins,
19 microcrystalline, stearic acid and beeswax.
20 Commercial production of candles. It doesn't say that
21 it includes palm wax or soy wax or vegetable wax.

22 COMMISSIONER MILLER: Right.

23 MR. STAYIN: This is in your decision.

24 COMMISSIONER MILLER: Right.

25 MR. STAYIN: In your staff report, there's a

1 reference to the fact that these things may exist, but
2 they're not commercially developed. And that's what
3 the whole case --

4 COMMISSIONER MILLER: Yes. No,
5 I understand. I was just trying to remember any
6 situation in which -- because Commerce is required
7 under that provision to come to us, so that's why
8 I thought, well, maybe whatever happened was before my
9 time or maybe I've forgotten some of the things I've
10 done since I've been here, which I totally possible as
11 well.

12 MR. STAYIN: Do you have the date of those
13 later developed product decisions?

14 MS. MCGEE: A later developed product
15 decision was issued in Smith-Corona, but that was in
16 September 1988.

17 COMMISSIONER MILLER: I remember that one
18 and it was definitely before my time here.

19 MR. STAYIN: Before your time.

20 COMMISSIONER MILLER: Not before my time
21 where it was also an issue elsewhere.

22 MS. MCGEE: We could also submit to you --

23 COMMISSIONER MILLER: No, that's okay.
24 I was just curious. Do you know of any after that?

25 MS. MCGEE: Yes. After that, there was a

1 case on battery acid from Japan and there was also a
2 case involving -- battery acid from Japan is the most
3 recent one on that.

4 COMMISSIONER MILLER: Maybe they went
5 negative.

6 MS. MCGEE: And Eproms as well. Eproms
7 from -- I believe the Eproms were from Japan as well.
8 And we can submit those cites and those dates to you
9 in our post-hearing brief, but I believe they were
10 after the 1988 date.

11 COMMISSIONER MILLER: Okay. Okay. As
12 I say, I'm just trying to recall whether in my time
13 here we've been through any proceeding responding to
14 Commerce on such. I appreciate it. Any information
15 you do have just to help me either jog my memory or
16 understand their process, I'd appreciate it.

17 Thank you.

18 CHAIRMAN KOPLAN: Thank you.

19 Commissioner Hillman?

20 COMMISSIONER HILLMAN: I have no further
21 questions. I do want to thank the panel.

22 You've been extremely helpful. It's been a
23 very interesting hearing and we very much appreciate
24 all of your answers. Thank you.

25 CHAIRMAN KOPLAN: No other questions from

1 the dias?

2 (No response.)

3 CHAIRMAN KOPLAN: I would just note in
4 response to what you said that the Commerce
5 Department's notice of initiation, in discussing the
6 initiation of later developed merchandise and
7 anticircumvention does make mention of the ITC's like
8 product definition and discusses in some detail these
9 proceedings as well, so that's why I was curious about
10 the preliminary results.

11 MR. STAYIN: I'm not aware of it.

12 CHAIRMAN KOPLAN: Thank you.

13 Seeing that there are no other questions
14 from the dias, Ms. Mazur, does staff have questions of
15 the panel before we release them?

16 MS. MAZUR: Mr. Chairman, staff has no
17 questions.

18 CHAIRMAN KOPLAN: Thank you.

19 With that, we will terminate this part of
20 the hearing and go to closing argument.

21 MR. STAYIN: Mr. Chairman, would you like us
22 to leave these candles with you with the receipts for
23 the prices? Just leave them with you?

24 CHAIRMAN KOPLAN: My colleagues are
25 indicating they would like that.

1 MR. STAYIN: Okay. Very good.

2 CHAIRMAN KOPLAN: And I join in that. That
3 would be appreciated, it would be helpful.

4 You have now five minutes for your closing.

5 MR. STAYIN: The Candle Association is
6 looking to the commission for three decisions, three
7 acknowledgements, most importantly, an affirmative
8 decision to continue the antidumping order; secondly,
9 to acknowledge that in the original investigation the
10 commission did not exclude blended wax or palm wax
11 candles; and, finally, to determine that all candles
12 containing petroleum wax fall within the like product
13 determination except for beeswax candles.

14 All of these are very relevant to what is
15 going on in the marketplace now and the conditions of
16 competition that the industry faces. The commission
17 has dealt with these issues before, it has the
18 authority to reconsider the like product analysis and
19 determination it made originally depending upon
20 circumstances such as this and so we're asking the
21 commission to take that into account.

22 But we don't want to take our eye off the
23 ball, which is continuation of the order. As I had
24 mentioned earlier, the order has worked well. It has
25 enabled the U.S. industry to be very creative. They

1 created the aromatherapy craze by virtue of finding
2 out all these kinds of fragrances and scents that they
3 can use to help enhance the lives of people in their
4 homes and elsewhere.

5 They helped make that demand grow and they
6 are now facing a shift. That shift is something that
7 I think that the antidumping law was made to take into
8 account and to deal with. That's the very reason that
9 the order is in place. The industry still is handling
10 its own, it's keeping on, it is able to stay in
11 business because the order is in place. When you take
12 that order out, the floor is going to drop out from
13 underneath them and, again, we said if you look at
14 what has happened in the past, past is prelude. You
15 look at that two-year period of time, they dropped the
16 price by one-third and they tripled their volume in
17 three years, they've quadrupled their volume through
18 2004.

19 They have that capability to bring in a huge
20 volume of candles and they're all going to be paraffin
21 wax candles and they're not going to have any kind of
22 dumping duty on them and they're all going to be way
23 below the prices that these companies are able to sell
24 their products for. You can't stay in business if
25 you're selling your products at less than your cost of

1 production.

2 This order is vital to the survival of this
3 industry and I wish very much that you take into
4 consideration all of the testimony you've heard here
5 today and respectfully request that you decide to
6 continue the order in effect. As the Department of
7 Commerce has decided, obviously a 180 percent
8 antidumping duty says something. It says something
9 about their ability to price in the marketplace and
10 what they've been doing and we have to keep that in
11 mind when we talk about revoking the order.

12 Thank you again for giving us this
13 opportunity to be before you and we look forward to
14 responding in our post-hearing brief to the questions
15 you have asked.

16 Thank you.

17 CHAIRMAN KOPLAN: Thank you, Mr. Stayin.

18 And thank you to each of the witnesses who
19 contributed to our information in this hearing.
20 I complement you on the quality of your presentation.

21 Post-hearing briefs, statements responsive
22 to questions and requests of the commission and
23 corrections to the transcript must be filed by June 3,
24 2005; closing of the record and final release of data
25 to the parties, June 24, 2005; and final comments are

1 due June 28, 2005.

2 With that, this hearing is adjourned.

3 (Whereupon, at 1:12 p.m., the proceedings in
4 the above-captioned matter were concluded.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Petroleum Wax Candles from China
INVESTIGATION NO.: 731-TA-282 (Second Review)
HEARING DATE: May 25, 2005
LOCATION: Washington, D.C.
NATURE OF HEARING: Hearing

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

DATE: May 25, 2005

SIGNED: LaShonne Robinson
Signature of the Contractor or the
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Washington, D.C. 20005

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

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

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