

THE UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)
) Investigation No.:
 CERTAIN POLYESTER STAPLE) 731-TA-1104 (Final)
 FIBER FROM CHINA)

Tuesday,
 March 13, 2007

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 DANIEL R. PEARSON, Chairman, presiding.

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On behalf of the International Trade Commission:

Commissioners:

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 DEANNA TANNER OKUN, COMMISSIONER
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In Support of the Imposition of Antidumping Duties:

On behalf of DAK Americas LLC, Wellman, Inc. and Nan Ya
Plastics Corporation Americas:

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Inc.
JOSEPH CHANDRL, Account Manager, Nan Ya Plastics
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JON MCNAULL, Fibers Business Director, DAK
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RICKY LANE, Director, Public Affairs, Trade
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In Opposition to the Imposition of Antidumping Duties:

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Washington, D.C.

On behalf of Hollander Home Fashions Corporation:

RICH EPSTEIN, Consultant

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P R O C E E D I N G S

(9:30 a.m.)

CHAIRMAN PEARSON: Good morning. On behalf of the U.S. International Trade Commission I welcome you to this hearing on Investigation No. 731-TA-1104 (Final) involving Certain Polyester Staple Fiber From China.

The purpose of this investigation is to determine whether an industry in the United States is materially injured or threatened with material injury by reason of less than fair value imports of subject merchandise.

Schedules setting forth the presentation of this hearing, notice of the investigation and transcript order forms are available at the public distribution table. All prepared testimony should be given to the Secretary. Do not place testimony directly on the public distribution table.

As all written material will be entered in full into the record it need not be read to us at this time. All witnesses must be sworn in by the Secretary before presenting testimony. I understand that parties are aware of the time allocations. Any questions regarding the time allocations should be directed to the Secretary.

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

5 Madam Secretary, are there any preliminary
6 matters?

7 MS. ABBOTT: Yes, Mr. Chairman. With your
8 permission, Rich Epstein, Consultant, will be placed
9 on the calendar for Hollander Home Fashions
10 Corporation.

11 CHAIRMAN PEARSON: Without objection.

12 Let us then proceed with opening remarks.
13 Have all witnesses been sworn?

14 MS. ABBOTT: All witnesses have been sworn.
15 (Witnesses sworn.)

16 CHAIRMAN PEARSON: Okay.

17 MS. ABBOTT: Opening remarks for Petitioners
18 will be by Paul C. Rosenthal, Kelley Drye Collier
19 Shannon.

20 CHAIRMAN PEARSON: Welcome, Mr. Rosenthal.
21 Good to see you again.

22 MR. ROSENTHAL: Good morning, Mr. Chairman,
23 members of the Commission. I'm Paul Rosenthal of the
24 law firm of Kelley Drye Collier Shannon, and it's
25 always a pleasure to appear before you. I even think

1 that at the end of the day, and I hope I'll think that
2 today. I'm sure I will.

3 I'm delighted to welcome Commissioners
4 Williamson and Pinkert. It's nice to see you. I'm
5 hoping this morning will be informative and
6 interesting and perhaps even entertaining.

7 For better or worse, this industry is not
8 new to the other four Commissioners. They have
9 experienced a recent sunset review involving the
10 dumping orders on Korea and Taiwan, and in this case
11 the Commission's record is well developed thanks in
12 large part to that previous sunset case and largely to
13 the staff, who has collected a great deal of data,
14 thanks in no part to the Chinese Respondents who have
15 largely failed to place data on the record of this
16 proceeding.

17 The record in this case supports a finding
18 that dumped imports of certain polyester fiber from
19 China have materially injured the competing U.S.
20 producers. In fact, the data gathered since the time
21 of the preliminary determination in this case provides
22 even more evidence of the injurious volume and price
23 effects of the dumped Chinese imports.

24 Trends in import volumes and market shares
25 as compared to U.S. sales and market shares over the

1 past three years provide a classic case of import-
2 related injury. Even at a time when demand was
3 declining, the volume of imports from China increased
4 rapidly with a volume growth of over 200 percent.

5 As Chinese market share grew from about six
6 percent in 2004 to over 22 percent in 2006, domestic
7 producers saw their market share fall by over 13
8 percent, and I should add that nonsubject import
9 market share also declined over this period, showing
10 that the loss to the U.S. producer market share was
11 due to imports from China, not to other countries.

12 How is this remarkable growth rate and
13 market penetration attained? The answer is found in
14 your price comparison data. Imports from China
15 undercut U.S. prices in the vast majority of all
16 comparisons. Underselling also occurred more
17 frequently in 2005 and 2006 when the greater import
18 volumes and higher market penetration occurred.

19 Chinese producers use their low dumped
20 prices to obtain market share at the expense of the
21 U.S. industry. The staff report and your record is
22 very, very clear on all of this. A market share loss
23 was not the only byproduct of these unfair trading
24 practices. During a time of rising cost, domestic
25 producers found themselves unable to increase prices

1 sufficiently to cover cost increases due to the
2 competition from low-priced Chinese imports.

3 Domestic producer prices were suppressed,
4 and as a result the industry suffered significant
5 losses in 2006. As the witnesses will attest, plant
6 closures, employee layoffs and inability to invest in
7 continued capital improvements were all consequences
8 of the Chinese import surge, and in this capital-
9 intensive industry you must continue to be able to
10 generate revenues to reinvest. The impact of the
11 imports is very, very clear there.

12 Notably absent from the hearing today are
13 representatives of the Chinese producers who
14 participated at the preliminary stage of this case.
15 Indeed, out of an estimated 150 Chinese PSF producers,
16 only eight submitted questionnaire responses.

17 Some, like Far Eastern, participated at the
18 Commerce Department, but have not submitted
19 information to the Commission here. On the basis of
20 the data that Far Eastern submitted to Commerce, the
21 Commerce Department reached an affirmative critical
22 circumstances finding, and that finding is also
23 warranted by the Commission.

24 The reason for the absence of Chinese
25 producers is obvious. Their data did not help their

1 case. Publicly available information shows that the
2 Chinese capacity and production of PSF is massive and
3 rapidly increasing, outpacing home market demand.

4 The EU has imposed duties on Chinese PSF,
5 causing China to divert even larger export volumes to
6 the United States. There is not only present injury,
7 but the threat of future injury.

8 Finally, and we'll talk more about this this
9 morning, there is nothing in the Court of Appeals to
10 the Federal Circuit's decision in Bratsk that should
11 prevent you from applying an affirmative injury
12 determination in this case.

13 Ms. Cannon will go into that in greater
14 detail this morning, but I hope you will agree that
15 while most of us -- I hope to think all of us --
16 believe that the Bratsk decision was misguided, there
17 is ample evidence in this case to make an affirmative
18 determination despite the Bratsk decision.

19 Thank you.

20 MS. ABBOTT: Opening remarks on behalf of
21 Respondents will be by Robert Shapiro, Thompson
22 Coburn.

23 CHAIRMAN PEARSON: Welcome, Mr. Shapiro.
24 Please proceed.

25 MR. SHAPIRO: Good morning. It's a pleasure

1 to be here this morning. It's actually nice to have
2 spring in the air, and thank you for the opportunity
3 to appear before you. My name is Robert Shapiro, and
4 I'm a partner at the law firm of Thompson & Coburn.

5 In this investigation there are several
6 economic indicators moving in opposing and conflicting
7 directions that counter any argument of injury,
8 material injury, as stated by the Petitioners. The
9 domestic industry has an improvement in profits over
10 the period of the investigation. They experienced a
11 loss at the beginning and a profitable situation at
12 the end of the investigation.

13 The average unit value for the domestically
14 produced PSF has increased dramatically during the
15 period of the investigation. The total number of
16 hours committed by production-related workers has also
17 increased, and exports of domestically produced PSF
18 are climbing.

19 It is hard to imagine an injury to an
20 industry that is experiencing those economic factors,
21 yet the industry cites a reduction in capacity and a
22 reduction in capacity utilization as indications of
23 their injurious condition. One must ask how these
24 factors can be reconciled with the positive economic
25 impact discussed above.

1 One problem for the domestic industry is
2 that they or their related companies represent some of
3 the largest importers of PSF into the United States.
4 They also have a problem with apparent U.S.
5 consumption of PSF declining. That would account for
6 some of the decrease in capacity and capacity
7 utilization.

8 They have seen dramatic decreases in
9 productivity. It is taking them more hours of labor
10 to produce less PSF. They have seen production costs
11 climb outside of the costs associated with the
12 decrease in productivity. Their raw material costs
13 have climbed. PSF is a plastic product. Its primary
14 raw materials are petroleum derivatives.

15 There has been a shift in the consuming
16 industry, some of the consuming industry, away from
17 PSF because of flame-retardant rules that are coming
18 into effect by the Consumer Product Safety Commission.

19 Despite what the industry has led the
20 Commission to believe and the Commission has stated in
21 its prehearing reports, polyester staple fiber is not
22 monolithic. It is not all used in a single
23 application.

24 There are a variety of applications, and
25 what we will demonstrate here or the Respondents will

1 show here is this wide berth of product factors,
2 different polyester staple fiber that is not
3 adequately produced in the United States, where demand
4 cannot be satisfied, where these products are not
5 available from domestic producers, so the monolithic
6 idea of a single polyester staple fiber industry that
7 meets all needs, primarily high-loft, is the interest
8 of the industry is also discredited.

9 For these reasons we think that an injury
10 determination here is inapplicable. There has been a
11 growth in profits, growth in exports, growth in hours
12 of work committed to it.

13 This is an industry that is on an upward
14 trend and has experienced the benefits of the previous
15 investigation against Korea and Taiwan and has
16 appreciated those, and it does not warrant a finding
17 of injury in this case.

18 Thank you very much.

19 MS. ABBOTT: The first panel in support of
20 the imposition of antidumping duties, please come
21 forward and be seated.

22 CHAIRMAN PEARSON: Okay. Mr. Rosenthal,
23 please continue.

24 MR. ROSENTHAL: Thank you. Our first
25 witness this morning will be Jonathan McNaull.

1 MR. MCNAULL: Good morning. My name is Jon
2 McNaull. I'm the fibers business director for DAK
3 Americas. In 2001, DAK became a standalone company
4 when Dupont sold its position in the joint venture.

5 I've been in the polyester staple business
6 for 14 years working in every aspect of the industry.
7 My responsibilities have included working as an
8 engineer in the manufacturing operation, as well as in
9 technical marketing, sales and supply chain management
10 before assuming my current role as director of DAK
11 Americas' fibers business.

12 In these positions I've become very familiar
13 with most aspects of the production and sale of PSF
14 and have seen the business change dramatically as a
15 result of import competition. Prior to the arrival of
16 imports first from Korea and Taiwan and now from
17 China, competition has centered more on brand image
18 and marketing. With the arrival of imports, the
19 significance of brands has diminished and low price is
20 now the paramount concern of customers.

21 I appeared before the Commission in last
22 year's sunset review involving Polyester Staple Fiber
23 From Korea and Taiwan. When the domestic industry
24 first filed that in 1999, China did not export any
25 PSF. In discussing our concerns with the potential

1 revocation of the Korean and Taiwan orders in 2006, I
2 testified to the rapid increases we were seeing in
3 Chinese imports and identified China as one of DAK
4 Americas' emerging competitive problems.

5 Imports from China have increased further at
6 even lower prices since that testimony was given in
7 January 2006, causing our industry's condition to
8 deteriorate substantially.

9 One important condition of competition we
10 have faced that I would like to address first is the
11 cost increases. Over the past few years there have
12 been significant and fairly continuous increases in
13 the cost of producing polyester staple fiber.
14 Specifically, the cost of petroleum-based raw
15 materials has increased steadily in recent years. The
16 rise in the cost of petroleum has led to substantial
17 increases in energy costs as well, which are
18 significant in the PSF industry.

19 The production of polyester staple is
20 dependent on petroleum in one form or another, whether
21 it is our principal raw material, monoethylene glycol,
22 known as MEG, and purified terephthalic acid, known as
23 PTA, or the natural gas and electric energy consumed
24 in the production process. MEG and PTA account for
25 the majority of the cost of producing PSF. Costs for

1 both of these raw materials have increased throughout
2 the review period.

3 DAK has attempted on a number of occasions
4 to increase prices to cover these increased costs.
5 Although some price increases have been attained, we
6 have not been able to increase prices sufficiently to
7 cover these rising costs due to competition with low-
8 priced dumped imports from China.

9 Chinese imports have impeded DAK's ability
10 to recover these rising costs because they
11 consistently undercut our prices. Customers are
12 unwilling to increase the prices they pay to us when
13 Chinese producers are offering lower prices, even
14 though our increases are justified by rising cost.
15 Increased prices alone are meaningless as an indicator
16 of health if those prices do not cover the increased
17 cost.

18 This difficult situation caused by China is
19 growing worse. Last year underselling by China seemed
20 to be even more extreme than it's been in the past.
21 As a result, these dumped imports have really affected
22 our returns by preventing DAK from raising prices
23 sufficiently to cover these increasing costs.

24 This increased underselling is commensurate
25 with the Chinese producers' apparent collective

1 decision not to raise prices, notwithstanding rising
2 costs, in mid 2005.

3 The Commission correctly recognized in its
4 preliminary decision that the domestic industry
5 sacrificed market share in 2005 in the interest of
6 maintaining price levels and meager profits. By 2006,
7 our industry saw both market share and profits erode
8 due to increasingly lower Chinese prices.

9 The capital and energy-intensive nature of
10 the PSF industry makes it important that producers
11 maintain high operating rates to maximize
12 efficiencies. If we cannot run our lines at optimal
13 efficiency levels, significant costs are incurred and
14 shutdowns are often our only alternative. The
15 increased volumes of Chinese imports leading to
16 reduced production and shipments of U.S. producers
17 have not only cost us market share, but have also
18 affected our production efficiencies.

19 The problems our industry has suffered
20 recently cannot be blamed on anything but dumped
21 imports from China. Absent these imports, the cost
22 increases we experienced would have been dealt with by
23 increased prices to cover those costs. Price
24 increases, however, have been prevented by the lower
25 prices of Chinese imports. If customers can buy PSF

1 from China at below cost prices, why agree to price
2 increases from DAK Americas?

3 Similarly, demand for PSF has not been the
4 cause of the injury we have suffered. Although demand
5 has dropped somewhat, import volumes from China have
6 taken a larger share of even these lower demand
7 levels, causing our market share to fall and our
8 production and shipments to decline. Our industry has
9 plenty of unused capacity that it cannot put to use
10 because of displacement of our sales in our home
11 market by Chinese imports.

12 The hurricanes that took place in the fall
13 of 2005 are also not the cause of injury observed or
14 of the surging imports from China. The hurricanes did
15 have an affect on our raw material supplies at that
16 time, causing us to institute surcharges in the fall
17 of 2005.

18 The effect of the hurricane, however, was
19 only temporary. By 2006, the industry had returned to
20 normal business operations and eliminated raw material
21 surcharges. The temporary impact of these hurricanes
22 is not the cause of the injury that we have suffered.

23 As the business director, I can testify that
24 these other conditions of competition -- increased
25 cost, fluctuations in demand and even weather-related

1 factors like hurricanes -- are normal facets of
2 competition that every industry faces.

3 None of these factors, however, come even
4 close to the problems caused by the dumped Chinese
5 imports. Although we can adjust to other factors,
6 most of which are temporary, we cannot remain in
7 business when forced to compete with companies that
8 price below cost and are willing to undercut our
9 prices however low we reduce them.

10 Let me make it clear that price is the
11 driving force in purchasing decisions when comparing
12 our product to Chinese imports. We are not losing
13 business to China for reasons or quality of an
14 inability to supply product.

15 In the fiberfill market what my customers
16 want to know is whether I can price competitively with
17 the low prices they're offering from China. If I
18 can't, we lose the business. If I try to compete on
19 price, we lose money. It's a no win situation.

20 In recent years, no other product appears to
21 have been the subject of so many antidumping duty
22 orders around the world than PSF. In fact, the
23 Chinese Government itself imposed duties on Korean PSF
24 before becoming a huge exporter of PSF.

25 Recently the European Union imposed

1 antidumping measures on China, causing them to send
2 even more product to the United States, yet capacity
3 to produce PSF in China continues to grow, and the
4 U.S. producers continue to suffer. Chinese producers
5 have used low, dumped prices to become the largest
6 import supply source of PSF in the United States'
7 market, surpassing both Korea and Taiwan.

8 My company believes that if PSF imports from
9 China are not restrained, DAK will be forced into the
10 partial or complete shutdown of its production
11 capacity and will be forced to terminate hundreds of
12 workers. We simply cannot survive as an industry when
13 we must suffer continuous losses and cede market share
14 to unfairly traded imports first from Korea and Taiwan
15 and now from China.

16 DAK respectfully requests that the
17 Commission find that imports from China are causing
18 material injury so that this one textile segment, like
19 many others before it, is not driven out of business
20 by unfair trade practices.

21 Thank you.

22 MR. ROSENTHAL: Our next witness will be
23 Gisela Katz from Wellman.

24 MS. KATZ: Good morning. My name is Gisela
25 Katz, and I'm a manager of Market Planning with

Heritage Reporting Corporation
(202) 628-4888

1 Wellman, Inc. I have been with Wellman over 17 years,
2 first in the strategic planning area and then in the
3 Fiber and Recycled Products Group.

4 Before I worked for Wellman I was with
5 Celanese and Fiber Industries, two companies that
6 subsequently became part of Wellman, so I've been in
7 the fiber business for over 20 years. Wellman is now
8 the second largest producer of certain polyester
9 staple fiber, or PSF, in the United States and also
10 has operations in Europe.

11 This morning I would like to first discuss
12 our product and production process. We were pleased
13 to have the opportunity recently to conduct a tour for
14 several members of your staff to demonstrate how our
15 product is produced and to show samples of our product
16 and their inputs. We understand that some
17 Commissioners may be interested in taking a tour in
18 the next several weeks, and we would be very happy to
19 accommodate you.

20 The tour we conducted took place at our
21 Palmetto facility in Darlington, South Carolina. Over
22 the course of this investigation, Wellman has
23 manufactured PSF at both the Palmetto plant, as well
24 as a plant in Johnsonville, South Carolina.

25 Our Palmetto plant manufactures PSF from

Heritage Reporting Corporation
(202) 628-4888

1 virgin inputs, while our Johnsonville plant used to
2 manufacture PSF from regenerated and recycled inputs.
3 Unfortunately, we were forced to shut down our
4 Johnsonville plant last year due to competition from
5 dumped Chinese imports.

6 During the recent tour we were able to show
7 the Commission staff members samples of inputs to our
8 production of PSF from regenerated materials that had
9 been in use in Johnsonville, as well as to show them
10 how we produce PSF from virgin materials.

11 Virgin inputs to the production of PSF are
12 primarily ethylene glycol and terephthalic acid.
13 Nonvirgin inputs to the production of PSF may include
14 bottles, film, pellets, filament waste, as well as
15 waste materials such as clunkers, which are chunks of
16 solidified polyester.

17 The virgin and nonvirgin inputs used to
18 produce PSF in China are the same as the inputs we use
19 here in the United States. Importantly, although
20 different input materials can be used to produce PSF,
21 there is no fundamental difference between the
22 finished PSF produced from virgin raw materials as
23 compared to PSF produced from recycled or regenerated
24 raw materials.

25 The same staple fiber can be manufactured

1 from either virgin inputs, recycled or regenerated
2 inputs or a blend of the two. Nor is there any
3 difference in the physical characteristics of the PSF
4 produced in China and that produced in the United
5 States.

6 One of the products that we discussed with
7 the Commission staff during our tour is what we call a
8 3-D high void PSF. That product is a mechanically
9 crimped product, not a conjugate made from two
10 different polymers, but is a three-dimensional product
11 with physical characteristics similar to a conjugate
12 and is directly competitive with sales of conjugate
13 PSF in the United States market.

14 I understand that a Respondent has argued
15 that conjugate PSF is a different product from other
16 PSF. To say that PSF made with a chemical crimp,
17 known as conjugate, as opposed to a mechanical crimp,
18 known as mechanically crimped, are different products
19 is incorrect. The characteristics that these products
20 provide to the final end product are identical. Both
21 processes can yield a three-dimensional PSF, as is
22 true of Wellman's 3-D high void product.

23 Our mechanically crimped 3-D high void
24 product is used for precisely the same end uses as a
25 conjugate product. The three-dimensional nature of

1 both of these products provide a high loft, making
2 them particularly suitable for applications such as
3 pillows.

4 During the Korea and Taiwan PSF
5 investigation, U.S. producers conducted extensive
6 laboratory testing to compare conjugate PSF with
7 mechanically crimped PSF to determine whether one
8 product was really superior to the other.

9 The lab tests examined characteristics such
10 as loft, meaning the height; loft recovery, meaning
11 the bounce back after a pillow or a cushion is pressed
12 down. The processing, blowing, garnetting, cross
13 section analysis, loft testing results and loft
14 recovery results all provided objective evidence that
15 there is no claimed superiority of conjugate PSF over
16 mechanically crimped PSF.

17 I might also add that the only difference
18 between conjugate and nonconjugate products is that
19 conjugate PSF is produced by combining two polymers of
20 different viscosity. Regardless of these differing
21 processes, however, conjugate PSF has similar
22 properties to mechanically crimped PSF and is used for
23 the same purposes.

24 In fact, a number of different types of PSF
25 may have slightly different characteristics based on

1 their precise intended use, but these differences are
2 not sufficient to consider them separate products.

3 Another Respondent, Insituform, has argued
4 that it requires a unique type of PSF for its special
5 CIPP technology. That claim is also not true. The
6 PSF that Insituform buys is not a unique product, but
7 is a basic PSF product that is produced by a number of
8 companies and is used for both nonwoven and fiberfill
9 applications.

10 As we showed the Commission staff during our
11 plant tour, products such as the mesh you might see
12 covering the ground next to a highway where
13 construction is occurring are made from subject PSF.
14 Subject PSF may be used for both nonwoven
15 applications, as well as fiberfill applications.

16 What is important to recognize though is
17 that the same PSF used to produce that mesh can also
18 be used in fiberfill applications. Similarly, the
19 exact PSF product that Insituform describes is used in
20 fiberfill applications.

21 Wellman can and does manufacture the product
22 Insituform describes. Our understanding is that
23 Invista, another U.S. PSF producer, has supplied
24 Insituform with this product. It is not an inability
25 to obtain this product domestically that is driving

1 Insituform to try to exclude that product from the
2 order here.

3 The bottom line is that the U.S. industry
4 can produce a product that meets both Ashley's needs
5 for high-loft fiber and Insituform's needs for a
6 nonwoven application. We are not losing sales to
7 China due to failure to supply conjugate PSF. We are
8 losing sales to lower prices offered by China.

9 PSF customers are always looking to buy
10 product at the lowest possible price. That is the
11 reason we have lost so many sales to imports from
12 China. We cannot beat the low prices offered by
13 subject imports.

14 When we agree to sell at these low prices to
15 compete with Chinese imports we lose money. As your
16 report shows, our industry has been faced with rising
17 costs over the past few years. These increased costs
18 have led to the need to raise our selling prices, but
19 we have had great difficulty in doing so as a result
20 of low-priced Chinese imports.

21 As a result, only limited increases in PSF
22 prices have occurred without any improvement to our
23 profit margins. In 2005 and first quarter 2006, for
24 example, we implemented several price increases, but
25 even these weren't sufficient to cover our cost of raw

1 materials increases.

2 Further, these increases are also at the
3 expense of ceding market share to imports from China.
4 By the end of 2006, we were ceding market share and
5 losing money due to their dumping.

6 In the past, when faced with rising virgin
7 raw material costs Wellman had the flexibility of
8 shifting between virgin inputs to nonvirgin inputs
9 based on relative cost. In 2005 and 2006, however,
10 the pricing of PSF was so low that even using
11 nonvirgin inputs we were not able to show a profit.

12 Just knowing we had this ability to shift
13 between nonvirgin and virgin inputs, however, was
14 extremely important to Wellman, and it was hoped that
15 as the market improved we would be able to take
16 advantage of this shift in the future when necessary.

17 Last year, however, we were forced to close
18 our Johnsonville facility that produced PSF from
19 recycled inputs due to an inability to compete with
20 imports from China. The irony of that closure is that
21 Wellman should have had a cost advantage in using
22 nonvirgin raw material inputs in 2005 and 2006 due to
23 the very high virgin raw material cost.

24 That advantage should have better enabled us
25 to compete with imports from China. However, the

1 prices offered for Chinese imports were so low that we
2 could not operate profitably even in that environment.

3 Wellman has made a concerted effort to
4 reduce its expenses and remain competitive through
5 cost cutting measures, including a reduction in the
6 levels of management, plant closings and employee
7 layoffs.

8 The closure of our Johnsonville facility
9 alone resulted in the elimination of over 360 jobs.
10 That plant represented a major source of employment
11 for the community in Johnsonville. The elimination of
12 jobs of dedicated workers by a major employer in the
13 town is certainly not good for morale, but we had no
14 choice.

15 It is heartbreaking to walk through the
16 plant and see employees crying. When the plant became
17 cash negative due to an inability to compete with
18 Chinese imports, our company had no choice but to take
19 these actions. Absent relief in this case, the
20 closures and layoffs will only continue.

21 The industry producing PSF in China is
22 massive compared to not only the United States, but
23 also compared to all other countries. China continues
24 to expand capacity to produce PSF well beyond their
25 own home market demand.

1 Unless antidumping duty orders are imposed
2 on these imports, closure of our remaining U.S. PSF
3 production plant in Palmetto could soon follow.

4 Thank you for your attention.

5 MR. ROSENTHAL: Our next witness will be
6 Joseph Chandrl.

7 MR. CHANDRL: Good morning. My name is
8 Joseph Chandrl, and I am the account manager for Nan
9 Ya Plastics Corporation America. Nan Ya is a
10 subsidiary of Taiwan-based Nan Ya Plastic Corporation
11 and is a major producer of polyester staple fiber in
12 the United States.

13 During the past three years, low-priced
14 imports of Chinese PSF have flooded the U.S. market.
15 These imports have caused us to lose sales and have
16 undercut our prices, preventing price increases we
17 needed badly. As a result, Nan Ya's production and
18 shipments have fallen to all-time low levels in 2006.
19 Our profitability has also declined to a loss last
20 year as we had to reduce our prices in order to retain
21 customers.

22 Attempted price increases have been
23 unsuccessful due to low-priced imports. Any increases
24 that have occurred have not kept pace with rising
25 cost, leading to dismal financial results for the

1 industry. Even with these low prices, we have
2 continued to lose sales and market share to Chinese
3 imports. We have also had to reduce our workforce, a
4 difficult matter for any company.

5 One type of PSF that we produce that is very
6 important to our company is conjugate PSF. Nan Ya
7 produces a quality conjugate product that was very
8 much in demand until low-priced Chinese imports
9 started replacing these sales. Historically conjugate
10 fiber has been one of Nan Ya's highest margin PSF
11 products. Imports of conjugate PSF from China at low
12 prices, however, have virtually eliminated any price
13 premium for conjugate fiber.

14 In addition, as reflected in the lost sales
15 data we submitted in this case, Nan Ya has lost a
16 number of sales to conjugate PSF imports from China,
17 as well as to other types of PSF imports from China.
18 These losses occurred due to lower dumped prices, not
19 better quality of the imports.

20 In fact, competition from low-priced
21 conjugate imports from China became so bad that we
22 were forced to shut down our conjugate line in June
23 2006. This shutdown was a direct result of
24 competition from lower priced imports from China.

25 Not until this case was filed did we see any

1 recovery in our sales of PSF. After the filing of
2 this case last summer, however, Nan Ya was able to
3 resume production on our conjugate line in September
4 2006 as the positive effects of this case began to be
5 felt in the market.

6 At that point, we were running the conjugate
7 line at 50 percent of its capacity. Only after the
8 preliminary duties came into effect did we notice a
9 real improvement in the market in terms of lower
10 volumes of Chinese imports.

11 In 2007, we have been able to run the
12 conjugate line at 100 percent of its capacity. The
13 resumption of production at this facility is a direct
14 benefit from this case.

15 I would now like to address the fiber
16 industry in China. Nan Ya is very familiar with the
17 Chinese fiber market as our parent company completed
18 installation of a polyester filament plant in Kushan,
19 China, in 2006. The facility produces only polyester
20 filament, and the company has no plans to produce
21 other fiber products, including certain PSF, in China.

22 From our counterparts in Kushan, however, we
23 have become aware of the numerous producers of certain
24 PSF in China. Available information is that Chinese
25 capacity and production of PSF is massive and is

1 continuing to increase. It is amazing to me that
2 China did not even begin exporting substantial volumes
3 of PSF to the United States until a few years ago, yet
4 it is now the largest exporter of PSF to the United
5 States.

6 This massive capacity with the United States
7 its clear export market is very alarming to Nan Ya.
8 We are already losing significant sales and market
9 share to these imports. We are unable to increase
10 prices sufficiently as costs increase and are in
11 financially poor shape.

12 These surges in capacity mean that imports
13 from China will only continue to grow exponentially as
14 they have in the past. This import growth will
15 continue pricing pressure in the U.S. market, forcing
16 U.S. producers to further cut prices to retain market
17 share or lose customers to Chinese producers.

18 I cannot stress enough the importance of
19 this case to Nan Ya, especially because it allowed us
20 to restart our conjugate production line. This would
21 not have been possible without the filing of this
22 case. Termination of this case without the imposition
23 of an order against China, however, will likely force
24 Nan Ya to permanently close not only its conjugate PSF
25 line, but other PSF production lines as well.

1 Relief from unfair pricing practices of the
2 Chinese producers is critical to enable Nan Ya to
3 remain in the business of producing polyester staple
4 fiber in the United States. On behalf of my company,
5 I urge the Commission to grant us that relief.

6 Thank you.

7 MR. ROSENTHAL: We are going to have two
8 witnesses in tag team. Kathy, I am going to let Pat
9 and Gina go next, and then we'll hear from Ms. Cannon
10 on some legal issues.

11 CHAIRMAN PEARSON: Mr. Magrath, is your
12 microphone on?

13 MR. MAGRATH: No. Actually yes, now. I'm
14 sorry.

15 Gina Beck is with me. We would like to
16 welcome the new Commissioners.

17 In its preliminary determination, the ITC
18 identified several conditions of competition that
19 characterized the U.S. market for certain PSF. These
20 conditions describe either demand or supply factors
21 particular to the U.S. market, as is customary.

22 My testimony begins with a description of
23 these conditions, but also points out how data for two
24 of the market participants, the U.S. industry and
25 imports from China, followed trends that deviated from

1 the overall market. These deviations tell the story
2 of injury to the U.S. industry by reason of imports
3 from China.

4 In terms of overall demand, last year the
5 market declined as consumption of certain PSF roughly
6 followed the housing market. Thus, demand in this
7 cycle peaked in 2005 at 1.15 billion pounds -- that
8 was total demand in the U.S. market -- and then fell
9 back in 2006 for an overall decline of 5.4 percent.

10 However, as we have said, the story is in
11 the contrast, this one being the U.S. industry's
12 market share in the period which fell when the market
13 was in an up cycle, 2004-2005, and also fell again
14 when it was in the down cycle, 2005-2006.

15 If I can refer you all to Chart 1 in the
16 handout that we gave you, the declining U.S. shipments
17 over the period was 13.4 percent, far greater than the
18 5.4 percent decline in the general market. The supply
19 conditions also underwent a significant
20 transformation. U.S. producers' supply was
21 characterized by underutilization of its facilities,
22 underutilization that grew as the sales declined over
23 the period.

24 Adjusting to lower shipment levels, lower
25 business opportunities for U.S. producers meant

1 consolidations, the closing of facilities like
2 Johnsonville, as you have just heard from Ms. Katz,
3 and shutdown of production lines, as you have just
4 heard from Joseph here.

5 As Chart 2 shows, which is just like Chart 1
6 with an overlay of other suppliers' market share,
7 nonsubject import market share, like the U.S.
8 producers' share, also declined in 2005 as the overall
9 market went up. It was flat in 2006 as overall demand
10 fell. Imports from Korea and Taiwan declined, and
11 only minor suppliers -- India and Indonesia --
12 increased. India and Indonesia combined for only
13 about six percent of the U.S. market.

14 So who is the winner? Subject imports from
15 China is the definite winner, whose market share more
16 than doubled over the POI, and that is in Chart 3,
17 once again an overlay on Chart 1 so that you can make
18 a comparison.

19 The final condition I wish to address is the
20 general substitutability of U.S. and Chinese PSF
21 products. The preliminary determination noted that,
22 "All producers and a majority of importers reported
23 that the domestic like product and the subject
24 merchandise from China are always or frequently
25 interchangeable."

1 In this final phase, the staff report found
2 "a moderate to high" degree of substitution between
3 U.S. and Chinese products. Among evidence to support
4 this conclusion is a table, a very valuable table,
5 summarizing purchasers' opinions as to the
6 comparability of U.S. and Chinese products on 16
7 purchasing variables, including several related to
8 quality. That is Chart 4, the bar graph.

9 Looking at Chart 4, which supplier, the U.S.
10 or China, is superior as to the factor of
11 availability, for example? That is the first set of
12 bars. As you can see by the much larger blue bar,
13 most purchasers said the two were comparable. The
14 blue color is if the purchasers judged the Chinese and
15 the U.S. comparable.

16 The next one over is Color, and the great
17 majority said comparable. Quality, Meets Industry
18 Standards, large majority comparable, and on it goes
19 for 14 of 16 factors. The clear majority of
20 purchasers say in terms of this factor the two are
21 comparable.

22 Factor 15 we see there is the third one over
23 from the left, Delivery Time, which seven purchasers
24 say comparable, but another seven say U.S. producers
25 are superior. U.S. producers are the yellow bar. See

1 Chart 4.

2 Thus, the staff report's finding of moderate
3 to high substitutability is well grounded, even maybe
4 a little bit understated. The problem is that all
5 this comparability cannot explain why it is then that
6 U.S. producers lost 13.4 percentage points market
7 share and the Chinese gained 16 percentage points
8 market share.

9 The explanation for the dramatic change over
10 the period is of course that the Chinese have
11 significantly lower prices for these comparable
12 products. The table in the staff report at Roman
13 number II-18 that lists all these comparables also
14 cites under Lowest Prices, and that is the fourth one
15 over from the left, that U.S. purchasers, seven of
16 them judged the U.S. product as inferior, along with
17 seven who think the products are comparable in lowest
18 price.

19 So the U.S. product, which you can see by
20 the chart and in your staff report, is judged
21 comparable to the Chinese in 14 factors, superior in
22 delivery time, loses 13 percentage points market share
23 over the period. The Chinese products the majority
24 judged superior in zero of the factors, but which have
25 an almost majority there in lower price as you can

1 see. They gained 16 percentage points market share.

2 Yes, quality is important. Yes, these other
3 factors -- availability, technical support, et cetera
4 -- are important, but what factor moves the market
5 here? What is, in addition to being an important
6 factor, the reason that purchasers switch polyester
7 staple fiber suppliers from the U.S. to China?

8 The answer is price, and there is also
9 another summary of that in the staff report of
10 purchasers' opinions in the second chapter, Conditions
11 of Competition, pages 9 and 10.

12 Lastly, while we are looking at these same
13 results on a country-by-country comparison, we should
14 mention that Respondent Ashley's prehearing brief is
15 misleading, to be kind. It states that more
16 purchasers stated that Chinese PSF is of higher
17 quality than that of the U.S.

18 That is true as far as it goes. The
19 difference is three thought the Chinese superior, two
20 thought the U.S. superior. That is here in Chart 4.
21 The real point, of course, is the one that Petitioners
22 are making that the vast majority of purchasers ranked
23 the U.S. and Chinese fiber equal in quality, 10 versus
24 three versus two.

25 Second, Ashley stated that purchasers found

1 a lack of availability of certain PSF in the U.S.
2 market specifically for conjugate. If this is so, why
3 did Nan Ya have to close its conjugate production line
4 for over three months last year if there was a lack of
5 availability of conjugate as has just been testified?

6 If Chinese imports are allowed to continue
7 to sell at dumped prices in the U.S., Ashley of course
8 eventually will be right. U.S. producers will be
9 driven from the market. But as of now, U.S. producers
10 are capable of making large quantities and do make
11 large quantities of conjugate fiber.

12 Gina?

13 MS. BECK: Good morning. I am Gina Beck of
14 GES. This morning I would like to address the volume,
15 price and impact of unfairly low-priced imports on the
16 domestic PSF industry.

17 The increase in subject imports from China
18 has been exorbitant over the POI, rising by 234
19 percent as shown in Chart 5. The volume of imports
20 from China surged from 71 million pounds to 238
21 million pounds in two years alone. This sizeable
22 import increase of more than threefold from 2004 to
23 2006 flooded into a U.S. market in which demand for
24 PSF had declined by more than five percent.

25 What that means is that the rapid and

1 sustained increase in unfair imports on an absolute
2 basis is tracked by similar increases in market share
3 for imports from China. As a percent of domestic
4 consumption, the share of imports from China increased
5 rapidly from six percent in 2004 to 17 percent in 2005
6 before jumping even further to 22 percent of the
7 market in 2006.

8 As you can see in Chart 6, at the same time
9 U.S. producers' share of the domestic market dropped
10 during each of those years, falling from 60 percent in
11 2004 to 52 percent in 2005 and then to 47 percent in
12 2006.

13 The share that unfair imports achieved in
14 2006 to almost one-quarter of all consumption is
15 significant. While imports from China gained 16
16 absolute percentage points of market share from 2004
17 to 2006, U.S. producers' market share dropped by 13
18 percentage points over the same period. It is also
19 important to note that nonsubject imports in contrast
20 to China showed a market share decline of 2.6
21 percentage points over the same period.

22 Now I would like to turn to the price effect
23 of low-priced imports from China. The only way for
24 Chinese imports to increase market share at such a
25 fast pace was by aggressive low pricing. The

1 extremely low prices of imports from China have
2 manifested themselves in underselling of the U.S.
3 product in the vast majority of instances.

4 Out of 54 possible comparisons, subject
5 imports undersold the U.S. product in 34 instances or
6 in 72 percent of the comparisons. Underselling by the
7 Chinese imports is also more prevalent in 2005 and
8 2006 when Chinese imports made rapid market share
9 gains.

10 Higher margins of underselling were also
11 more common in the latter quarters of 2005 and in
12 2006. This strong underselling by imports occurred
13 when the domestic industry was experiencing high and
14 increasing raw material costs.

15 Although U.S. prices increased overall as a
16 result of these rising costs, these prices did not
17 sufficiently keep pace with increased costs and were
18 severely suppressed. Record data also demonstrate
19 that unit cost increases were more rapid than the
20 revenue on a unit basis in 2006.

21 Although domestic producers were able to
22 increase prices somewhat in '05 and '06 to cover some
23 of the cost increases, cost of goods sold remained at
24 an extremely high ratio of net sales. These higher
25 prices were also at the expense of losing sales and

1 substantial market share to imports. Most
2 importantly, domestic producers sacrificed market
3 share in '05 in the interest of achieving certain
4 pricing and profit levels, but, may I add, meager
5 profits.

6 As the Commission staff report shows, this
7 profitability was short-lived. It was just a matter
8 of time before more customers were lost to the lower
9 import prices, U.S. shipments were reduced, capacity
10 was underutilized and profits declined to an operating
11 loss, and this in fact occurred in 2006.

12 Notably, the upturn in prices during the
13 second half of '05 was followed by substantial
14 declines in prices in the first quarter 2006 for all
15 five products covered in the Commission's
16 questionnaire.

17 The bottom line is that although the
18 industry's prices showed some rising trends during the
19 POI, the increases were not enough to cover cost
20 efficiently and rebound to a profitable position in
21 2006.

22 The volume and price effects of these
23 imports have resulted in a severe negative impact on
24 U.S. industry operations. You can see from the data
25 that when imports from China surged into the U.S.

1 market in '05, U.S. producers at first tried to
2 maintain prices.

3 They succeeded in achieving a minimal profit
4 of 1.9 percent of sales, but only by giving up eight
5 percentage points of the market to imports from China
6 and having sales drop by 12 percent. This
7 profitability, however, soon returned to an operating
8 loss to sales ratio of 1.3 percent in 2006.

9 The domestic industry's trade indicia were
10 also far from what could be characterized as healthy
11 during the POI. Capacity and production dropped,
12 capacity utilization never achieved any efficient
13 level and declined to a period low of 73.9 percent in
14 2006, and inventories increased.

15 Given that the PSF industry is a capital-
16 intensive business, low levels of capacity utilization
17 are extremely injurious and affect not only sales
18 levels, but also U.S. producers' profitability.
19 Extremely telling of the injurious impact of unfair
20 imports is also the closure of PSF manufacturing
21 plants, the shutdown of production lines and layoffs
22 of long-time employees as you have heard from industry
23 witnesses this morning and as detailed in our
24 prehearing brief.

25 Domestic producers cannot continue to

1 survive at these devastatingly low operating levels
2 and financial levels and stay in business in the long
3 run.

4 MR. MAGRATH: Madam Secretary, could I have
5 a time check?

6 MS. ABBOTT: Twenty-one minutes remain.

7 MR. MAGRATH: Okay. GES will wrap up its
8 part of the testimony by a few remarks on threat of
9 injury.

10 In terms of the threat issues that the
11 Commission usually looks at, unfortunately for the
12 domestic industry the Chinese have it all. First,
13 they have a huge and growing capacity to produce
14 polyester staple fiber.

15 Second, they have a large and growing unused
16 capacity as overinvestment has resulted in supply far
17 exceeding demand, compelling exports at lowest prices.

18 Third, the resultant soaring exports to the
19 United States are the result. Exports to the United
20 States have increased at 234 percent over the period,
21 as Gina just related to you.

22 Fourth, as if that weren't enough there is
23 an antidumping order in the other major consuming
24 market against Chinese PSF, the other market being the
25 EU, that has resulted in export diversion to the U.S.

1 market.

2 The polyester staple fiber story is a
3 typical Chinese story: A sector which the central
4 planners concluded needs to be developed, the building
5 and then overbuilding of huge capacity, much of which
6 is owned or supported by the Chinese Government.

7 The result of these reckless investments is
8 that China now has a massive capacity to produce
9 polyester staple fiber equaling many times over that
10 of the total market, the total demand in the United
11 States. That massive capacity is growing both
12 absolutely and relatively to total world capacity of
13 which it is already the largest source by far.

14 I apologize for these dramatic but vague
15 assertions. They are based on data and information
16 that are confidential and are listed in our
17 confidential brief and its appendices for you to
18 review. The sources that we cite and that we
19 reproduced in the appendices to our prehearing brief
20 are industry publications that are known to and used
21 by us, used throughout the industry and by the staff
22 as well.

23 Typically in testimony parties can cite to
24 the information presented in the staff report, but not
25 in this case, at least for the issues relating to

1 threat. What the staff report does state is that of
2 about 150 polyester staple fiber producers in China,
3 they sent foreign producer questionnaires to 60 and
4 received back eight. Eight. A 13 percent response,
5 and approximately only five percent of total Chinese
6 producers bothered to give you data.

7 Consequently, Petitioners had to develop our
8 own sources to analyze these enumerated threat
9 factors. Fortunately, the industry is comprehensively
10 covered by the trade press and by various industry
11 consultancy reports. These and other publications are
12 consistent concerning the size of the Chinese industry
13 -- massive and getting more so -- and the condition of
14 that industry -- overbuilt, large excess capacity,
15 export orientation, companies losing money.

16 But what remains an important issue when
17 reaching beyond this case is the increasingly poor
18 response and cooperation the staff receives in its
19 attempts to gather statutory, relevant information
20 from foreign producers.

21 This increased stonewalling prevents you and
22 us from making an informed analysis in these cases
23 and, at worse, may lead to a Commission determination
24 some day based on this woefully inadequate and
25 therefore misleading data.

1 For example, the staff report at Table VII-2
2 indicates that Chinese PSF exports to the United
3 States were 128 million pounds in 2006, and they were
4 projected to decline to 102 million pounds by 2008
5 based on foreign producer questionnaire responses.

6 Well, as we know, 2006 exports were not 128
7 million pounds. They were more like 238 million
8 pounds, 86 percent more, as the U.S. import statistics
9 elsewhere in your report show.

10 You have projections as to what will happen
11 in the imminent future from just five percent of the
12 Chinese industry. If past is prologue, projections
13 won't be down. In fact, exports will be going up --
14 way, way up -- in coming years.

15 Yet that number and the projected decline in
16 exports are in the staff report because that's all the
17 staff has, waiting for some Commissioner to say to him
18 or herself that's not so bad. Look, they're going
19 down. They're projected to decrease. There's no
20 threat going forward. Well, there certainly is if you
21 had all the numbers.

22 Unfortunately, the ITC's data gap cannot be
23 solved here today, though actually we thought it
24 might. Two very large Chinese producers key to this
25 proceeding, Far Eastern of critical circumstances fame

1 and Xianglu, neither of whom responded to Commission
2 questionnaires, signed up to be here today to plead
3 their innocence.

4 Apparently at the last minute wiser heads
5 prevailed and they are, unfortunately, not here. Too
6 bad. The Commission could have taken advantage of the
7 opportunity to fill in some of its threat database and
8 to enforce the integrity of its data gathering
9 process.

10 That concludes my testimony.

11 MR. ROSENTHAL: Ms. Cannon?

12 MS. CANNON: Good morning. I'm Kathleen
13 Cannon of Kelley Drye Collier Shannon. My testimony
14 today will focus on three legal issues: The domestic
15 like product, critical circumstances and the Bratsk
16 analysis.

17 Let me begin with the like product. The
18 Commission preliminarily defined the like product as
19 coextensive with the scope of this case consisting of
20 all certain polyester staple fiber. This definition
21 was consistent with the like product definition that
22 the Commission adopted in its prior investigation of
23 the same products in the Korea and Taiwan case.

24 In a sunset review conducted just last year,
25 this same like product definition was again relied

1 upon in that proceeding. We agree that the like
2 product consists of all certain PSF.

3 Briefs submitted by Ashley Furniture and by
4 Insituform, however, urge you to revise the like
5 product definition and to differentiate PSF products
6 from all others. Ashley asks you to find that
7 conjugate PSF is a separate like product, and
8 Insituform asserts that the PSF it buys is
9 sufficiently unique to separate it as a like product.
10 Neither of these arguments has merit.

11 On the conjugate issue, Ashley describes
12 what it characterizes as the unique three-dimensional
13 qualities of conjugate that allegedly differentiate
14 conjugate from all other two-dimensional PSF.

15 As Ms. Katz just testified, however,
16 Wellman's 3-D high void PSF, although not a conjugate,
17 is also three-dimensional and is sold for precisely
18 the same end uses such as pillows or furniture for
19 which conjugate is sold.

20 Indeed, the Commission recognized
21 exclusively in the Korea and Taiwan case that some
22 nonconjugate PSF is three-dimensional, and that is not
23 a clear dividing line for separating these products.
24 In that case, the Commission expressly rejected the
25 argument that conjugate is a separate like product.

1 Ashley has presented no indication that any of the
2 Commission's findings in that case are incorrect and
3 no information to show that anything has changed to
4 warrant reconsidering this definition.

5 Insituform, on the other hand, argues that
6 the PSF it purchases for its cured-in-place pipe
7 technology is a separate like product. Initially I
8 note that other than describing the end uses of its
9 product, Insituform has not really identified how
10 exactly this product is defined.

11 Further, Insituform argues that the PSF it
12 buys is used for nonwoven applications and that the
13 scope of this case is limited to fiberfill and
14 excluded nonwoven applications.

15 That argument is incorrect for two reasons.
16 First, although most of the PSF covered by the scope
17 of this case is used as fiberfill, there are certain
18 nonwoven applications for subject PSF as well. PSF
19 meeting the scope definition and used for these
20 purposes is within the like product. In fact, Wellman
21 demonstrated some of these nonwoven applications
22 during the recent plant tour, as you just heard Ms.
23 Katz describe.

24 Second, as Ms. Katz testified, PSF with
25 characteristics that Insituform describes is used for

1 fiberfill as well. Nothing differentiates the PSF
2 that Insituform purchases from other PSF to justify a
3 separate like product finding.

4 A second legal issue that Ashley has raised
5 and that we have addressed in our brief is critical
6 circumstances. Commerce made a preliminary
7 affirmative critical circumstances finding here as to
8 one company, Far Eastern Shanghai. That determination
9 was premised on company specific information that Far
10 Eastern provided to Commerce that showed a rapid
11 increase in its imports over the six month periods
12 examined.

13 Here, however, Far Eastern has submitted no
14 response at all to the Commission's questionnaire. As
15 a result, the data in the prehearing report on import
16 increases from Far Eastern are limited to those
17 importers who responded to Commission questionnaires.
18 These data are incomplete and present an inaccurate
19 picture of the import trends.

20 Ashley urges the Commission to rely on these
21 data to find no rapid increase in imports, but that
22 approach would be wrong. It would basically reward
23 Far Eastern for not answering your questionnaire,
24 knowing full well that the data it submitted to
25 Commerce showed rapid import surges as Commerce found.

1 We urge the Commission to either rely
2 directly on the Commerce finding of a rapid surge in
3 imports based on Far Eastern's data or to request that
4 Commerce provide it with those proprietary data for
5 the record of this case.

6 The third and final legal issue I will
7 address is the Bratsk case and its implications here.
8 I first must urge the Commission to reconsider whether
9 adoption of an entirely new, extra statutory test is
10 mandated by that decision.

11 In the Lined Paper case, the Commission set
12 forth in very strong words its belief that the statute
13 does not require any replacement benefit test and that
14 the Court's analysis in Bratsk suggesting otherwise
15 misconstrues the law. We agree.

16 Given that a literal reading and application
17 of the Court's statement would result in a test that
18 is inconsistent with law, we believe that the better
19 interpretation of Bratsk is simply along the lines of
20 the Gerald Metals holding.

21 The Commission could ensure that the injury
22 is attributable to subject imports and not to
23 nonsubject imports. Under that test, the evidence
24 here establishes a direct correlation between the
25 declining market share of U.S. producers and China's

1 increased market share. Nonsubject imports by
2 contrast to imports from China lost market share and
3 sold PSF at higher prices than imports from China.

4 If the Commission does further examine the
5 triggering factors to the Bratsk analysis that it set
6 forth in the Lined Paper case it should find that
7 Bratsk is not applicable here. Although PSF produced
8 by different sources is substitutable and competitive
9 to a large degree, all PSF is not completely
10 interchangeable with all other PSF from all sources.

11 For example, record evidence shows that one
12 customer buys hollow recycled PSF from China because
13 it is unable to obtain sufficient quantities of that
14 type of PSF from Korea. Purchasers reported that
15 China and other countries were frequently or sometimes
16 interchangeable, but not always, showing that other
17 sources are not complete replacements for the PSF from
18 China.

19 As a second triggering factor to applying
20 the Bratsk replacement benefit test, the Commission
21 looks at whether other imports are price competitive
22 with subject imports. The record demonstrates that
23 imports from China have lower average unit values and
24 lower prices on specific products than nonsubject
25 imports.

1 In fact, nonsubject foreign producers
2 themselves complained about their inability to compete
3 with the low prices of the imports from China. These
4 data provide strong evidence that the second
5 triggering factor to the Bratsk analysis, the presence
6 of price competitive nonsubject imports, is not met
7 here.

8 The record also indicates that even were the
9 triggering factors met, nonsubject imports are not
10 able to replace imports from China. Chinese capacity
11 and production of PSF is massive and increasing
12 rapidly as compared to all other countries in the
13 world. This growing capacity, as well as the low
14 dumped prices at which China sells PSF, have fueled
15 the surge in imports from China that the U.S. industry
16 has suffered over the past three years.

17 While Chinese capacity is growing
18 astronomically and is projected to continue to do so,
19 capacity to produce PSF in other countries is
20 declining. Korea and Taiwan, two countries that have
21 historically been large suppliers of PSF to the United
22 States, are closing down PSF plants, are converting
23 PSF capacity to other products and are shifting to
24 establish production facilities in China.

25 Mexican PSF producer Polykron also closed

1 its PSF operations in 2005, as did a major Thai
2 producer. Further, none of these countries is in a
3 position to replace the sizeable volume of imports
4 from China.

5 The import market share of most of these
6 other countries is very small compared to that of
7 China, reflecting either their smaller industries or
8 their interest in selling to home or other export
9 markets. High capacity utilization rates in
10 nonsubject countries also indicate that these
11 countries do not have the ability to increase
12 production sufficiently to replace China.

13 Where Korea and Taiwan are concerned, the
14 continued imposition of antidumping duty orders
15 against those two countries limits their ability to
16 replace dumped imports from China at the low prices at
17 which China is selling. Record data show that imports
18 from both Korea and Taiwan have declined significantly
19 in recent years as they too are unable to compete with
20 the low-priced imports from China.

21 Let me comment specifically on Korea. Korea
22 has the largest volume of imports of any nonsubject
23 import source and was selling at a low average unit
24 value in 2006, but still Korea is in no position to
25 replace China.

1 The Korean Fibers Association reported that
2 Korean producers were operating at a 90 percent
3 capacity utilization rate in 2006. To replace China,
4 Korean PSF producers would have to be able not only to
5 maintain their 2006 sales of 170 million pounds to
6 their own U.S. customers, but also to supply an
7 additional 238 million pounds of imports to serve the
8 customers that Chinese imports were supplying in 2006.
9 That is not possible for Korea or for any other
10 country.

11 Last, even if you find that all of these
12 tests are met, which they are not, you still could not
13 conclude from this record that the U.S. industry would
14 not benefit from an order on China. The prices of
15 nonsubject imports are significantly higher than the
16 prices of Chinese imports. Many are overselling U.S.
17 producers, and even where underselling is occurring
18 the prices are not as low as those of China.

19 If China were subject to an order and other
20 imports came in at those same volumes they would still
21 be at higher prices, permitting the domestic industry
22 to raise prices and to experience a financial benefit.
23 Even applying the replacement benefit test, therefore,
24 relief is appropriate here.

25 Thank you.

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1 MR. ROSENTHAL: That concludes our
2 testimony. We are happy to answer questions.

3 CHAIRMAN PEARSON: Okay. Well, I think
4 we'll have some questions for you.

5 Let me just begin by welcoming the
6 panelists. It is interesting to review the issues
7 relating to polyester staple fiber again this year.
8 Let's hope we don't have to do it every year.

9 The questioning this morning will begin with
10 Commissioner Williamson.

11 COMMISSIONER WILLIAMSON: Thank you, Mr.
12 Chairman. I, too, would like to welcome the people
13 giving testimony. I appreciate their thoroughness in
14 covering the subject.

15 As my first question, some purchasers
16 reported that they are forced to buy imports because
17 they cannot get the type of PSF they need from U.S.
18 producers. That was something that was indicated in
19 the staff report. I would like to know. Are there
20 types of PSF that you cannot or do not produce in the
21 United States? If so, why not?

22 Also, have there been any instances over the
23 period of investigation in which you were unable to
24 supply a purchaser's needs?

25 MS. KATZ: I think essentially between the

1 major producers in the U.S. any product that a PSF
2 user would need would be produced here between any of
3 the major companies.

4 The only time that I think there may have
5 been a shortage that you're referring to was during
6 the time of the hurricanes where for a very brief
7 period of time, one to two months, the producers who
8 use the virgin raw materials, particularly PTA, had
9 some difficulty in getting raw materials and also were
10 faced with very, very high prices that we could not
11 put through.

12 Therefore, we opted not to make a sale
13 instead of losing even more money on those sales, but
14 that was very temporary, and things were back to
15 normal before year end.

16 MR. ROSENTHAL: Excuse me, Commissioner
17 Williamson. I meant to introduce Ricky Lane also from
18 DAK Americas, who is available to answer questions as
19 well. He may have something to add on this.

20 I think the testimony so far from all the
21 witnesses is that we make conjugate. One of the
22 claims from the purchasers was they can't get
23 conjugate in the U.S. That is not true. DAK Americas
24 is a big producer. Excuse me. Nan Ya is a big
25 producer of conjugate, and Wellman makes a conjugate

1 substitute.

2 The product that Ashley claims it can't get
3 in the U.S. it can indeed get. There are always
4 differences in the particular characteristics, but
5 it's not an issue of lack of availability of U.S.
6 product.

7 MR. LANE: I would confirm that, and I would
8 say that that would even go to the Insituform. We
9 have reviewed their qualifications of what product
10 they need, and we believe that those qualifications
11 can certainly be sourced by any of the major producers
12 here today.

13 MR. CHANDRL: Yes. Nan Ya would also
14 confirm that the conjugate products that Ashley is
15 referring to we can also produce here domestically as
16 well.

17 During the hurricane season, from Nan Ya's
18 perspective we did not have any issues where we were
19 not able to supply our customers.

20 COMMISSIONER WILLIAMSON: As a followup to
21 that -- thank you for those answers -- how long does
22 it take you say to gear up for a different type of PSF
23 product? Is there a problem of time?

24 How long does it take to switch from one
25 product to another? I know it may vary depending on

1 the product, but in general. Also, what are the lead
2 times like that your customers are asking for?

3 MR. CHANDRL: In terms of changing from one
4 conjugate product to another, sir, we run a continuous
5 process of production so making a change is simply
6 what we call changing a spinnerette. It's like
7 changing a showerhead.

8 It can be made relatively quickly, a matter
9 of hours. I mean, interchanging products for us is
10 fairly simple, sir.

11 MS. KATZ: It's very common for us to make
12 slight changes to our products all the time. Each
13 customer may require a slightly different finish or
14 length or something, but that's just part of the
15 ordinary course of business, and it's done routinely
16 daily.

17 There are no major lead times to make
18 changes. If you're a producer of PSF, there are no
19 major lead times required.

20 COMMISSIONER WILLIAMSON: Thank you.

21 Ashley contends that conjugate PSF should be
22 a separate like product based on a number of
23 differences, and I think you've addressed some of this
24 in your testimony, but one of their arguments is that
25 conjugate PSF is produced through a double spinning

1 process that requires separate production lines and
2 workers.

3 Can you comment on the production process
4 and the extent to which there are similarities in
5 production equipment and workers?

6 MR. ROSENTHAL: I'll let the industry
7 witnesses address that, but let me just say, as
8 mentioned by Ms. Cannon, that the Commission reviewed
9 all of the six factors looked at for like product and
10 specifically looked at the question of whether
11 conjugate was a separate like product and concluded
12 not just based on production processes, but all the
13 factors, that it was not a separate like product.

14 You'll hear specifically on production
15 processes now.

16 MR. CHANDRL: Referring to the production
17 processes question, Nan Ya does have a true production
18 conjugate line here in the United States. The Wellman
19 line is slightly different, but we produce the true
20 conjugate they are speaking about using the two
21 different polymers, different viscosities that they
22 are referring to.

23 We have the technology they were referring
24 to when you use a chemical crimp, which is what they
25 were also asking for. On top of that, we have seen

1 customers make substitutions for our product with the
2 product that Wellman is producing as well, so both our
3 product and their product can be used for the same end
4 uses.

5 MR. ROSENTHAL: You would not make it on the
6 same line, so if you're looking at if you would switch
7 from a conjugate to a nonconjugate on the same line,
8 you would not ordinarily do that. Up to a certain
9 point the process is common and after a certain point
10 it is common, but there is a certain point when it is
11 not.

12 The key point being made in the last
13 statement though is that the product, the end use, is
14 comparable or similar. The customer perceptions of
15 the product, the conjugate versus nonconjugate, when
16 you're dealing with a mechanically crimped is similar.

17 Pricing is similar, so if you look at all
18 the six factors the balance clearly favors viewing
19 them as the same like product.

20 COMMISSIONER WILLIAMSON: Thank you.

21 Are there differences in cost, significant
22 differences in cost of production of conjugate and
23 nonconjugate products?

24 MR. CHANDRL: I can't really speak to the
25 cost of Wellman's fiber, but from what I understand I

1 believe the price of producing conjugative fiber is
2 slightly higher than the other process, but I can't
3 speak to her cost structure.

4 MS. KATZ: In terms of the raw material
5 costs or general processing costs, it's a similar cost
6 basis. It's just a slightly different process, just
7 like a lot of products require a slightly different
8 process depending on what properties you're trying to
9 impart on the fiber.

10 MR. CHANDRL: However, we use the two
11 different polymers in producing our conjugate fiber,
12 so using that there's a slightly higher cost we
13 believe to producing the conjugate fiber.

14 COMMISSIONER WILLIAMSON: Thank you.

15 I was wondering. Are there differences in
16 the production process or in the end use markets
17 between conjugate PSF produced in the United States
18 and conjugate PSF produced in China?

19 MR. ROSENTHAL: Sir, are you focusing mainly
20 on end use?

21 COMMISSIONER WILLIAMSON: Well, both. Are
22 there any differences in the process of producing
23 conjugate in China?

24 MR. ROSENTHAL: Okay.

25 COMMISSIONER WILLIAMSON: And then also are

1 there differences in the end use of both?

2 MR. CHANDRL: To the best of my knowledge,
3 there's no difference in the processes. We're using a
4 very similar technology to what they're using. Also,
5 the end uses would be the same. Yes, sir.

6 COMMISSIONER WILLIAMSON: Thank you.

7 My next question is rather long and
8 elaborate so I think I'll save it for the next time
9 around since the yellow light is on.

10 CHAIRMAN PEARSON: Okay.

11 COMMISSIONER WILLIAMSON: Thank you.

12 CHAIRMAN PEARSON: Commissioner Pinkert?

13 COMMISSIONER PINKERT: Thank you, Mr.

14 Chairman, and thank you to the panel for making the
15 trip here today for those who don't live here in
16 Washington, D.C.

17 I have a couple of questions about the issue
18 of price suppression, and to the extent that you can
19 answer them without using proprietary information I'd
20 appreciate it, or if you could put it in a
21 supplemental submission.

22 To what extent did nonsubject import
23 competition suppress domestic prices during the period
24 of investigation? This is referring to nonsubject
25 that is of the same type as the merchandise that's

1 under this investigation.

2 MR. ROSENTHAL: Actually, this is a good
3 opportunity to talk about what a classic case of
4 import injury this presents.

5 What you had early in the period, let's say
6 2004, was a fairly high volume of low-priced imports
7 from Taiwan and Korea in the market still, even though
8 they were subject to order, but you saw an increase of
9 Chinese imports coming into the marketplace.

10 What happened in that time period was that
11 there were also rising raw material costs in the U.S.
12 industry. The U.S. industry essentially had to make
13 the decision do we try to pass on these raw material
14 costs and lose market share to Taiwan, Korea and now
15 this new insurgent importing source, China, or do we
16 try to maintain our market share and lose money?

17 If you look at the early period 2004, you
18 see the industry by and large essentially said if we
19 want to maintain our market share and we'll lose
20 money. The Chinese began to come in and put pressure
21 not just on Korea and Taiwan, but on the U.S.
22 industry.

23 As the period moved on, continuing increases
24 in raw materials costs, the industry said we can't
25 continue to take these losses. We'll give up some

1 sales in order to improve our profitability. Chinese
2 increases in volume went up dramatically. They gained
3 much more market share because the U.S. decided they
4 couldn't --

5 CHAIRMAN PEARSON: Please suspend the
6 testimony for a moment.

7 Madam Secretary, can you please find out
8 what's going on and freeze the clock so that
9 Commissioner Pinkert doesn't lose time?

10 (Whereupon, a short recess was taken.)

11 CHAIRMAN PEARSON: I must say the Secretary
12 was very effective at walking out of the room and
13 taking care of that. Let's just withhold briefly
14 until the Secretary's return.

15 I would also note that if we had to go
16 outside for a fire alarm this would not be a real bad
17 day to do it.

18 Madam Secretary, have you learned anything
19 about the alarm?

20 MS. ABBOTT: No. I'm being told it was a
21 false alarm.

22 CHAIRMAN PEARSON: Okay. Excellent. That's
23 the best kind. The real ones you want to avoid.

24 Could you advise how much time is left on
25 Commissioner Pinkert's questioning?

1 MS. ABBOTT: Two and a half minutes is all
2 that's been expanded.

3 CHAIRMAN PEARSON: Okay.

4 MS. ABBOTT: So seven and a half.

5 CHAIRMAN PEARSON: Fine. Please resume,
6 Commissioner.

7 COMMISSIONER PINKERT: Please continue, Mr.
8 Rosenthal.

9 MR. ROSENTHAL: Thank you. I would note the
10 very fortunate proximity to the fire station across
11 the street too.

12 In 2005 what happened was that it became
13 very clear that the Chinese were now the low-cost or
14 low-priced supplier to the marketplace and then began
15 to take market share not only from Korea and Taiwan,
16 but dramatically from the U.S. industry, and it was
17 clear that the price depression in 2005 and then
18 continuing to 2006 was mainly as a result of the
19 Chinese pricing as opposed to pricing from the
20 nonsubject imports.

21 I think there is this classic pattern there
22 because you will see the shift in shares, if you will,
23 being driven by the low-priced provider to the
24 marketplace.

25 As Dr. Magrath told you, the winner

1 throughout the period of investigation is China and it
2 was due to price, taking market share from the U.S.
3 producers and from nonsubject producers and
4 suppressing prices even more so as the period went on.

5 COMMISSIONER PINKERT: Yes?

6 MS. KATZ: I would like to add historically
7 there has always been imports of PSF into the U.S. --
8 well, not always; in the last 15, 20 years -- and we
9 have always managed to compete against those imports
10 without a problem.

11 It really wasn't until mid 2005 and then in
12 2006 where the pricing just got so low due to the
13 imports from China that Wellman had to shut the plant
14 down. As I said before, we've been able to manage
15 competing against these products for many, many years.

16 There really is no other country that
17 exhibits the pricing behavior that China exhibits in
18 this country, and I don't foresee anyone behaving that
19 way either.

20 MR. MAGRATH: Commissioner, I think to us
21 the most striking set of numbers we have here in terms
22 of answering your question, this is a product that is
23 primarily sold on price. Other questioning has
24 revealed this product and its many forms can be
25 supplied by a number of people around the world.

1 Korea, Taiwan, the U.S. producers produce
2 all the products and the Chinese too, but this one
3 country in this situation has been able to increase
4 their market share, more than double their market
5 share, increase it by 16 points to a very significant
6 one-quarter of the market, while the U.S. has gone
7 down and the nonsubject imports have gone down.
8 That's quite a trick.

9 COMMISSIONER PINKERT: Now, our data reflect
10 that apparent U.S. consumption decreased in quantity
11 but increased in value from 2004 to 2006, reflecting
12 prices in the U.S. market. Was this strictly due to
13 higher raw material costs, or can you explain what
14 other factors may have caused that?

15 MR. MCNAULL: Yes, it's been very much
16 driven by raw material costs. You know, you've seen
17 the petroleum markets, and you know that the cost of
18 crude oil, which is kind of the beginning element of
19 what we do to manufacture polyester, has gone up
20 dramatically over the period so we have not been able
21 to have better margins or higher profitability.

22 We've only made attempts to try to raise
23 price to offset the cost of raw materials, and that's
24 what you're seeing in that data.

25 COMMISSIONER PINKERT: Sir?

1 MR. CHANDRL: Mr. Commissioner, also on the
2 respective pricing marketplace there are numerous
3 trade publications that make the prices of our raw
4 materials very transparent to our customers and they
5 know what our prices are and so it's been very
6 difficult for us to raise our price even equal to what
7 raw materials have been increasing, if we get a price
8 increase to not be able to even cover our raw material
9 costs over the last two years.

10 COMMISSIONER PINKERT: Just for
11 clarification, is it your testimony that the only
12 factor driving this increase in value was due to
13 higher raw material costs? Are you saying that that
14 was the predominant factor, but there may have been
15 other factors as well?

16 MR. MCNAULL: I mean, that was the primary
17 driver was to raise prices to offset the cost of raw
18 materials.

19 MS. KATZ: If I could just add a comment?
20 If you were to look at Wellman's press releases for
21 price increase announcements over the last several
22 years, and they're all posted on our website, you will
23 see that every announcement starts with due to the
24 recent increase in raw materials costs, Wellman needs
25 to announce an increase in the prices of PSF. It will

1 be consistent.

2 There's too much competition. The customer
3 just does not allow the industry to receive increases
4 other than really for raw material costs, so those
5 increases in values that you see are strictly the pass
6 through for the industry of its raw material cost
7 increases.

8 COMMISSIONER PINKERT: A question on Bratsk
9 perhaps for Ms. Cannon. In your prehearing brief you
10 seem to argue that imports from no one nonsubject
11 country could replace the subject imports were an
12 antidumping duty order to ultimately impose on PSF
13 from China.

14 Under Bratsk, shouldn't the Commission
15 consider this issue with respect to the ability of all
16 nonsubject countries considered in the aggregate and
17 whether they could replace subject imports in the U.S.
18 market?

19 MS. CANNON: The answer to that is no, in
20 our opinion. We think legally that under the Bratsk
21 case there's nothing the Bratsk Court said that
22 suggested that there was supposed to be a cumulative
23 approach.

24 The statute is very specific in telling the
25 Commission when it's supposed to aggregate the effects

1 of imports and what conditions it's supposed to take
2 account of when it considers and cumulates imports, so
3 we do not believe that under Bratsk there should be a
4 cumulative approach legally because A) the Federal
5 Circuit did not say to do that. It didn't discuss
6 adding imports together.

7 B) Given that there is a specific statutory
8 directive then in the absence of any specifics here or
9 any suggestion that the Commission should be doing
10 that here I think suggests otherwise.

11 As a practical matter too, I think you have
12 to look at when the Commission cumulates imports and
13 why the Commission cumulates imports. When it's
14 looking at the effects of imports together and how
15 they affect competition it looks at things like
16 whether they're in the same channels of distribution
17 and how they're competing geographically, that type of
18 thing, to add them all up.

19 If the Commission adds the other imports up,
20 as I recognize that it has done in responding to
21 remand orders by the Court in other cases, I think
22 that it is going down a path that would suggest that
23 the imports altogether could replace something when in
24 fact all the imports could not replace the subject
25 imports.

1 In other words, one import source may have a
2 particular type of product. One import source may be
3 at maximum levels of capacity utilization. One import
4 source may be focused on home market at a particular
5 time.

6 All of those variables you can't just add
7 up. Gee, there's excess capacity because there's
8 total capacity around the world of this number like
9 you might when you're looking at volumes of imports
10 actually coming into a country.

11 So I think there's a real danger in going
12 down a path that just lumps everything together and
13 doesn't look at specific countries as a factual matter
14 and says here, for example, on Korea gee, there's a
15 big volume there so do we think they're going to come
16 in?

17 Well, maybe we better look at their prices
18 and compare those to China, or maybe we better look at
19 the fact that they've got a 90 percent capacity
20 utilization rate before we just add their capacity to
21 Taiwan or to somebody else.

22 There's nothing that mandates that you look
23 at cumulation. I think there's a lot of reasons that
24 you shouldn't look at those imports together.

25 Finally I guess I would just say here even

1 if you do that you don't have really enough
2 collectively of the other imports out there to replace
3 China, given how massive China's imports are here and
4 how large their capacity would be for potential future
5 imports.

6 COMMISSIONER PINKERT: Thank you.

7 CHAIRMAN PEARSON: Okay. Now it's my turn.
8 I would like to ask about apparent consumption, which
9 has declined.

10 On the public record we've got it down I
11 think a little more than seven percent from 2005 to
12 2006. What were the reasons for that decline? Ms.
13 Katz?

14 MS. KATZ: Well, first it would be a lot of
15 the end uses that we sell into are tied into the
16 housing market, so some of the decline that we've all
17 heard about in the last year or so in terms of new
18 sales would affect that.

19 Also there has been a movement of some of
20 the end products being imported from China and other
21 places as well, so those comforters that were being
22 made in the U.S. are now coming in, those beds-in-a-
23 bag that you see in the stores. Those will come in
24 imported as a finished good, so creating a little bit
25 less demand here in the U.S. for the PSF.

1 CHAIRMAN PEARSON: Do you have any way of
2 sensing what portion of the decrease in consumption
3 was due directly to housing and which portion might be
4 due to the manufacture overseas of finished products
5 that formerly had been manufactured in the United
6 States?

7 MS. KATZ: No, I wouldn't.

8 MR. MCNAULL: You know, I agree with her
9 assessment. I don't have any hard data to be able to
10 split it into the two categories on a percentage basis
11 or anything like that. These are just trends that
12 we're describing. I'm sorry I can't be precise.

13 CHAIRMAN PEARSON: I didn't know whether we
14 could. I just want to make sure.

15 We see probably those two separate
16 components playing into the apparent consumption
17 numbers that we have, right?

18 MS. KATZ: Yes. I would guess you may be
19 able to get trade data from the Commerce Department on
20 imports of pillows and comforters and things like
21 that, and you could see the growth trend that way in
22 those categories.

23 MR. MCNAULL: My experience has been in the
24 case of pillows and comforters, because the shipping
25 cost of moving things from Asia is almost prohibitive

1 because they are very high-loft, very voluminous items
2 that don't have much weight to them.

3 Furniture I think is the area where there's
4 been a trend to create finished or semi-finished
5 furniture goods and import those from Asia, so I think
6 furniture is the trend that I'm more concerned about.
7 More of the import side of your question would be
8 furniture. I don't think pillows and comforters are
9 suffering from that kind of trend.

10 My sense is, and I don't have any hard data
11 to support it. My sense is that the apparent
12 consumption is down more driven by housing, the
13 correction of the housing market that we're
14 experiencing in the United States more than anything
15 else.

16 CHAIRMAN PEARSON: Okay. Mr. Lane?

17 MR. LANE: I would just add that with regard
18 to many of the examples that we're familiar with on
19 the other parts of our business, especially in NAFTA,
20 there is a fiber forward requirement for those
21 products as they are made in the NAFTA area that that
22 fiber has to be produced in the United States.

23 That is not the case with regard to items
24 that use these fiberfill type products. There is no
25 fiber forward requirement, so when they leave the

1 United States that fiber can come from any supplier,
2 so you could see a reduction in the market by items
3 within NAFTA and other products coming back in that
4 aren't required to have the U.S. sourced polyester
5 staple fiber in them.

6 CHAIRMAN PEARSON: Within the period of
7 investigation, do any of you know of customer firms
8 that move some of their production, some or all of
9 their production, offshore?

10 MR. MCNAULL: Yes. For DAK Americas we've
11 had a major home furnishing producer, their senior
12 vice president, indicate to me that they were going to
13 take a very large portion of their consumption
14 offshore.

15 He cited price as his primary driver. His
16 ability to buy from China at very, very low prices was
17 his key motivation for doing so.

18 CHAIRMAN PEARSON: And he was anticipating
19 no longer being able to buy Chinese product at a low
20 price in the United States? Was he presuming that the
21 requested order would go into effect?

22 MR. MCNAULL: No. This was prior to the
23 order that this individual was chasing Chinese pricing
24 rather than buying domestically.

25 CHAIRMAN PEARSON: Okay. It's not clear to

1 me why if he could get the Chinese product at a low
2 price in this country that he wouldn't continue to
3 manufacture here instead of moving his operation out
4 of the country.

5 MR. MCNAULL: No, no. I'm sorry. Paul may
6 have clarified for me. He was purchasing polyester
7 staple fiber to convert to finished goods in the
8 United States.

9 CHAIRMAN PEARSON: Okay.

10 MR. MCNAULL: So this individual was going
11 to purchase low-cost fiber from China to manufacture
12 finished goods here. I'm sorry. I got confused with
13 your question.

14 CHAIRMAN PEARSON: Well, I probably didn't
15 ask it very well. I was just wondering. Do we know
16 of customer firms that made a decision recently to
17 actually shift some of their production out of the
18 United States to another country so that they would
19 manufacture in another country instead of here?

20 The reason for asking is, of course, we've
21 seen that in other textile related industries and so
22 I'm just trying to understand whether that's going on
23 in this business. Ms. Katz?

24 MS. KATZ: I think there are one or two
25 Wellman customers that have added capacity in the Far

1 East instead of adding it here in the U.S. in the
2 furniture industry. They've opted to add it in the
3 Far East.

4 CHAIRMAN PEARSON: These questions were
5 background for my main question, which is how do you
6 see the long-term prospects for demand for your
7 product in the United States? I mean, is there a
8 future for your business here, getting back to what
9 we've seen in some other textile related industries?

10 MS. KATZ: I think what Jon said is true in
11 terms of because a lot of the products that we sell in
12 the certain PSF is high-loft and that's the quality
13 you really want, it's difficult to bring those goods
14 in the general markets.

15 In the low end, you can do anything with low
16 end. You can put cheap stuff in there and bring it
17 over cheaply and sell it cheaply, but in the general
18 marketplace high-loft is that way because there's a
19 lot of air in the product so to transport product with
20 a lot of air that you're not getting paid for is very
21 costly.

22 That's what has limited the decline in
23 certain PSF for fiberfill because a lot of that
24 industry has to stay here because of the product and
25 the relative cost of making the final end use, as

1 opposed to textile where a lot of the goods, as we all
2 look at our labels, most of the goods are not being
3 made in the United States. They're being made abroad.

4 Also, a lot of the industry that uses
5 certain PSF is not as labor intensive. A lot of it is
6 the equipment, and the equipment is not as expensive
7 as labor.

8 Labor is very cheap in other countries as
9 compared to the United States, so those labor
10 intensive industries such as the garment and textile
11 industries are better served in cheap labor countries,
12 as opposed to making a product here that doesn't
13 require a lot of labor. The equipment is basically
14 the same cost no matter what part of the world you're
15 in.

16 MR. MAGRATH: Mr. Chairman, I'd just like to
17 make the remark that the Chinese suppliers whose
18 imports to the United States have gone up 233 percent
19 over the period, they don't seem to be having this
20 problem with their end use customers in the United
21 States.

22 So we're here today. It's a fiber problem,
23 not any significant disappearance of the end use
24 products.

25 CHAIRMAN PEARSON: Mr. McNaul?

1 MR. MCNAULL: Yes. I mean, I think where
2 we've seen the most concerning attrition rate in
3 polyester staple has been in apparel. That's an area
4 where people are taking advantage of lower unit labor
5 costs by taking things overseas because there's a much
6 higher manual component in assembling apparel.

7 I think carpet, I think the subject product
8 that we're talking about here, the customers that
9 consume and create high-loft things, as well as
10 nonwoven segments are viable.

11 They're going to be here longer term, and I
12 think the primary area where you're seeing attrition
13 is in apparel and is in our injury where China is
14 displacing domestic shipments in this particular area
15 we're talking about today.

16 MS. KATZ: One last comment. If you were to
17 look at industry data and shipments of polyester
18 staple you would see that industry shipments on
19 fiberfill and nonwoven products has either been stable
20 or grown, while industry shipments into the textile
21 market have declined.

22 CHAIRMAN PEARSON: Okay. And then if you
23 could quickly, five years from now are we likely to
24 see apparent consumption in the United States that's
25 higher or lower than current levels?

1 MR. MCNAULL: I mean, I think apparel is
2 going to continue to go through this trend, so I think
3 overall if you aggregate all the market segments you
4 would see lower consumption.

5 As it relates to fiberfill, no, I think it
6 will be flat to slightly up for the subject polyester
7 staple.

8 MS. KATZ: And it would depend on the
9 economy really. That would be the main driver. You
10 just kind of have to have a projection for what the
11 economy is going to do first.

12 CHAIRMAN PEARSON: Okay. Let's say three
13 percent annual growth.

14 MR. CHANDRL: We see with an increase in
15 housing that we would see an increase in the
16 fiberfill. We anticipate the housing market would
17 pick back up and come back. Yes, sir.

18 CHAIRMAN PEARSON: Okay. Well, my time has
19 expired, so I will pass on this round, and we will go
20 to Vice Chairman Aranoff.

21 VICE CHAIRMAN ARANOFF: Thank you, Mr.
22 Chairman. I want to join my colleagues in welcoming
23 the witnesses here this morning and welcoming many of
24 you back from your visit with us in the sunset case
25 last year.

1 Let me start by asking. Some of the
2 Respondents point to the significant decline in
3 productivity in the domestic industry over the period
4 and say this is self-inflicted injury. Have your
5 workers become less efficient, or is there another
6 explanation?

7 MR. CHANDRL: I think I can explain that in
8 an example of our running our line at only 50 percent
9 of its capacity.

10 Whenever I run my line at less than our
11 desired capacity I still have to have an equal or
12 slightly fewer number of workers, so regardless of
13 whether we're running 100 percent or 50 percent, I
14 still have to employ people.

15 The numbers may show that I'm less
16 productive, but it's simply because I've been harmed
17 and I cannot run my line at 100 percent. I'm forced
18 to run it at 50 percent. I haven't become any less
19 efficient. I've just simply been forced to run my
20 line at a lower efficiency because I have no place to
21 sell my goods because I've been dumped on.

22 VICE CHAIRMAN ARANOFF: Okay. Mr. McNaull,
23 did you want to add something to that?

24 MR. MCNAULL: I agree. I mean, it's a
25 capital-intensive business, very large-scale assets.

1 For example, if you had an asset that
2 manufactured 80 million pounds nominally with a fixed
3 cost of X if you want to manufacture 60 million on it
4 your cost is basically still very close to X because
5 you'd have to staff and you have to have personnel in
6 place to run the facility whether it's running at high
7 rates or low.

8 You know, as we get into a position where
9 we're not able to shift the amount of pounds the
10 assets are capable of producing then you go into
11 turndown rates, but your costs are really basically
12 the same.

13 VICE CHAIRMAN ARANOFF: And that's true even
14 as the cost of raw materials is going up and so they
15 take a relatively larger part of your cost than they
16 otherwise would have relative to fixed cost?

17 MR. MCNAULL: Well, again we testified
18 earlier the raw material costs are the majority of the
19 cost of manufacturing polyester staple. You can have
20 swings of raw material costs that far outweigh these
21 changes of efficiency that we're discussing.

22 MR. ROSENTHAL: That was one of the more
23 unusual arguments, shall we say. I'll leave the
24 adjective at that.

25 The notion that you'll deprive the domestic

1 industry of millions and millions of pounds of
2 throughput in these high capital-intensive plants and
3 thereby drive up their cost per unit and per workers
4 and then accuse the industry of being inefficient is
5 really unfair, shall we say.

6 It's the old -- never mind. I won't go into
7 that analogy.

8 This is such a volume driven industry that
9 with these declines in volume, these shutdowns, the
10 essential argument by the other side is well, you're
11 just not firing your people fast enough and you're not
12 closing your plants fast enough to make you more
13 efficient.

14 You can have much lower unit costs if
15 instead of operating at 50 percent of capacity you
16 just don't reopen your plant.

17 MS. KATZ: If I could add one more comment?
18 When you hire a new employee to work in a plant he
19 just doesn't start working day one. It takes some
20 time to train him.

21 It's very expensive to lay off people and
22 hire people and lay off people and hire people, so you
23 try to keep a basic level of employee staffing that
24 will allow you to ride during some of the rough times,
25 but will provide you with the service you need when

1 you're running full.

2 You just can't say okay, why don't you fire
3 these people for the three months you aren't running.
4 You have to think about what's going to happen after
5 those three months.

6 If there are other employers in the area,
7 you're not going to get them back. You're going to
8 have difficulty finding the right people, and then you
9 have to train them. It's expensive to train people
10 and then having to let them go. You do try to
11 maintain a minimum level of staffing even in those
12 times when you may not be running the line full.

13 VICE CHAIRMAN ARANOFF: Okay. Well, let me
14 follow up on that because that really was my next
15 question, some inconsistencies in the employment data
16 that we see where the data on the record are
17 consistent with what Ms. Katz just indicated, that
18 there haven't been significant layoffs in the
19 industry, and what Mr. Chandrl was saying, that you
20 tend to need almost the same number of people even
21 when you're operating at lower capacity utilization.

22 And yet, Ms. Katz, you indicated that your
23 company closed a plant and let go 360 people. That
24 doesn't really show up in our data. Is somebody else
25 hiring and that's offsetting what we see, or is there

1 a lag? Why are we not seeing those numbers?

2 MS. KATZ: Well, maybe that's an error in
3 the way the data was presented. Those numbers I
4 thought were meant to represent the number of people
5 during the period.

6 Our layoffs all occurred and the plant
7 closed down in December, so you would see most of the
8 employees still there through year end 2006. If you
9 were to do a comparable statement in 2007, you would
10 see that sharp reduction show up.

11 VICE CHAIRMAN ARANOFF: Okay. That is an
12 explanation with respect to Wellman.

13 I know there were other domestic producers
14 who closed facilities earlier in the period. Is there
15 a reason why we don't see that show up? Was nobody
16 laid off in those cases?

17 MR. LANE: Well, you heard Ms. Cannon make
18 reference to the Polykron facility that is a polyester
19 staple manufacturer in Monterrey, Mexico, that DAK
20 Americas shut down in 2005.

21 It is basically an affiliated company, so
22 that's not counted in any of our numbers because it's
23 outside of the U.S., but fundamentally we did have
24 some reduction of capacity to be able to supply the
25 broader sense.

1 VICE CHAIRMAN ARANOFF: Okay. Right. But
2 that wasn't U.S. employment, so we wouldn't expect to
3 see that.

4 Okay. Let me move on and ask. Let's see.
5 In connection with lost sales, I can only characterize
6 these generally obviously, but there was a substantial
7 number of allegations of lost sales made in this case,
8 and of those a surprising number of purchasers who
9 professed that they had never bought product from
10 China.

11 Do you have any explanation for why that
12 response would be so prevalent?

13 MR. ROSENTHAL: They're obviously at a
14 disadvantage, not having seen some of these responses.
15 It is hard to understand some of those responses,
16 especially when you see the growth in Chinese exports
17 of over 234 percent.

18 Somebody is buying them, and we've
19 established that the market is not growing at that
20 rate and U.S. companies' market share is declining by
21 over 13 percent, so either they're not telling you the
22 entire truth or some of them are being technical about
23 how the lost sales are not being properly
24 characterized or there are other customers who you did
25 not hear from.

1 I would really focus more on the confirmed
2 lost sales, and there's a series by one in particular
3 who is a very, very well known importer and has
4 confirmed a fairly large volume of sales lost directly
5 as a result of Chinese sales, Chinese imports.

6 VICE CHAIRMAN ARANOFF: Yes. No, I'm aware
7 of the ones you're referring to, and I guess my
8 question with respect to the others was whether there
9 might not be some kind of don't ask/don't tell thing
10 going on between purchasers and importers and whether
11 the producers here know.

12 When you talk to your customers and they
13 tell you that you have an alternate source, do they
14 tend to tell you the name of the importer, or do they
15 tend to know where the product is coming from?

16 MS. KATZ: If a customer is buying from a
17 broker, they themselves may not know where the fiber
18 is coming from. All they know is that they have a
19 supplier, Broker A, and as long as Broker A meets
20 their demands of the product and the pricing and the
21 timing he doesn't really care. He doesn't need to
22 know anything else.

23 I think in instances where there might be a
24 broker involved, the end buyer/purchaser may not know
25 where the product came from.

1 VICE CHAIRMAN ARANOFF: Okay. Well, just
2 following up on that, since my light is yellow, Mr.
3 Rosenthal, if there's anything that the industry can
4 add in posthearing on why the customers may not know
5 where the product they buy is from, but the domestic
6 producers do --

7 I mean, I understand in the aggregate that
8 there's a lot of Chinese product and it must be going
9 somewhere, but for specific allegations how they can
10 know who they were competing against.

11 MR. ROSENTHAL: We'll do our best. Because
12 it's APO it's hard to talk to our clients and say gee,
13 this particular purchaser denied the claim. What is
14 it that's wrong about this?

15 VICE CHAIRMAN ARANOFF: Right. I think you
16 can state it the other way. You told us that you lost
17 this sale to China. How do you know it was China?

18 MR. ROSENTHAL: We'll do our best.

19 VICE CHAIRMAN ARANOFF: Thank you.

20 Thank you, Mr. Chairman.

21 CHAIRMAN PEARSON: Commissioner Okun?

22 COMMISSIONER OKUN: Thank you, Mr. Chairman,
23 and I join my colleagues in welcoming all of you today
24 and welcoming back many of you. I appreciate you
25 being here. I certainly have seen a number of you

1 over the years and so feel like I do know this
2 product.

3 Let me start actually first with a followup
4 for you, Mr. Chandrl. You had your hand up in
5 response to the Vice Chairman's question about the
6 employment data, so just for the completeness of the
7 record is there something else you wanted to add with
8 regard to those numbers?

9 MR. CHANDRL: Just simply when we shut our
10 line down for three months I just wanted to state that
11 I can't lay employees off for a three month period of
12 time when I anticipate coming back into production
13 fairly soon.

14 Like Wellman had mentioned, you need
15 quality, trained employees to run your production
16 lines. Unfortunately, if we have to shut down for
17 three months we cannot simply lay all of our employees
18 off for that short period of time. We have to
19 maintain their employment in the hopes that we can
20 resume our production in the future.

21 COMMISSIONER OKUN: Okay. So that's why
22 those numbers wouldn't be in there as well. Okay. I
23 appreciate that.

24 Mr. McNaul, just to come back just to
25 follow up on the Chairman's question about apparent

1 consumption, Mr. Shapiro in his opening had also noted
2 flame-retardant material as a reason for the decline.
3 I didn't hear you mention that, and I wondered if
4 there was anything you could tell us about that?

5 MR. MCNAULL: I don't think that's a
6 material factor in the apparent consumption at all.

7 COMMISSIONER OKUN: Okay.

8 MR. MCNAULL: I don't think that's the case.

9 COMMISSIONER OKUN: Okay. I just wanted to
10 make sure I had heard your response on that.

11 A question just again on the '06 pricing,
12 and I think you had some responses to my colleagues
13 earlier about the price increases the entire time
14 being driven by your raw material costs, and I can
15 look in the record and see that.

16 I wondered if you could help me understand
17 what you would expect the market to do in '06 when we
18 see apparent consumption going down, how your buyers
19 react and whether you would have expected to lose the
20 market share just because they're saying housing
21 starts are down and we're not going to accept your
22 price increase, as opposed to how much the imports
23 were playing a role, if you can help me kind of sort
24 through the '06 dynamics versus the '05 dynamics.

25 MR. MCNAULL: Can you restate that? I'm a

1 little bit confused by your question. I'm sorry.

2 COMMISSIONER OKUN: Mr. Rosenthal might want
3 to help you out, but I'll restate my question and then
4 I'll see.

5 In '06, the pricing. What was going on in
6 terms of your conversations with your purchasers in a
7 market going down as opposed to a market going up?
8 Would you have expected to see purchasers going along
9 with you?

10 Take aside the imports of your competition.
11 Would you have expected to be able to get those price
12 increases in that type of market? Let me hear from
13 Mr. McNaul first and then Mr. Rosenthal.

14 MR. MCNAULL: Yes. The issue is one of the
15 raw material escalations were to a point that
16 continued to manufacture and supply products to
17 customers. You had to go negotiate some increase in
18 price to be able to justify continuing to run your
19 facilities and supplying their needs.

20 You know, in terms of microeconomics, the
21 market is going down. Therefore, you can't
22 theoretically push price increases through when the
23 industry hits the wall, if you will, from a cost
24 perspective. It really has no choice but to say I
25 need to have at least X price to continue producing.

1 Then often times they'll acquiesce and they'll agree
2 to a price increase.

3 But I will say our price increases did not
4 fully recoup the cost of raw materials in '06, and
5 that was a huge issue for the industry.

6 COMMISSIONER OKUN: Okay. That's helpful.

7 Mr. Rosenthal?

8 MR. ROSENTHAL: Two points. Number one, the
9 Chinese have the same raw material cost price
10 increases. I mean, they buy petroleum-based inputs,
11 and most of those are denominated in dollars so they
12 are not immune from the increased costs that the U.S.
13 industry is suffering, yet they don't pass those costs
14 on. That's one of the significant problems that the
15 domestic industry faces.

16 Now, if you're a customer and you see a
17 decline in the market because of housing starts and it
18 went down from let's say five to seven percent and you
19 are being presented by the Chinese with certain prices
20 that don't reflect an increase in raw material costs
21 even though you as a Chinese producer have experience
22 in them, sure it's going to be a lot easier for you to
23 buy the Chinese product than the U.S. product.

24 We can talk all we want, I suppose -- it's
25 probably not the right forum -- about why the Chinese

1 don't raise their prices when their costs go up and
2 the overcapacity being driven by uneconomic
3 investments and loans and that sort of thing, but as a
4 practical matter the assumption in your question, why
5 would a customer buy a higher priced product or pay
6 for raw material increases when the market is going
7 down is they would if they couldn't source from the
8 Chinese.

9 COMMISSIONER OKUN: Okay. I appreciate
10 those comments.

11 Ms. Cannon, I'm going to turn over to you
12 now for some discussions on Bratsk. I had noted
13 before I read your brief that I was going to ask you
14 to brief the Gerald Metals like analysis, and then I
15 read your brief and I realized that you were actually
16 recommending the Commission do that so I don't need to
17 ask you to brief that.

18 While you did not note it in your brief, I
19 know that you've read Lined Paper, and in fact the
20 Chairman and I did suggest the Gerald Metals analysis
21 as a plausible reading of what the Federal Circuit did
22 in Bratsk.

23 While we wait for the Federal Circuit to
24 give us further guidance on what they did or didn't
25 mean, I will continue to analyze it both ways as I did

1 in Lined Paper, so I appreciate you having put that in
2 there.

3 If it's not the Gerald Metals and you get
4 into the triggering, I did have some questions. You
5 know, one of them that just strikes me as something we
6 have to spend more time on is the commodity nature for
7 purposes of the Bratsk analysis.

8 I know you spend time on that in your brief,
9 but I'm still trying to sort through that because
10 you've been before us a long time and you know that in
11 many of the product areas where we find a price
12 sensitive product, moderate to high substitutability,
13 that has been the lingo of a commodity product.

14 I know there are economists and Mr. Magrath
15 and others who can talk about there are a lot of
16 distinctions among commodities, but I'm just trying to
17 get some further explanation, particularly in a case
18 like this where on the one hand we've got moderate to
19 high substitutability. We have you arguing the price
20 sensitive nature of it. On the other hand, when it
21 comes to this Bratsk analysis you're saying now look
22 at the facts. Not everybody can buy this same
23 product.

24 I'm wondering if you can give me any better
25 help on how we would look at that just generally. Is

1 there something we should be looking to?

2 MS. CANNON: Well, I think as we've set
3 forth in our brief, the first thing you should
4 recognize, and I think you have recognized this in
5 some of the remand decisions you've handed down, is
6 that the concept of commodity product or fungibility
7 is not the same in all contexts. For like product
8 purposes or cumulation, it's not the same as it is in
9 causation, and that concept was recognized by the
10 Courts well before Bratsk.

11 The Courts had recognized I think it was in
12 the Bic case that simply because you found some
13 overlap in competition and cumulation analysis or
14 enough of an overlap to find fungibility for purposes
15 of like product that didn't necessarily mean that
16 there was direct competition for purposes of
17 causation.

18 I think when you get to Bratsk the question
19 that the Court has asked is even more stringent, which
20 is could one source replace another? Is it such a
21 commodity that one is just going to be able to
22 completely replace the other? So I think when you get
23 to that level of analysis you do have to alter the way
24 you look at things, and you can't just look at the
25 word commodity and check it off.

1 You have to say what exactly was the Court
2 talking about when it used that term in the context of
3 the Bratsk analysis itself or generally?

4 And there it seems like if you're really
5 going to look at replacement you do have to look at
6 more what you would term a pure commodity, gasoline,
7 something that is completely replaceable one for
8 another, as opposed to this which is a continuum
9 product where there are different types and gradations
10 along a line, so it's all a like product and it does
11 compete --

12 COMMISSIONER OKUN: Okay. My light's on.
13 Let me just ask one follow-up --

14 MS. CANNON: Sure.

15 COMMISSIONER OKUN: -- to that which is
16 would it matter if the facts of the case like this one
17 where you see wide market share swings from among, you
18 know, the Chinese come in we can see their market
19 share numbers, it's a very big swing. So to me again
20 to that point of could they come in, then looking at
21 where the nonsubjects were or weren't, they're a big
22 part of this market, they've been big before, you
23 know, should the shifts in market share be any
24 indication of the commodity nature for purposes of a
25 Bratsk analysis or not?

1 MS. CANNON: Well, the shifts in market
2 share were going to show that somebody's able to
3 penetrate a market, but they don't necessarily show
4 where they're penetrating it or how they're
5 penetrating it. Mexico comes in, you can't assume
6 that they are necessarily selling the same thing as
7 China is. You would have to be more specific in terms
8 of the analysis I think before just checking off the
9 box and saying overall this is a commodity product.

10 So when you saw those shifts in shares I
11 think it requires then a closer inspection, and that
12 goes to my earlier comment in response to Commissioner
13 Pinkert's question about aggregating these together.
14 You really have to look at what these products are to
15 determine if one can replace another.

16 COMMISSIONER OKUN: Well, I have some other
17 questions, Mr. Rosenthal, so on my next round I'll let
18 you finish since my red light's come on. Thank you.

19 CHAIRMAN PEARSON: Well, I'll note your red
20 light also went off.

21 COMMISSIONER OKUN: I didn't even get to
22 abuse my red light privileges.

23 CHAIRMAN PEARSON: Commissioner Lane?

24 COMMISSIONER LANE: Good morning.

25 Ms. Beck, my first question is for you.

1 Table VI-1 of the staff report shows the average cost
2 of goods sold increasing from 59 cents per pound to 72
3 cents per pound over the POI, an increase of 13 cents
4 per pound. The same table shows domestic net sales
5 increasing by 15 cents per pound over the POI. In
6 your prehearing testimony you said the U.S. industry
7 price increases did not increase sufficiently as
8 compared to cost increases.

9 Could you explain, please, what you mean by
10 sufficiently considering that is shown on Table VI-1?

11 MS. BECK: Yes, Commissioner Lane. I think
12 one of the points is on page 6-3 of the staff report
13 where your staff accountant describes the increase in
14 percentage terms.

15 Basically the raw materials increase and the
16 sales increase for 2006 were about the same even
17 though earlier in the year, first quarter for example,
18 what was found in the preliminary investigation, in
19 first quarter there was a much greater increase in the
20 unit cost of raw materials compared to sales, so
21 what's happened in the remainder of the year is you've
22 continued to have raw materials increase.

23 In fact raw materials peaked in third
24 quarter, and the industry has continued to try to
25 achieve some sort of a price increase, which to a

1 certain extent has lag time. They have been
2 successful to a certain degree, but again it hasn't
3 been able to keep pace. I think instead of looking at
4 the absolute level of the increases, I mean, what we
5 have to look at, too, is the bottom line in terms of
6 financials because it wasn't sufficient enough in
7 order to rebound from a loss position.

8 In fact it went the opposite direction from
9 2005 and 2006.

10 MR. CHANDRL: Also, on the cost increases
11 the only cost I have is not just my raw material cost,
12 I also have various other various energy costs and
13 labor costs as well, which are also increasing, so the
14 everyday cost of using energy in my plant absent of
15 raw materials also increases and that's not taken into
16 effect I don't believe.

17 COMMISSIONER LANE: Okay. Do you anticipate
18 raw material costs will remain high in 2007, and do
19 you anticipate that raw material prices and
20 availability will require the continued use of price
21 increase announcements?

22 MR. MCNAULL: I think the third-party
23 consultants who track these things globally would say
24 that we will see increases in raw material costs this
25 year. We'll see them in the second and third quarter

1 as the Petra Chemical aromatics compete with the
2 gasoline pool in the United States. Kind of the
3 consensus at the moment is during the U.S. driving
4 season, May through September, you'll see an increase
5 in raw material prices and then some moderation in the
6 fourth quarter.

7 It should be much less volatile than what
8 we've seen in 2005 and 2006, which were hurricane and
9 posthurricane kind of factors and influences there,
10 but we will see some modest increases this year.

11 COMMISSIONER LANE: Okay.

12 Mr. Rosenthal, this next question is
13 probably for you. In looking at the staff report at
14 Table VI-2, which is BPI, and in looking at the raw
15 material costs and the cost of goods sold one set of
16 numbers from 2005 to 2006 shows a different trend than
17 all of the others. Could you please provide in your
18 posthearing an explanation as to why those numbers are
19 different? Is that fairly innocuous considering it's
20 all BPIs?

21 MR. ROSENTHAL: I can innocuously say yes,
22 we will address this in our posthearing brief.

23 COMMISSIONER LANE: Okay. Thank you. Now,
24 several domestic producers who report manufacturing
25 both subject and nonsubject products on the same

1 equipment do not appear to be reporting capacity
2 allocation based on actual production of subject and
3 nonsubject products. Could you please describe how
4 you allocated your reported capacity utilization
5 between subject and nonsubject products?

6 MS. KATZ: Well, for Wellman it depends on
7 the plant, so when our Johnsonville plant was up and
8 running essentially 99.9 percent of the product, which
9 was most of the PSF that we sold, there was no other
10 product being made, so there was no allocation
11 required. At our Palmetto plant, that also produces
12 fine denier, less than three denier products, which is
13 not subject.

14 We basically took the percentage of sales of
15 each product as the total sales out of the plant and
16 used that allocation as the percentage of capacity
17 that was allocated to each of the subject and
18 nonsubject product.

19 MR. LANE: That would be true for DAK
20 Americas as well. As Ms. Katz indicated our sales are
21 distributed based upon the total production of the
22 plant.

23 MR. CHANDRL: I don't have that information
24 specifically with me right now, but I can put it in
25 the posthearing brief.

1 COMMISSIONER LANE: And are these plants
2 running 24 hours a day, seven days a week?

3 MR. LANE: Yes, ma'am, they are.

4 COMMISSIONER LANE: Okay. Thank you. Now,
5 going back to raw material costs what steps are U.S.
6 producers taking to ensure their raw material needs
7 are met in the future?

8 MS. KATZ: Okay. With respect to virgin raw
9 materials, which is all that Wellman will have going
10 forward, there's basically one supplier of
11 terephthalic acid in the U.S. and that's BP. The
12 prices out of BP are the same no matter who they sell
13 to. There's a uniform price in the United States.
14 There is absolutely nothing a producer can do about
15 those prices.

16 They're formula set, and they're just
17 dictated to us. With respect to the other major raw
18 material, ethylene glycol, there are several suppliers
19 of that, and Wellman has contracts to secure a long-
20 term supply of that product. At this point there's no
21 reason to think that there would not be adequate
22 supply of either TA or EG for U.S. production.

23 MR. CHANDRL: Nan Ya, we are backwards
24 integrated into our EG production at our facility in
25 Point Comfort, Texas, which has the pure supply there.

1 And going back to the PTA purchase from BP, only there
2 is only one supplier there and two main purchasers we
3 were able to negotiate a reduction in the formula
4 price for 2007, so with our combined effort we were
5 able to get the prices to come down a little bit from
6 BP.

7 MR. MCNAULL: DAK Americas manufactures PTA.
8 As of a couple years ago we were the second largest
9 producer in the world behind BP Amoco, so we've got a
10 number of production lines for the major ingredient
11 for polyester. In the case of MEG we have multiple
12 strategic supply arrangements with gulf coast,
13 Canadian and Mexican producers of MEG.

14 And I'll note during the hurricane, we were
15 able to meet requirements of customers during that
16 period, so we've got a pretty robust supply chain for
17 supplying the domestic industry.

18 COMMISSIONER LANE: Thank you. Do your
19 firms' contracts typically contain clauses for raw
20 material surcharges? Do these clauses also adjust
21 prices of PSF for any declines that may occur in raw
22 material costs?

23 MS. KATZ: We have several contracts with
24 several customers that are based on raw material
25 costs, and they will track, and our price change to

1 that customer will be totally dictated by publicly
2 quoted raw material cost changes. We will pass on
3 increases, and we will take back declines in cost.

4 So basically what you've done is you
5 negotiate a standard acceptable operating margin for
6 yourself, and you build in any raw material changes as
7 an extra.

8 COMMISSIONER LANE: Okay. Thank you.

9 Mr. McNaul?

10 MR. MCNAULL: Likewise.

11 COMMISSIONER LANE: Okay. Thank you.

12 MR. CHANDRL: Very similar. Yes, ma'am.

13 COMMISSIONER LANE: Okay. Thank you.

14 Thank you, Mr. Chairman.

15 CHAIRMAN PEARSON: Commissioner Williamson?

16 COMMISSIONER WILLIAMSON: Thank you, Mr.

17 Chairman.

18 I'd like to get to the question of critical
19 circumstances. You asked the Commission to compare
20 the three-month period before and after March 2006
21 because the Commerce Department had found that
22 importers knew or should have known that an
23 antidumping petition was imminent at that time.

24 However, the statute and its legislative
25 history indicate that the Commission is to focus its

1 critical circumstances analysis on subject imports
2 during the period between the filing of the petition,
3 which was June 23, 2006, and the issuance of
4 Commerce's preliminary determination, which was
5 December 26, 2006. Why should the Commission do
6 something different in this case than what the statute
7 and its precedent seem to direct?

8 MS. CANNON: Commissioner, we've looked at
9 that, and we've also looked at Commission past
10 practice, and the Commission has in some other cases
11 decided based on the specific facts of that case to
12 alter that period, so it has not always compared the
13 exact six month period, but based on the circumstances
14 of the case we believe that the circumstances of this
15 case do warrant adjusting that period for precisely
16 the reasons that Commerce found and we can address
17 that and cite those cases further to you in our
18 posthearing brief.

19 The other thing I would say, though, is that
20 part of our argument is not only that you should
21 adjust the time, but that the real problem here is the
22 absence of the data and that looking at even the
23 period that the Commission would typically focus on,
24 the six months before and after, you don't have any
25 data showing what the total Far Eastern imports are

1 for that period either because they didn't answer your
2 questionnaire and the importers that did are
3 incomplete.

4 So even if you were to use the standard
5 period the Commission normally does we still think
6 that the best information available to you, if you
7 will, is the Commerce finding here, which may have
8 been on an adjusted period because of that lack of
9 data.

10 COMMISSIONER WILLIAMSON: Okay. Thank you.

11 Ms. Katz, I was wondering, what would it
12 take to reopen the Johnstown plant?

13 MS. KATZ: The Johnsonville plant?

14 COMMISSIONER WILLIAMSON: Yes.

15 MS. KATZ: At this point I don't think there
16 will be an opportunity to reopen that plant, but what
17 we can do is we can increase the amount of PSF that we
18 make at the Palmetto plant. As we showed people who
19 were on the tour we have expanded the amount of PSF
20 that we make at our Palmetto plant.

21 MR. MCNAULL: And a comment. If the playing
22 field were level where the Chinese or other importers
23 would have prices that are reasonable we have plenty
24 of capacity to bring on line in very short order to
25 meet the needs of the marketplace. I don't know if

1 that was what was the essence of your question, but
2 that is true, and we would be able to meet the needs
3 of customers if this order were put in place.

4 COMMISSIONER WILLIAMSON: How long would you
5 take to sort of make that kind of decision or how long
6 would something have to be --

7 MR. MCNAULL: I mean, we could do it
8 relatively quickly. You know, we talked earlier about
9 utilization of existing assets, which are basically
10 staffed, but running at turned down rates. Those
11 rates can be increased with a phone call and 12 to 24
12 hours. If we need capacity beyond that we could staff
13 and start facilities in as short as four to six weeks.

14 MR. ROSENTHAL: Commissioner Williamson, the
15 unfortunate closing of the Johnsonville facility
16 demonstrates what happens in an industry like this.
17 Once that decision is made and those 300 jobs are lost
18 it is hard to get them back. You can't find the
19 employees necessarily even if the demand picks up, and
20 the company has already gone through significant
21 expense to in effect close down that facility.

22 They've already taken write-offs. That's a
23 sad fact of manufacturing, and capital and labor in
24 this country. So one of the reasons we're here today
25 is to prevent another Johnsonville, that we don't have

1 another closing that won't be reversible.

2 And as indicated by Mr. McNaul there's
3 plenty of existing capacity even absent the
4 Johnsonville capacity to supply the market if the
5 market is willing to pay a reasonable price, which
6 they're not willing to do as long as they can access
7 the Chinese prices at the levels they're at today.

8 COMMISSIONER WILLIAMSON: Thank you. Let's
9 see. I don't think this has been addressed. You
10 argue that underselling by subject imports suppressed
11 domestic prices and prevented domestic producers from
12 passing higher costs on to their customers. I guess
13 however a nonsubject import average unit value is
14 while a bit higher than Chinese AUVs were also lower
15 than domestic industry average unit values.

16 Given that nonsubject import volumes
17 exceeded subject import volumes throughout the period
18 of investigation to what extent did nonsubject import
19 competition suppress domestic prices?

20 MR. ROSENTHAL: It was clear that the source
21 that is gaining market share in a price sensitive
22 product is the price leader. I don't think any
23 economist would dispute that. The fact that there are
24 other imports in the marketplace, other supply, at low
25 prices will have an affect on the marketplace, too,

1 but the real issue is can you attribute to the imports
2 from China an injurious effect?

3 And for those folks who are competing
4 against the Chinese and customers, we're telling them
5 we're not going to pay you the increased raw material
6 costs you want, we're not going to pay you as much as
7 you want because I can get the product from China,
8 that is clear evidence of price suppression from
9 China.

10 Is there also competition from other
11 sources, Korea, Taiwan, et cetera? Yes, there is. Is
12 there some price suppression? Perhaps there is, but
13 one of these things, and this goes to the Bratsk
14 analysis, too, that makes this case different than
15 many of the others is that you've got antidumping
16 orders on Korea and Taiwan, two of the other major, if
17 you will, nonsubject potential import sources here.

18 Those dumping orders do have a restraining
19 affect on Korea and Taiwan. They cannot afford in
20 those countries and those importers to continue a race
21 to the bottom that the Chinese have initiated in the
22 last couple of years.

23 Therefore they are not as injurious, if you
24 will, they're not as much of a factor in the price
25 suppression as the Chinese have been for the last

1 couple of years, nor using a Bratsk analysis would
2 they be able to replace the Chinese because they will
3 not be as pernicious when it comes to pricing as a
4 result of the existing orders.

5 COMMISSIONER WILLIAMSON: Thank you.

6 MS. CANNON: Commissioner, if I could just
7 add to that? When I was looking specifically at the
8 average unit values, and this is the table on page 4-7
9 of your report setting forth public average unit
10 values of all of those imports, you see really a large
11 disparity between the imports from China and the
12 average unit values of the imports from most of the
13 other countries.

14 They're generally quite a bit higher, and
15 occasionally when you see something very low like a 52
16 cents coming in from Mexico in 2006 you see also
17 extremely small volumes coming in from Mexico that
18 year, so only with respect to Korea are you seeing any
19 volumes and also low average unit values.

20 And Korea was there for the one country I
21 talked about more specifically with respect to the
22 Bratsk analysis because while you see some large
23 volumes and some low values when you look more closely
24 at Korea at the pricing data that you have on Korea
25 you see that they're also not as low as China. So it

1 really gives you a picture of an industry where yes,
2 the other imports may have some low prices and some of
3 them may be lower than U.S. prices, but what are they
4 doing?

5 They're all competing with China, too.
6 China is the big gun in this market, and they're
7 having to lower their prices to compete as well, and
8 they've told that to you. You have documented reports
9 from those foreign producers saying we're struggling
10 to compete with those prices as well. So I think you
11 have to recognize that they're not the cause of the
12 problem, they're just trying to follow down the trend
13 to keep their share of the market as well if they can.

14 COMMISSIONER WILLIAMSON: Thank you. Just
15 one other question regarding the issue between the
16 producers in China, and in Korea and Taiwan. I've
17 seen in other cases where often the Korean and
18 Taiwanese producers sort of move their factories to
19 China, and I think there was earlier testimony that
20 most of the firms in China were sort of state owned or
21 state sponsored, but to what extent are the Taiwanese
22 and Korean producers playing a role in China?

23 MS. KATZ: I know of two companies who after
24 the orders were obtained, one from Korea, one from
25 Taiwan, that went and put capacity into China. One is

1 Far Eastern out of Taiwan and one is Huvis out of
2 Korea. With both of those companies we saw shortly
3 after we got the antidumping order on Korea and Taiwan
4 we started seeing imports from their sister companies
5 in China.

6 COMMISSIONER WILLIAMSON: Thank you. Time
7 is up.

8 CHAIRMAN PEARSON: Commissioner Pinkert?

9 COMMISSIONER PINKERT: Follow-up question on
10 the Bratsk analysis.

11 Ms. Cannon, does it make a difference for
12 the results of your Bratsk analysis if we apply it to
13 the period of investigation versus prospectively?

14 MS. CANNON: No. I mean, I think the result
15 is the same, although the analysis might be slightly
16 different. The analysis that we were describing was
17 based on the year 2006, the most recent year, and I
18 think the information in your record pretty much is
19 clear in showing that the other imports do not have
20 the capacity to continue to supply what they're
21 supplying to the United States plus replace China at
22 these low prices.

23 They're not coming in at those low prices.
24 They don't have sufficient excess capacity. They
25 weren't able to do that. If you look prospectively

1 then you would need to look at some of the data we've
2 placed on the record in terms of total capacity and
3 projections, and at that point, too, China just dwarfs
4 everybody else.

5 China not only has a massive capacity now,
6 but they're projecting continued and substantial
7 growth whereas what you're seeing from the other
8 countries in recent years, especially last year, are
9 closures, shifting to other products, primarily
10 because they can't compete with China. So going
11 forward I'd say if anything there's even less
12 likelihood that somebody else could come in to replace
13 them under these conditions that we're seeing going
14 forward.

15 COMMISSIONER PINKERT: Thank you. Now, 19
16 out of 36 responding purchasers stated that they
17 require certification for suppliers of PSF. Can
18 somebody, perhaps one of the witnesses, describe how
19 the certification process works?

20 MS. KATZ: I can. Certification means that
21 the customer has an opportunity to try out the product
22 and make sure that it meets all the specifications
23 that it requires. In some cases if that product is
24 going into a medical end use, let's say, the product
25 needs to meet more stringent tests as handed down by

1 the FDA, and so you need to be qualified or certified
2 as a producer of a product that will meet all the
3 requirements, but that's basically it.

4 Certified means that you've had a chance to
5 run the product at the plant, and it works fine and it
6 meets all the specs that you need.

7 COMMISSIONER PINKERT: Does certification
8 limit purchasers' ability to switch suppliers?

9 MS. KATZ: It doesn't take that long to be
10 certified, so in a couple of months, you've had a
11 chance to have that product go through your plant, you
12 can provide a certification.

13 COMMISSIONER PINKERT: Does a supplier
14 generally approach a purchaser or is it the other way
15 around?

16 MS. KATZ: The purchaser would approach the
17 supplier.

18 MR. LANE: Excuse me. I believe there also
19 could be the specification of a certification by means
20 of ISO registration that is your facility ISO
21 registered, and you certify that your product is made
22 against the international standards for ISO
23 certification. I'm not totally familiar with the
24 question, how it's put in that questionnaire to the
25 purchasers, but we are ISO certified, and any product

1 that we make we do certify meets those requirements as
2 specified by Underwriters Laboratories.

3 MS. KATZ: Oftentimes a customer will
4 certify several potential suppliers so that in case
5 they need to use a different supplier they have access
6 to them, so it will be done in advance.

7 COMMISSIONER PINKERT: Have any of the
8 Petitioners had difficulty in being certified to
9 supply a particular type of PSF?

10 MR. MCNAULL: Yes. Certification, depending
11 on the procurement department they'll have a unique
12 process or, I mean, they may ask do you have a quality
13 system, do you have security for your facilities? I
14 mean, it can be questionnaires, it can be a lot of
15 things.

16 Sometimes in product development you face
17 challenges that are more difficult than others in
18 terms of meeting specification requirements, but
19 generally as a general rule our industry has done a
20 very good job of delivering ultimately what customers
21 need in terms of meeting those challenges.

22 MR. CHANDRL: Yes, sir. I would agree in
23 general that our products can meet the needs of the
24 customers.

25 COMMISSIONER PINKERT: Go ahead.

1 MR. MAGRATH: Commissioner Pinkert, the
2 producers are talking from their perspective. The
3 staff report has a number of instances where the
4 certification efforts have not been met on the part of
5 purchasers. To the extent that this is important to
6 purchasers in the United States this is another sort
7 of hindrance in terms of this Bratsk instantaneous
8 replacement scenario that one has to have to think
9 that Bratsk is at all applicable in this case.

10 COMMISSIONER PINKERT: Now, how do you
11 respond to Respondent Ashley's claim that the quality
12 of the Chinese conjugate fiber PSF exceeds that of
13 domestic suppliers?

14 I think you spoke about this somewhat, Dr.
15 Magrath, but specifically the claim on page 1213 of
16 its brief.

17 MR. MAGRATH: We'll let Mr. Chandrl, the
18 producer of conjugate in the United States, answer the
19 question.

20 MR. CHANDRL: From what we've seen from the
21 fibers that they're using to produce their products
22 ours are very comparable to what they're making and
23 can be substituted for them. We could provide further
24 information in a posthearing brief of how our products
25 have been substituted for the ones they're using right

1 now.

2 I guess additionally I guess Ashley
3 Furniture makes a claim that they're producing these
4 higher end products. However, in reality Ashley
5 Furniture is not marketing their products as being
6 higher end. They're marketing their furniture on the
7 lower end of the spectrum. So making a claim that
8 they need a higher end conjugate fiber for their
9 higher end products doesn't really make sense since
10 they're selling their furniture as low priced goods.

11 So why would you need this high quality
12 product if you're going to sell it as a low end
13 product?

14 COMMISSIONER PINKERT: What percentage of
15 the U.S. market for PSF is accounted for by this
16 product?

17 MR. ROSENTHAL: This product meaning the
18 product specified by Ashley?

19 COMMISSIONER PINKERT: Yes.

20 MR. ROSENTHAL: Well, I just want to clarify
21 a little bit further if you're talking about conjugate
22 or the high void product that Ashley claims it needs
23 for its so-called high end applications?

24 COMMISSIONER PINKERT: Let's talk about
25 conjugate and what you regard as a substitute for the

1 conjugate product.

2 MS. KATZ: The high void. I don't have the
3 number off the top of my head of what percentage of
4 our production is 3-D high void. We could get that.

5 MR. ROSENTHAL: We can get you all of that
6 for the posthearing brief. It's pretty readily
7 available in the numbers in the files.

8 COMMISSIONER PINKERT: Is there a different
9 market for virgin regenerated PSF and conjugate fiber
10 PSF in the United States or is that all one market?

11 MS. KATZ: If I could speak to that because
12 we were the major producer of recycled regen PSF. The
13 customer, the end use does not care whether a product
14 is made of recycled raw materials or virgin raw
15 materials. The product performs just as well no
16 matter what the inputs are.

17 The U.S., Wellman's equipment was very
18 sophisticated in cleaning and getting the products
19 into useable condition, which I'm sure I would assume
20 I guess the Chinese have figured it out as well. But
21 many of our customers who bought our recycled product
22 were perfectly happy with it. All of them were. We
23 had a long-term customer base and long-standing
24 customer base.

25 COMMISSIONER PINKERT: Perhaps this is

1 appropriate for the posthearing submission, but is it
2 your view that any domestic producer should be
3 excluded from the domestic industry? If so, please
4 discuss the confidential data set forth in Table
5 III-7.

6 MS. CANNON: It's our view that we don't
7 think they're appropriate circumstances to exclude
8 anyone here. We did address that somewhat in our
9 prehearing brief, but we'll look further at that table
10 and address that in our posthearing as well.

11 COMMISSIONER PINKERT: Thank you.

12 Thank you, Mr. Chairman.

13 CHAIRMAN PEARSON: Going back to where I
14 left off the last time. We were talking about longer
15 term prospects for apparent consumption looking out
16 five years or so, and I think that I heard a variety
17 of answers. If the economy continues growing there,
18 there may be some growth, if the housing market
19 recovers there may be growth, but we're not sure that
20 there will be very much growth.

21 Was there more that you wanted to say on the
22 long-term outlook for demand?

23 MS. KATZ: I mean, it's driven by major
24 economic factors, so really whatever your estimate is
25 for the economy, for the housing market, you would

1 expect the demand to follow that trend for the
2 product. It's really a very strong correlation
3 between the two.

4 CHAIRMAN PEARSON: Okay. Well, let's look
5 at a shorter time then, the reasonably foreseeable
6 future, perhaps one to two years. What do you think
7 might happen within that time? For instance your
8 firms will be interested in issues relating to housing
9 starts and will have seen projections on what they
10 might be. What's your outlook for the nearer term?

11 MR. MAGRATH: Mr. Chairman, we produced a
12 table in our prehearing brief from a national housing
13 organization that said, and you and I as homeowners in
14 northern Virginia will be glad to hear this, that the
15 housing market is bottoming out and there are
16 projected modest increases in the housing sector this
17 year, 2007, and going into 2008. That's Attachment 1
18 to our prehearing brief.

19 CHAIRMAN PEARSON: Okay. Thank you.

20 Any of the industry representatives have
21 additional perspectives?

22 Ms. Katz?

23 MS. KATZ: All I would add is over the last
24 10, 20 years you have ups and downs in the market that
25 follow ups and downs in the economy in general, and a

1 down hasn't necessarily translated into the industry
2 shutting down or having a catastrophic effect on the
3 industry. You adapt, and you find an alternative
4 market. You might export. If the domestic industry
5 is not as strong perhaps there's another economy that
6 is strong and is in demand of the product.

7 So I think to say if the housing industry
8 declines it means the demise of the PSF industry is
9 incorrect. We've weathered these before. They're
10 just part of business.

11 CHAIRMAN PEARSON: Mr. McNaul?

12 MR. MCNAULL: I think the subject PSF is
13 going to be an important short and long-term
14 marketplace for our industry. It's pretty sizeable.
15 I agree it will ebb and flow depending on what's going
16 on in the economy, depending on consumer confidence,
17 housing, so on and so forth, but it's always been an
18 important segment for our business, and I think it
19 will continue to be. It's one that strategically we
20 need to be able to serve to have a successful industry
21 in North America.

22 CHAIRMAN PEARSON: Okay. Thank you. There
23 may be an argument presented this afternoon that
24 Chinese imports have been drawn into the United States
25 to replace product that had come previously from

1 Taiwan or Korea, but since those countries have been
2 under orders now for some years that supply has been
3 restrained, and so Chinese supply has moved in to fill
4 a vacuum. How would you respond to that argument?

5 MR. ROSENTHAL: Interestingly enough when we
6 had the sunset hearing last year Commissioner Lane
7 asked when are you going to bring a case against China
8 because it was obvious that what was happening was
9 that the Chinese were coming into the marketplace and
10 not only replacing Korea and Taiwan, but displacing
11 U.S. sales.

12 The data have become even clearer now
13 because what's happened is the Chinese have taken away
14 some share from Korea and Taiwan, but taken away over
15 13 percentage points in market share. We're not
16 talking about a growth of imports of 13 percent, we're
17 talking about 13 percentage points in market share
18 from the U.S. industry. That is a lot.

19 If you're in Proctor & Gamble, if you're in
20 the consumer products industry, and you lose one or
21 two percent of the market share you are apoplectic.
22 You lose 13 percent of the market share you close down
23 plants, and 300 employees lose their jobs, you take
24 out 80 million pounds of capacity. That is a gigantic
25 problem.

1 And it was not simply displacement of Korea
2 and Taiwan, it is a whole new incursion into the U.S.
3 industry's sales. So that's how I would respond to
4 that.

5 And we're here not exactly at your
6 suggestion, Commissioner Lane, but one of the reasons
7 why we had this conversation, it goes directly to
8 Bratsk also even though I wish I could anticipate the
9 bad decision by the CAFC in Bratsk, but what you heard
10 from the Koreans, and the Taiwanese and what you heard
11 from us in the sunset review was if you let the
12 Koreans and the Taiwanese out from under this order
13 they are going to then be unrestrained and be able to
14 act just like the Chinese are behaving now in 2005 and
15 2006, and then we will not be around because we cannot
16 afford to have Korea and Taiwan along with China
17 unrestrained. So I hope that answers your question.

18 CHAIRMAN PEARSON: Well, in part.

19 Mr. McNaul, do you have something to add?

20 No.

21 MR. MCNAULL: No.

22 CHAIRMAN PEARSON: Okay.

23 Could I rephrase your argument, Mr.
24 Rosenthal, to make sure I got it right that to the
25 extent there might have been some vacuum created by

1 the restraints imposed on imports on Taiwan and Korea
2 that Chinese imports have more than filled that vacuum
3 and spilled over onto the carpet or whatever the right
4 analogy would be? Yes?

5 MR. ROSENTHAL: That's a fair summary. I'd
6 say spilled more like a tsunami over onto the carpet.

7 CHAIRMAN PEARSON: Okay. Good. This is
8 just an aside.

9 Mr. McNaul, are you a chemical engineer?
10 You indicated earlier that you're an engineer.

11 MR. MCNAULL: No. Believe it or not I'm a
12 mechanical engineer.

13 CHAIRMAN PEARSON: Okay. Well, the reason
14 for asking, and maybe you'll have an opinion on this
15 anyway, but Ms. Cannon a few minutes ago made a
16 reference to gasoline I think in the sense of being a
17 more pure commodity than polyester staple fiber. I'm
18 starting to think about how many different ways there
19 are to combine hydrocarbons to produce clear gasoline,
20 and I'm not quite sure that's the greatest analogy,
21 but we can talk about that some other time.

22 I was just going to encourage you if you had
23 thoughts on that to visit with her off line. Maybe
24 you can find an even better commodity to reference
25 than gasoline. I do have other questions here. I'm

1 sorry.

2 There have been some questions already on
3 the pricing of Chinese product, but do any of your
4 firms have enough knowledge of production processes
5 and practices in China to know something about why
6 they are able to sell polyester staple fiber into the
7 United States at such relatively low prices? What's
8 going on to drive --

9 MR. MCNAULL: You know, I can't speak to
10 their motivation or even how they're able to do that.
11 What I can tell you is that as we've run into areas
12 where we've had issues with Chinese products
13 competitively, the raw materials purchased on the
14 global market are common and they're well-understood.

15 There are a lot of third-party consultants
16 that analyze that, so it's very much an even playing
17 field there. Additives packaging, same situation.
18 Energy generation, we have some understanding there.
19 When you look at the prices they deliver here it would
20 be impossible under western economics to cover your
21 cost for the prices they sell here.

22 And so I don't know how they're able to do
23 that, whether it's subsidies. I don't know the things
24 that they have in their marketplace that allow them to
25 do it, but we see products here that are priced in a

1 way that don't even cover the cost to purchase the
2 materials and convert them into polyester staple.

3 And that's one of the reasons that we
4 struggle to compete with those prices.

5 CHAIRMAN PEARSON: Is it possible that in
6 their relatively newer plants that their technology
7 allows them to get a higher yield out of the inputs
8 that they're putting into the process?

9 MR. MCNAULL: Not possible. I mean, if you
10 look at what they pay for raw materials, and if you
11 make very aggressive assumptions about world-class
12 conversion cost their prices still don't reflect what
13 it should cost to manufacture those PSF goods.

14 MR. MAGRATH: And, Mr. Chairman, in terms of
15 their regen production most of their raw materials for
16 regen come from the United States. And you can
17 imagine the cost of that, empty crushed soda bottles,
18 being exported from the United States to China, turned
19 into PSF and then brought back again. There is no
20 economically rational way that they can do this.

21 One very quick story. When we were touring
22 Johnsonville in the sunset case the Johnsonville
23 people were saying the Chinese will even buy the dirt
24 shop from the production floor because it has these
25 microscopic bits of PSF chip in it. From the floor of

1 Johnsonville, exported over to China to turn it into
2 eventually polyester staple fiber.

3 CHAIRMAN PEARSON: Mr. Chandrl?

4 MR. CHANDRL: Also, on the lines of our --
5 we have a production facility in China producing
6 polyester filament and, based on our analysis of the
7 financial situation in China as I noted we have no
8 plans to build any PSF plants over there because it's
9 not rational to do that.

10 CHAIRMAN PEARSON: Okay. My time has
11 expired, so let me turn now to Vice Chairman Aranoff.

12 VICE CHAIRMAN ARANOFF: Thank you, Mr.
13 Chairman.

14 A couple of other questions on pricing. As
15 you know, the statutory formula for price suppression,
16 which is what your primary argument is based on,
17 refers to preventing price increases that otherwise
18 would have occurred. Normally if you look at a
19 situation where production costs are increasing you
20 would say to yourself yes, price increases otherwise
21 would have occurred because prices would tend to go up
22 with cost.

23 But you also have a case here where demand
24 has been slacking off or perhaps falling, which all
25 other things being equal would tend to suggest that

1 price increases might not have occurred. Is there
2 anything we can do short of running some really
3 complicated regressions to figure out whether price
4 increases otherwise would have occurred on these
5 facts?

6 Mr. Magrath, you want to take a shot at
7 that?

8 MR. MAGRATH: I mean, on the macro level
9 what we've already testified to is that the price is
10 an important purchasing variable, that we have been
11 able to, thanks to the staff and the staff report,
12 isolate price as the decision turning point for
13 purchasers. A number of them said they decreased
14 purchases from the U.S. because of the price and they
15 increased purchases from China because of the price.

16 I'd just like to reiterate what we said a
17 while back. Demand may be falling in the U.S. market
18 and U.S. production shipments may be falling, but
19 demand is not a problem for the Chinese in this
20 market. Their volumes have gone up over 200 percent.

21 MR. ROSENTHAL: I don't think there's an
22 economic analysis you can do, but you have ample
23 evidence in your record from purchasers, from even
24 lost sales, even some have been denied, but others who
25 essentially have said they've bought from the Chinese

1 because of lower price. You can assume that had that
2 not happened the industry would have either gotten a
3 higher price or gotten more volume and been able to
4 lower its throughput costs had there been an absence
5 of Chinese competition or fairer competition.

6 VICE CHAIRMAN ARANOFF: Okay. Appreciate
7 those answers. In looking at the data that our staff
8 collected on the specific pricing products that we
9 looked at, several of those products encompassed both
10 virgin and regenerated products, there are also some
11 cases where a pricing product might have encompassed
12 both conjugate and nonconjugate product, and so I
13 guess my question is do we have true apples to apples
14 comparisons in these circumstances?

15 I'm asking that question particularly
16 because if you look at Table III-6 in the staff
17 report, which is BPI, which shows you unit values
18 split out dividing virgin and regenerated, and
19 conjugate and nonconjugate, you do see some spreads, I
20 don't know if they're statistically significant, in
21 those unit values, which leads me back to okay, are
22 these really good apples to apples comparisons or if
23 we have a case where we're comparing domestic virgin
24 conjugate to Chinese regenerated nonconjugate could we
25 be creating a false impression of underselling?

1 MS. CANNON: Let me start with that and then
2 others can supplement. This is an issue that has come
3 up a lot in this case, and in fact for a long time the
4 Commission did ask for separate pricing categories of
5 regenerated as compared to virgin input product.

6 But based on the record that was developed
7 for us in the Korea and Taiwan original investigation,
8 and in the sunset review and preliminarily here we
9 kept saying, as Ms. Katz testified, it doesn't matter
10 which you make the product from, it's the same product
11 in the end and it competes directly with one another.
12 So we had always urged the staff to combine the two,
13 and I think this is the first time the staff has done
14 that.

15 We did break them out preliminarily, though.
16 We were looking at them both separately and then
17 combined because we had data that enabled us to do
18 that, and we saw exactly the same trends, which is
19 what the staff I believe also saw, and that's why they
20 agreed that why continue to treat these as dissimilar
21 products?

22 So this is then a case or an issue with a
23 lot of history in terms of whether regen and virgin
24 inputs, whether the input to the product, should
25 differentiate the product for price comparison

1 purposes, and we don't believe that should be the
2 case. We certainly can look more closely at the BPI
3 data that you have identified and probably it's more
4 appropriate to address that in posthearing in
5 confidence.

6 But in terms of the appropriateness of the
7 way that the comparisons are done we think that's
8 correct. And that's also true for the conjugate
9 versus the mechanically crimped product. Again, as
10 Ms. Katz testified, those compete directly. We think
11 those comparisons are proper, although you do have
12 information in your database that would allow you to
13 know which is which.

14 VICE CHAIRMAN ARANOFF: Okay. Appreciate
15 that. And then any additional analysis that you can
16 add to my mind the price comparisons establish the
17 underselling and the underselling is what supports the
18 price suppression argument, and so it all goes to how
19 good the price comparisons are, what they're telling
20 us.

21 MS. CANNON: We'll do that.

22 MS. BECK: And, Commissioner, if I could
23 just add to from the sunset review when the products
24 were broken out into regen and virgin material, I
25 think one of the reasons that the Commission now in

1 the final investigation decided to combine is because
2 they noted in the determination that the underselling
3 results were very, very similar not only for the
4 virgin, but also for the region.

5 So the underselling was probably regardless
6 of what the inputs were.

7 VICE CHAIRMAN ARANOFF: Okay. And then also
8 take that and look at conjugate versus nonconjugate.

9 MS. BECK: Okay. We will.

10 VICE CHAIRMAN ARANOFF: That's where you'll
11 see some of the differences. All right.

12 I don't want to beat this argument to death,
13 but, Ms. Cannon, let me ask you one more Bratsk
14 question or maybe it's the same question my colleagues
15 have already asked another different way. Your
16 argument appears to be that in any case where you have
17 a continuum of product that the precondition of
18 finding a commodity product is not met.

19 There aren't that many products that we look
20 at in our cases where the product only comes in
21 vanilla. There's almost always something, size,
22 shape, chemistry, something, some continuums contain
23 more product and more variation than others, but it
24 seems to me that taken to its logical extreme you'd be
25 looking at a very narrow group of cases that the

1 Bratsk analysis would apply to.

2 And yet the way that the Federal Circuit
3 described what it meant or says it meant by commodity
4 strikes me as much broader than that. It seemed to be
5 referring to anything that competes mostly on price.

6 MS. CANNON: Well, I guess I don't read that
7 language maybe that broadly. I think that when the
8 Court was talking about a commodity and under the
9 specific facts of Gerald Metals where this whole thing
10 had its genesis, and Gerald Metals was a very unusual
11 fact pattern where the Commission was looking at some
12 product that was going through the same trader, and
13 the purchaser didn't know what it was buying and when
14 it got the end product it didn't know necessarily
15 where it had come from.

16 It could have been fair or unfair imports.
17 That was where the Court started in this whole
18 analysis, and it couldn't differentiate products at
19 all. It was not only the same type of product, but
20 precisely the same thing.

21 When the Court then started trying to look
22 at that and consider that in the Bratsk analysis
23 that's when it kind of got into this whole discussion
24 of commodity products and gee, could somebody replace
25 somebody else, which is why I started saying go back

1 to the beginning of Bratsk and reconsider really what
2 that case means.

3 Because, I mean, I agree with you it has
4 very specific language about replacement and benefits
5 in the test. And you submitted Court briefs to the
6 Federal Circuit questioning that, we submitted Court
7 briefs questioning that as well saying that is
8 unlawful and illogical, you can't mean that.

9 On the other hand Appellant submitted court
10 briefs saying gee, this isn't any more than Gerald
11 Metals, this is just asking whether you're unfairly
12 attributing affects to other imports, and the
13 Appellate Court denied everybody's motion for
14 rehearing. It didn't say why, but perhaps that was
15 what it was thinking was that was all it had done.

16 And I think that background is relevant to
17 your question because when it started getting into
18 this commodity issue it was in that context I think of
19 a very specific question of whether you actually could
20 have replacement. And under that sort of background I
21 would submit that is what they had in mind was a very
22 narrow context of could something actually replace
23 something else when it used the term commodity.

24 So it wasn't looking at it broadly, and
25 therefore in applying it you, too, can take it more

1 narrowly in terms of what the Court meant and not
2 extend it to cases where you don't have a true
3 commodity.

4 MR. ROSENTHAL: Let me just add trying to
5 define what the Court had in mind in Bratsk I think is
6 a hopeless exercise. It is not obvious that they
7 really understood ITC practice or the statute for that
8 matter. And the best way to look at it is a narrow
9 way to look at it, which is simply a reiteration with
10 some bad dicta concerning Gerald Metals.

11 I would urge the Commission not to take the
12 broad meaning when you don't have to because it
13 results in I think unnecessarily bad decisions by the
14 Commission. So unless compelled to take a broader
15 ruling I would urge you not to.

16 VICE CHAIRMAN ARANOFF: Okay. Well, I
17 appreciate all those answers, and I for one sincerely
18 hope that my plea to the Court, including this patch,
19 please explain this better to us, his answer, sooner
20 rather than later, but I don't know whether it will
21 be.

22 Thanks, Mr. Chairman.

23 CHAIRMAN PEARSON: Commissioner Okun?

24 COMMISSIONER OKUN: Thank you, Mr. Chairman.
25 I guess before posing the question I'll say

1 that I hear you, Mr. Rosenthal, and that it goes back
2 and strikes me at it again. Since I was recused from
3 the underlying Bratsk case it's a little hard for me,
4 but you all argued the other way when you argued. You
5 know, in other words if everyone would have said gee,
6 you really should be reading this narrowly, and it
7 really is Gerald Metals plus or, you know, more of a
8 Gerald Metals analysis, maybe it would have made a
9 difference --

10 MR. ROSENTHAL: Well, I totally understand
11 your argument, and I'm afraid of the extreme
12 interpretation of Bratsk. That's why there are a
13 number of people who are concerned enough that the
14 Bratsk will be clarified in a way that is not simply
15 Gerald Metals, which is why we're concerned about
16 getting Congress to clarify what the statute is for
17 the Court of Appeals.

18 So there is this tension there about what
19 does this mean, how far does it go? As a practical
20 matter I would like to have some certainty, and
21 certainty in a good way rather than in a bad way, with
22 a broad reading. That all said in the short-term
23 while we're waiting for certainty either by the Court
24 or by the Congress I urge the most narrow reading
25 possible.

1 COMMISSIONER OKUN: Okay. Well, let me ask
2 another Bratsk question since we will have to if we
3 reach affirmative determination apply it, and that is
4 how will subject imports react in the markets if an
5 order were placed on them, and does it matter when you
6 get to the replacement benefit?

7 In other words if the hypothetical is an
8 order is placed on Chinese product and they behave the
9 way the Koreans, which they stay in the market with
10 pretty low prices and pretty big volumes, does that
11 tell me anything about the Bratsk analysis and
12 replacement benefit or not or should I assume that
13 they really can't be in the market under that, and
14 they'll further go out and does that matter?

15 MR. ROSENTHAL: One thing, you talk about
16 the Koreans being in the market at large volumes at
17 low prices. I don't think the Koreans would be in the
18 market at the prices as low as they are if the Chinese
19 weren't in the market at large volumes of even lower
20 prices. I think if you're looking at the replacement
21 benefit test that way I think what would happen with
22 the Chinese is that if they stay in the market, if
23 they can stay in the market it would be at lower
24 volumes and at higher prices.

25 That in turn will result in higher prices

1 from other nonsubject imports. Therefore, you're not
2 going to see the Koreans come back in and get greater
3 market share because they're already at high capacity
4 utilization rates. They're not going to have the
5 pressure to lower their prices to replace the Chinese.
6 Quite the contrary.

7 The Koreans and everyone else in the
8 marketplace right now have the same cost structures,
9 same raw material increases and a rational act on
10 their part along with everyone else in the marketplace
11 is to take a higher price rather than continue to try
12 to chase the Chinese down.

13 COMMISSIONER OKUN: Okay. And do you think
14 it matters whether one views the Chinese imports as
15 leaving or staying in big volumes, whether you think
16 it's at higher prices or not, whether there's a void
17 from the subject imports going out because of an order
18 being placed on them or not, and should that matter at
19 all in the Bratsk analysis?

20 And you're welcome to add in the
21 posthearing, with apologies to the domestic industry
22 because it's here to testify about your industry, but
1 that's what all the questions are for.

2 MR. ROSENTHAL: I know you have to try to
3 project under Bratsk what might happen, but if the

1 volumes stayed exactly the same and dumping were
2 eliminated, the industry, you would benefit instantly.
3 You've already seen as a result of the preliminary
4 determination that Nan Ya was able to restart its
5 conjugate facility and begin to get some prices that
6 it couldn't get before.

7 So you know this is one of those rare
8 instances where in the midst of the case you can see a
9 benefit from just having a provisional duty in place
10 without any real permanent duty or a real decline in
11 Chinese imports. So it's hard to know how the Chinese
12 will react going forward.

13 I will say that there have been press
14 reports and we've cited one in the brief where one of
15 the companies, Ningbo, had said their 4.39 percent or
16 so preliminary margin was enough to have it consider
17 even opening a plant in the U.S. because that 4
18 percent duty was such a significant factor in being
19 able to ship to the U.S.

20 Well, if that's the case, having the order
21 in place permanently could make a tremendous
22 difference to the U.S. industry. And I'm not sure I'm
23 answering your question, this back part now. I don't
24 see anyone else coming in to fill the Chinese volumes.

25 COMMISSIONER OKUN: Okay. I appreciate

1 those comments. Ms. Cannon?

2 MS. CANNON: Let me just add I think the
3 Bratsk Court, the issue that they were concerned about
4 that you maybe should focus on in trying to assess
5 what China would do and how you would line up everyone
6 else is whether there's a benefit, and the Court in
7 the Bratsk case appeared to assume wrongly that an
8 order means imports disappear completely, which
9 obviously we all know is not the case. Sometimes
10 imports back down. Sometimes they stay on, but their
11 prices adjust, that type of thing.

12 But I think an order imposed will offset
13 unfair trade practices, and that's why we're coming
14 back to price, because here, as you know, most of the
15 testimony is the problem is the low prices of the
16 Chinese imports, which, of course, have had volume
17 effects. They've allowed them to increase their
18 market share as well.

19 But if an order is imposed and you therefore
20 assume that you're correcting the effects of the
21 unfair trade practices, which is what the order is
22 supposed to do, you're going to have either a volume
23 or a price effect or both. And if you have that on
24 China at these large volumes, necessarily there's
25 going to be a benefit to the industry regardless and

1 irrespective of what other imports do, because they
2 are being driven by China.

3 So I think maybe if you start at the back of
4 the analysis and consider that and then consider what
5 China might do and others might do when an order is
6 imposed and whether the domestic industry will benefit
7 and try to answer that question, that would lead
8 clearly I think to a finding that relief is
9 appropriate here, notwithstanding the Bratsk test.

10 COMMISSIONER OKUN: Okay. I appreciate
11 those comments and I hope anything else that you want
12 to add in posthearing on that, and I would in
13 particular like you just on Korea to just go through
14 that data again, because I know you make the argument
15 in your brief, you've made it here, that the pricing
16 is such for the Koreans that the Chinese were lower,
17 and again, even going back to '04, your data that you
18 put in about '04 on AUV data before the Chinese were a
19 large presence in this market certainly at much lower
20 volumes, the Koreans were still low.

21 So to the argument that if you just take the
22 Chinese out, the Koreans would have to price higher,
23 I'm trying to figure out, the Koreans seem to be low
24 the whole time. So if there's anything else in
25 particular you want me to look at on that particular

1 point, I'd do that as well.

2 MR. MAGRATH: You know --

3 COMMISSIONER OKUN: Yes?

4 MR. MAGRATH: Excuse me.

5 COMMISSIONER OKUN: Oh, yes. Sure. Mr.

6 Magrath. Dr. Magrath.

7 MR. MAGRATH: I'm sorry. No, Commissioner.
8 Just one brief point. One big difference between 2004
9 and now is the Korean won, they've let it go and it's
10 appreciated a lot against the U.S. dollar, and we'll
11 have that in the posthearing brief.

12 COMMISSIONER OKUN: Okay. I appreciate
13 that. Then on a critical circumstances followup, I
14 will appreciate seeing what you provide in response to
15 Commissioner Williamson on other cases looking at
16 data. I know we have done that, but I particularly
17 would like you to go through that.

18 The other question as part of that for
19 posthearing is if you could also address the second
20 point that you're asking us to do, which is to use the
21 same data the Department of Commerce relied on,
22 whether there is similar precedent from the ITC on
23 having accepted the second argument that you make.

24 MS. CANNON: I'm not sure in this particular
25 context, but I know that the Commission has gone to

1 the Commerce Department and has requested proprietary
2 data when they feel that it's relevant to fill in
3 their database because somebody hasn't responded, and
4 that's really more the point we're going to here than
5 in the context of critical circumstances specifically.

6 COMMISSIONER OKUN: Okay. So if you can
7 help me on that, because I do remember I think
8 instances but not related to critical circumstances.
9 I'm trying to figure out whether they're comparable.

10 MS. CANNON: Sure.

11 COMMISSIONER OKUN: And then just briefly
12 with respect to critical circumstances, you didn't say
13 much about inventories. Do you intend to make that
14 argument?

15 MS. CANNON: We do make that argument.
16 Obviously, that's confidential, so that's why we
17 didn't address it publicly.

18 COMMISSIONER OKUN: Right. But do you think
19 between your two arguments, volume that came in and
20 inventory, volume is a stronger argument on critical
21 circumstances than inventory?

22 MS. CANNON: Well, the inventory argument I
23 think is reasonable, too. The problem again with
24 inventories is you don't have complete data, so we
25 don't know what the complete inventories are either.

1 COMMISSION OKUN: Okay. And then I don't
2 think you did this in the brief, but posthearing, if
3 you can just address I believe it's Ashley's argument,
4 the data that they put in confidentially about what
5 the matchup is and whether that affects your argument
6 or not.

7 MS. CANNON: We will do that.

8 COMMISSIONER OKUN: Thank you very much.

9 CHAIRMAN PEARSON: Commissioner Lane.

10 COMMISSIONER LANE: Thank you. Now that I
11 know that people actually listen to me, I guess I
12 better be careful what I say. Ms. Katz, the first
13 question is how far is your Johnsonville plant from
14 your Darlington plant?

15 MS. KATZ: It's about an hour, an hour and a
16 half.

17 COMMISSIONER LANE: Okay. So if the market
18 improved, would former employees of the Johnsonville
19 plant be able to be employed at your Darlington plant?
20 Because you indicated it would be the Darlington plant
21 that would increase production.

22 MS. KATZ: I would guess. I don't know.
23 Different levels of employment are willing to put up
24 with different times of commute. I don't know if a
25 plant worker is willing to work an hour and a half

1 away. I don't know really how to answer that.

2 COMMISSIONER LANE: Okay. Thank you. Are
3 there substitutes for polyester staple fiber?

4 MS. KATZ: Okay. It depends on the
5 application. With respect to for filling purposes,
6 there are two substitutes that are used. There's
7 goose down that's used in pillows, and there is foam
8 that's used in furniture. But even in the application
9 for furniture, usually there is this foam and then
10 there is a fiber fill layer on top of the foam to add
11 comfort, so it's not 100 percent replaceable. And in
12 the case of goose down, it's a much higher cost item,
13 a much more expensive product, so it's not as easily
14 replaceable.

15 COMMISSIONER LANE: Okay. Ms. Cannon, the
16 next question is for you. I know we keep hitting on
17 Bratsk, and I share your concern what kind of opinion
18 we might get out of the Courts when we keep having to
19 address this issue. So how strong is your argument
20 that the product in this case is not a commodity
21 product as compared to just triggering the Bratsk
22 issues and still going affirmative?

23 MS. CANNON: I think there is an argument
24 that it's not a commodity product for the reasons I
25 gave earlier given that it's a continuum and

1 everything is not the same. You can't completely
2 replace one. And you have data in your record that
3 shows there's not complete replaceability, and I think
4 the Bratsk commodity test is a high standard for the
5 reasons I gave earlier in response to Commissioner
6 Aranoff's question.

7 You also have a triggering factor to Bratsk,
8 but I think we have even better data in this case to
9 support, and that is whether there's a significant
10 presence of other price-competitive imports. You do
11 not really have that here. If you look at the other
12 imports, with the possible exception of Korea, those
13 are really much higher average unit values and prices.
14 And even Korea, the one country that's alone with low
15 average unit values, on a product-specific basis, its
16 prices were also not as low as those of China.

17 So you don't really have the significant
18 presence of the price-competitive imports. Across the
19 board, that second triggering factor I think is really
20 a very strong evidentiary base here regardless of how
21 you define the term commodity.

22 COMMISSIONER LANE: Okay. Thank you.
23 Commission data in the staff report indicate that U.S.
24 producers' exports increased consistently over the
25 period of investigation. What market factors drove

1 this increase in exports by domestic producers?

2 MS. KATZ: Well, as our opportunities to
3 sell product in the United States declined due to
4 imports from China, we needed to find other markets so
5 we don't shut down more capacity, and the market we
6 turned to were export markets.

7 COMMISSIONER LANE: And so are you
8 continually pursuing those markets?

9 MS. KATZ: Yes.

10 MR. CHANDRL: We see the decline in the
11 strength of the dollar as a reason we may be able to
12 export more goods abroad. And that may be a short-
13 term or a long-term solution, but based on historical
14 standards, the dollar may increase in value again, so
15 this may only be a short-term aberration in our
16 ability to export as we have, taking advantage of the
17 low value of the dollar.

18 MR. MAGRATH: Commissioner, to the extent
19 that Respondents have made a general argument that
20 there should be no injury found here, it's really very
21 brief, but they did mention exports. But in their
22 highest year, exports were less than 10 percent of
23 total U.S. shipments. So the industry is not going to
24 be saved by becoming the Western hemisphere's version
25 of China and exporting all its production.

1 MR. MCNAULL: Yes. Since closing our
2 Polykron facility in Mexico in mid-2005, DAK Americas
3 is exporting a pretty sizable quantity of product from
4 U.S. facilities to Mexico. So that was just a
5 function of our restructuring and our NAFTA assets and
6 strategy. That's a portion of the export increase you
7 see.

8 MR. ROSENTHAL: Commissioner Lane, if I
9 could just go back to your previous question for one
10 second on how strong the commodity argument is?

11 COMMISSIONER LANE: Yes.

12 MR. ROSENTHAL: I did not handle the
13 Commission investigation on BIC, the lighters case,
14 disposable lighters, but I did handle the appeal and
15 unfortunately lost that because the Commission ordered
16 strongly that lighters were not necessarily
17 commodities and that you could have essentially market
18 segmentation even those disposable lighters to my mind
19 and to I think most people's mind look pretty much the
20 same.

21 You or the Commission bought the argument
22 that while you could have a commodity product or
23 fungibility for purposes of cumulation and for like
24 product that you were going to see that they were
25 different enough to have a market segmentation

1 analysis. The Court accepted that argument.

2 I think you can similarly find that for
3 purposes of like product with a continuum, for
4 purposes of cumulation in other cases, that a
5 polyester staple fiber is a commodity product, but for
6 purposes of Bratsk, you can find ways to differentiate
7 there just as you did in the BIC case. You have I
8 believe accepted a notion that fungibility, commodity
9 analysis, all of that, differs depending on which
10 statutory provision you are applying.

11 And I know Ms. Cannon made this argument
12 earlier, but it goes to the question how strong is
13 your argument on whether this is a commodity. I think
14 you can argue it's a commodity for certain analyses
15 and perhaps not for other analyses, including Bratsk.

16 COMMISSIONER LANE: Okay. Thank you. I'm
17 interested to assess how difficult it is for a
18 domestic polyester staple fiber producer to adjust to
19 changes in the market. Are you able to shift
20 production to different types of PSF which you do not
21 currently produce if needed?

22 MS. KATZ: I think the Wellman plant is a
23 perfect example of that. As we shut down
24 Johnsonville, our Palmetto plant, which was running
25 mostly fine denier, was not fully utilized, and so to

1 improve the economics there, we are now expanding the
2 capability of that plant to run more and more of the
3 certain PSF. So it takes some equipment modification,
4 but it can be done, and we're in the process of doing
5 that.

6 MR. MCNAULL: We talked earlier about
7 attrition in other areas of our marketplace. I think
8 that in this area of certain PSF, it's important for
9 us to have a fair and even playing field and an
10 opportunity to move into this marketplace to have
11 volume to make our businesses viable. There are not a
12 tremendous number of opportunities for us to go out
13 and replace this volume in other areas.

14 COMMISSIONER LANE: Okay. Thank you. Are
15 there certain end-use markets that have switched to
16 imported PSF more so than other end-use markets?

17 MS. KATZ: Nothing that stands out. It's
18 not a particular end use that's using imports.

19 COMMISSIONER LANE: Okay. Thank you. Mr.
20 Chairman, that's all I have right now.

21 CHAIRMAN PEARSON: Commissioner Williamson?

22 COMMISSIONER WILLIAMSON: Mr. Chairman, I
23 have no further questions.

24 CHAIRMAN PEARSON: Commissioner Pinkert?

25 COMMISSIONER PINKERT: Just one additional

1 question, Mr. Chairman. Can you say whether the
2 Petitioners have operated at their full reported
3 capacity during any month during the period of
4 investigation?

5 (No response.)

6 COMMISSIONER PINKERT: Perhaps you could
7 address this in a posthearing submission.

8 MR. ROSENTHAL: Yes. I will do that.

9 COMMISSIONER PINKERT: Thank you. That's
10 all I have, Mr. Chairman.

11 CHAIRMAN PEARSON: Okay. I think I have
12 just one. In March of 2005, the European Union
13 imposed an antidumping order on Chinese PSF, and
14 Chinese shipments to the EU appear to have fallen
15 perhaps in response to that order. U.S. exports also
16 have risen over the period of investigation. Did some
17 portion of the U.S. exports go to Europe to replace
18 the Chinese product?

19 MR. LANE: Again, for DAK Americas, I
20 believe that our export increase was as a result of
21 the shutdown of the Polykron facility which was in
22 June of 2005 or July of 2005 as well, so that timing
23 is pretty close to there. And we certainly have not
24 increased that export in Europe, so our numbers would
25 be as a result of the Polykron closure in Mexico.

1 MR. MCNAULL: Yes. Strictly from a DAK
2 Americas perspective, Ricky's right. I mean, our
3 changes in export patterns were just a function of our
4 restructuring of these North American assets. It
5 wasn't an opportunity in Europe.

6 CHAIRMAN PEARSON: Okay. And we can't get
7 in -- well, no, actually this is in the public C
8 table, so we see what the increase in exports was.
9 You might not want to say in public, and if so, for
10 purposes of the posthearing, could you clarify roughly
11 how much of what we're seeing as increased export is
12 accounted for by DAK Americas' shipments down to
13 Mexico?

14 MR. MCNAULL: Yes. In posthearing, we will.
15 Sure.

16 CHAIRMAN PEARSON: Okay. And, Ms. Katz, do
17 you have any?

18 MS. KATZ: We have a facility in Ireland, so
19 it was to their benefit. We don't really export to
20 Europe. They take care of that business out of
21 Ireland.

22 CHAIRMAN PEARSON: And do you know, did your
23 business managers in Europe see a benefit from the
24 order on Chinese polyester staple fiber?

25 MS. KATZ: I don't know off the top of my

1 head. We can address that.

2 CHAIRMAN PEARSON: Okay. Sure. If you
3 could provide some perspective on that in the
4 posthearing, that would be great.

5 MS. KATZ: Okay.

6 CHAIRMAN PEARSON: Mr. Chandrl, anything to
7 add?

8 MR. CHANDRL: I can say we will export a
9 small amount to Europe since the duties came into
10 effect on the Chinese fiber. I believe that we've
11 been able to do it at an economically justifiable
12 level, though, and that may have been also based on
13 the declining value of the dollar going over there as
14 well, though, not just on the import duties. The
15 value of the dollar versus the value of euros soon
16 began to spread, and that may have played a bigger
17 role in our ability to export there.

18 CHAIRMAN PEARSON: Okay. Point well taken.
19 Would it be fair to say that the polyester staple
20 fiber in the European Union is somewhat similar to
21 polyester staple fiber production in the United States
22 in terms of the overall costs, the regulatory
23 environment that the industry might operate in?

24 MS. KATZ: I think in general, the industry,
25 the polyester staple fiber industry, in Europe is a

1 lot more fragmented. There are many, many small
2 players. And when you have a small line, it's a more
3 costly process. But the lines that most of us have in
4 the U.S. are quite large and you get much, much better
5 returns or use of capital on that. That industry has
6 struggled more, but again, it's just a more fragmented
7 industry.

8 CHAIRMAN PEARSON: Okay. So on the basis of
9 cost over time, perhaps some possibility of shipping
10 some polyester staple fiber to Europe, but it won't
11 save the U.S. industry. Is that what I'm hearing you
12 say?

13 MS. KATZ: It's not the same size, yes.

14 MR. MCNAULL: You may have opportunities
15 over different periods depending on dollar, euro
16 balances, but is it an alternative to the subject
17 market we're talking about today? Not really.

18 CHAIRMAN PEARSON: Okay. I believe I have
19 no further questions. Let me turn to Vice Chairman
20 Aranoff.

21 (No response.)

22 CHAIRMAN PEARSON: Commissioner Okun?

23 (No response.)

24 CHAIRMAN PEARSON: Commissioner Lane?

25 (No response.)

1 CHAIRMAN PEARSON: No further questions from
2 the dais?

3 (No response.)

4 CHAIRMAN PEARSON: Excellent. Do members of
5 the staff have any questions for this panel?

6 MS. MAZUR: Mr. Chairman, staff has no
7 questions.

8 CHAIRMAN PEARSON: Do counsel for
9 Respondents have any questions for this panel?

10 MR. SHAPIRO: Not at this time, Mr.
11 Chairman.

12 CHAIRMAN PEARSON: Okay. Well, then I think
13 we can break for lunch. Let's see. I should advise
14 you that the room is not secured, so any business
15 confidential information, anything you don't want to
16 lose should go with you.

17 Let's see. It is 10 before one. Let's take
18 an hour and reconvene at 10 before two. This hearing
19 is recessed.

20 (Whereupon, at 12:50 p.m., the hearing in
21 the above-entitled matter was recessed, to reconvene
22 at 1:50 p.m. this same day, Tuesday, March 13, 2007.)

23 //

24 //

25 //

1 typically associated with digging up streets, as we
2 are all experienced with way too much in the D.C.
3 area.

4 Mr. Costa will discuss in detail the
5 company's process for converting PSF into a pipe
6 within a pipe, but the important thing here is the
7 idea of polyester staple fiber being more than a
8 generic product.

9 The Petitioners went to some length to try
10 to say polyester staple fiber has multiple uses, but
11 in their prehearing brief to the Commission, they used
12 terms like all subject merchandise is used in fiber
13 fill operations. A review of the transcript will show
14 that a vast majority of the discussion had to do with
15 high-loft or fiber fill operations. This is a very
16 different and technical use of the product and
17 requires very specific products that few companies are
18 able to make.

19 The industry that can produce polyester
20 staple fiber that is used to make cured-in-place pipes
21 is not being injured. That will be discussed more
22 fully also by Mr. Costa.

23 The effects of the dumping order should they
24 be imposed with respect to polyester staple fiber from
25 China would have serious repercussions to the U.S.

1 textile industry. Insituform operates a textile mill.
2 That means they actually manufacture a fabric and cut
3 and sew that fabric. As I'm sure you are aware, the
4 U.S. textile industry is one that is constantly
5 threatened, and the imposition of a dumping order here
6 will only threaten that further.

7 I will now turn it over to Mr. Costa to
8 discuss fully Insituform's product and their process.

9 MR. COSTA: Good afternoon. My name is Kyle
10 Costa, and I am the director of engineering at
11 Insituform Technologies. What I'd like to do is take
12 a few minutes and describe to you what my company
13 does, how we use PSF, and how we have had some issues
14 with finding sources for PSF in the recent past.

15 Insituform is the world's largest trenchless
16 technology company. We produce a product called
17 cured-in-place pipe, also known as CIPP, for the
18 rehabilitation of deteriorating pipelines, typically
19 the infrastructure below our city streets, water,
20 sewer, other processing lines. Our process allows the
21 rehabilitation of those pipes to occur without digging
22 up the streets and having to replace those pipes.
23 I'll explain to you a little bit further how that
24 process works.

25 About 30 years ago, an inventor named Eric

1 Wood came up with this process, and we have since
2 performed many, many miles of pipeline rehabilitation.
3 To date, what we have rehabilitated is 15,000 miles of
4 pipeline both in the United States and all over the
5 world. We are in fact a global company, and we're
6 headquartered in St. Louis, Missouri.

7 Insituform maintains a textile mill in our
8 Batesville, Mississippi, factory where we use PSF to
9 manufacture the nonwoven fabric that forms the basis
10 for our cured-in-place pipe. In the last five years,
11 we've doubled the capacity of our Batesville facility.
12 We've doubled the footprint, added more than double
13 the capacity for our fabric manufacturer and had
14 significant increases in our employment level there.
15 This particular facility not only produces CIPP fabric
16 for North America, we also export from that facility.

17 Insituform uses PSF to produce a nonwoven
18 fabric containing voids necessary to hold a polymer
19 resin while maintaining specific textile strength or
20 tensile strength and predictable elongations and
21 stretch characteristics.

22 At our mill in Batesville, we first take the
23 PSF and separate the fibers to orient them. We then
24 create through a cross-lapping process a large stack
25 of materials that are then fed into what's called a

1 needle-punch operation. As the material feeds in at
2 about a height of six to 12 inches, it is needle-
3 punched. Literally tens of thousands of needles are
4 brought together in a controlled fashion, and the
5 material is then densified to where it comes out the
6 other side of the machine at about three to six
7 millimeters thick. So it goes in at six to 12 inches,
8 comes out as the layer of material like this.

9 The process of densification requires us to
10 create an interlocking mechanism within the fabric.
11 So to contrast with a loose-fill operation or a
12 hollow-fill operation is one where we're densifying
13 and interlocking the materials rather than counting on
14 the materials to separate and add volume.

15 We have specific quality controls that we
16 must put into place. Once we've created our fabric,
17 we test them for thickness, strength, elongation to
18 ensure that the fabric is in specifications. This
19 fabric will do a lot of work in subsequent operations.
20 It's important to us that it is on quality. When we
21 have problems with our fabrics, we face detrimental
22 effects in terms of having to potentially dig up
23 streets if we have an ill-failed inversion, which
24 could result in \$1 million or so in additional costs
25 to us for this process.

1 Some of the fabric is sent to a secondary
2 operation where we put a coating on it. It's an
3 extrusion process with polyolefins. We take the
4 fabrics, we lay them out and we cut them to size, and
5 then we literally draw them together and sew them with
6 various layers of product to build up the thickness
7 that's required. The tube is then impregnated with a
8 liquid resin that will harden when it's exposed to
9 heat to form a pipe within a pipe. That liquid resin
10 is a very similar material to what's used in the boat
11 industry.

12 Once we've started this process to fill the
13 tube with our resin, the material has been catalyzed,
14 so we literally have a ticking time bomb where a
15 reaction is starting to occur at a micro level. So in
16 order to get our tubes to the installation points, we
17 put them on refrigerated trucks just like the
18 refrigerated trucks that bring food to our grocery
19 stores. We have approximately two to three weeks from
20 the time we fill with resin to the time we start to
21 see the reaction occur.

22 At installation, we have a very unique
23 process that we call inversion. The inversion process
24 takes the tube that has the resin-filled material into
25 it and we literally turn it inside out. Mr. Chairman,

1 I'd like to maybe pass around a sample of what a tube
2 looks like.

3 CHAIRMAN PEARSON: Madame Secretary, could
4 you please bring it up here?

5 MR. COSTA: What you have there is our dry
6 tube. The resin has not been imparted. I didn't
7 think it would be appropriate to bring that today.
8 And I've also started the cuffing process that's the
9 initial step to our inversion process.

10 This is an eight-inch tube. Our tubes go up
11 to eight feet in diameter, so 96 inches. So you can
12 imagine a tube that's filling an eight-foot sewer line
13 underneath our city streets. When we talk about the
14 pressures involved with this process, we're looking at
15 pressures on the order of 1,000 psi. That's what that
16 tube has to sustain during many of the processes. So
17 where we talk about our cars tires being at say 30 or
18 35 psi, we're talking about 30 to 40 times that amount
19 of pressure that that fabric has to be able to handle.

20 Once we've put the tube into place, we hold
21 it under pressure and we apply heat to the tube. We
22 can do that with hot water or with steam. The cross-
23 leaking mechanism in the polymer resin then takes
24 place and we literally form a pipe within a pipe. So
25 this is our finished product.

1 As I've described to you, though, the work
2 that has to be done by our fabric is unique, and when
3 we talk about other nonwoven construction materials,
4 they typically have a lot different application.
5 There are literally barrier coats or filtration coats
6 that are laid into place in long rolls and then
7 covered up. They don't do anything like what we do
8 with the work required and the pressures and strains
9 that are required during our processes.

10 The scope of this investigation includes PSF
11 for use in sleeping bags, mattresses, ski jackets,
12 comforters, pillows, furniture, and high-loft
13 applications. The scope excludes PSF in certain
14 fabric-making applications like woven and knit
15 applications to produce textile and apparel products
16 and PSF used to manufacture carpeting. The PSF that
17 we use in our CIPP is unlike the PSF used in high-loft
18 applications. In fact, it's more analogous to the PSF
19 excluded in this investigation.

20 The PSF purchased by us to produce our
21 cured-in-place pipe must meet criteria for crimp
22 count, elasticity, and tensile elongation. These are
23 properties that we rely on to gain the final product
24 fabric properties that have to go through our entire
25 process.

1 Specifically, we have followed these
2 criteria for our PSF. We can only use solid noncoated
3 PSF. We require a finish that facilitates efficient
4 felt production and is compatible with our resin. We
5 require a crimp count in the range of eight to nine
6 crimps per inch. Said crimps must be hardened such
7 that they have the interlocking potential to hold
8 during our needle-punching operations and then
9 subsequently following processes.

10 We require a tenacity of three to five grams
11 per denier, tensile elongations from 38 to 45 percent,
12 cut lengths from three to four inches, and deniers in
13 the range of six to 15. Each one of these
14 characteristics is essential to the production of our
15 cured-in-place pipe and ultimately the integrity of
16 the finished pipe that we put into the ground.

17 We in fact have a design life that
18 engineers, civil engineering groups throughout the
19 world, count on this product to last for 50 years. So
20 when we install one of those pipes, we're potentially
21 fixing what would be a 50-year problem.

22 In high-loft applications, we literally look
23 at the fibers wanting to separate and create volume.
24 But as you can see with our product, we're looking to
25 link the fibers together and expect them to hold

1 together as part of our process.

2 We also understand that there's potential to
3 use in high-loft a hollow-type product. Well, we've
4 disqualified hollow as a potential as it fails our
5 tensile strength requirements.

6 The coating process for PSF fibers can have
7 a detrimental effect on our process. We do not use a
8 coated material. The coating itself can in fact
9 eliminate the potential for us to have good
10 interlinking as it provides a lubricated surface for
11 the fibers to pull away from each other.

12 It also destroys the ability of our resin
13 system to gain a good strong hold against the fiber,
14 and that's essential in our product. When we have our
15 process, we want the matrix to be very tight, and
16 you'll see in the sample there that that matrix is in
17 fact a nonporous continuous matrix of resin.

18 While we don't use a coating on our
19 material, we do require specific finishes, and we do
20 find that although the finishes are trade secrets or
21 somewhat held closely by our manufacturers, there are
22 particular families of finishes and amounts of
23 finishes that are particularly beneficial to the
24 felting process.

25 The finish will provide some lubrication for

1 the needling process. When we talk about tens of
2 thousands of needles working in orchestration
3 together, we need that material to flow through
4 smoothly.

5 We also create a lot of electrostatic
6 discharge, discharge capabilities, when we have this
7 process. Small pieces of fiber can break off and
8 become airborne, and it's important for us to keep
9 that dust to a minimum. We have had fibers come in
10 that were disqualified for that exact reason. They
11 create an environment that would be unhealthy for our
12 workers as well as create very high maintenance for
13 our machines as the dust could go everywhere. The
14 finish must also be compatible with our resin system.
15 So there's a lot of nuances to what has to go on with
16 the finishing part of our fibers.

17 We target eight to nine crimps per inch, and
18 that's the essential number to get the type of
19 interlocking that we need. We also look for the
20 crimps to be of a permanent nature. They have to hold
21 the product, and as the stresses are pulled as they
22 shear apart, the crimps cannot be allowed to break
23 down or elongate.

24 The fibers themselves must require a higher
25 tenacity and elongation than other fibers. The fabric

1 that we produce counts on these characteristics of the
2 fiber in order to gain the tensile strength that we
3 need in the final fabric. We look at specifics again
4 of 38 to 45 percent on our tensile elongation. We
5 also again use the denier range of six to 15 with our
6 PSFs.

7 We have found that we have a limited number
8 of manufacturers that are capable of producing PSF
9 that meets these performance specifications.
10 Historically, Insituform had a longstanding sole
11 source relationship. Following Hurricanes Rita and
12 Katrina, we experienced supply shortages and
13 interruptions. This led us to review our position
14 with our sole source, and we invited several other
15 manufacturers in North America to qualify their PSF
16 for our applications.

17 When we qualify a PSF in our process, it's a
18 very time-consuming and costly process. We don't have
19 pilot lines to do this work. We literally take our
20 full-scale production lines, we bring in enough
21 materials from the vendors to load and charge the
22 system, and we have to create enough yardage of the
23 fabric in order to get good consistency, get the
24 product to its form where it's complying with our
25 needs, and then produce enough for our full-scale

1 testing.

2 We're talking on orders of tens of thousands
3 of dollars just to do a simple iteration of a trial
4 with one of our suppliers. We have invested during
5 that process, and we really have put forth an effort
6 to gain a second, third, and fourth source for our
7 PSFs.

8 What we found is that some materials get
9 very close. They don't exactly meet our needs. We
10 have invested with one material that literally got us
11 very close to what we believe could be a workable
12 material. We brought in over a quarter million pounds
13 of the material from one of our vendors here today,
14 and the product didn't work in our final application.
15 Nothing we could do. Nothing the technical service
16 department from our vendor could do could help us to
17 use that material, and ultimately it was sent back to
18 the vendor.

19 Finally, we reached a point where we said
20 we're going to have to look globally if we want to
21 find alternative sources for this material. We were
22 able to find one additional source for PSF that
23 qualifies to meet the needs of the cured-in-place
24 pipe.

25 The industry producing PSF that meets ITI's

1 needs is not being injured by the imported products we
2 have today. We have dedicated resources throughout
3 the world in our business development function that go
4 out and call on our customers who are the municipal
5 owners, the infrastructure owners of the world, and
6 literally create the demand for CIPP. We invest in
7 that process in order to make people aware that we
8 have a deteriorating pipeline system underneath our
9 streets that are causing catastrophic failures when
10 left unattended.

11 We are growing the marketplace. Year over
12 year, we've been growing at a very high rate, and
13 we've been creating demand for PSF through that growth
14 rate. So by virtue of our sales increasing, we
15 literally have ratcheted up the ability to use PSF in
16 this application.

17 During our sole searching, we said to
18 ourselves why do we have a single source for this
19 material, and we had several internal hurdles to what
20 we were encountering. Number one was the cost of the
21 testing, as I mentioned earlier. Secondly, we were
22 very comfortable in that relationship. Over time, it
23 had been a tremendous party to us. In fact, the party
24 is Invista, and they're not a Petitioner here today.

25 But more importantly is Insituform is a

1 company that's based our reputation upon quality. We
2 are the preferred provider of CIPP globally. We do so
3 because we pay attention to details. We're an ISO
4 9000 company, a certified company. And we're
5 recognized by civil engineering groups throughout the
6 world as the persons to go to when they need the job
7 done right 100 percent of the time.

8 Price in our minds is one of the very final
9 factors in qualifying our sources for this material.
10 Again, the cost of failure for us is astronomical
11 relative to the small amount of cost savings we might
12 have by importing material. Given the increased
13 volume of what we've done with the CIPP industry and
14 the specialized technical needs for our product, we
15 don't feel we're damaging the North American
16 marketplace. Thank you.

17 MS. CRAMER: Good afternoon. My name is
18 Jill Cramer. I'm with Mowry International Group, and
19 we are counsel to Ashley Furniture Industries, an
20 importer of Chinese conjugate PSF and a major U.S.
21 manufacturer of furniture.

22 Ashley is appearing today on the issues of
23 critical circumstances. We will also be discussing
24 the quality of the conjugate fiber brought in by
25 Ashley. The Commission should make a negative

1 critical circumstances determination because the data
2 on the record show that imports from Far Eastern are
3 not likely to seriously undermine the remedial effect
4 of anti-dumping duties if they're imposed in this
5 case.

6 Our pre-hearing brief discusses the data on
7 the confidential record regarding volume of imports
8 and inventories. What we will further show here today
9 is that Ashley's imports from Far Eastern had nothing
10 to do with this anti-dumping case, and were instead
11 related to a relationship that began long before the
12 petition was filed. This relationship was developed,
13 as testimony here as of today will show, because
14 Ashley was unable to find the high-quality conjugate
15 fiber it needs from domestic sources.

16 Now, regarding the quality of conjugate, and
17 conjugate as a separate-like product: It is in our
18 brief that we think the evidence shows that a
19 separate-like product determination is warranted on
20 the basis of the pronounced physical differences, the
21 distinct production processes, the lack of inter-
22 changeability, the divergent customer- and producer
23 perceptions, and price differences.

24 As you heard this morning, it was Nan Ya who
25 admitted that there is a difference in the

1 technologies used to produce conjugate versus
2 conventional fibers. Also, the testimony here today
3 will show that the availability of conjugate fiber
4 here in the United States is a problem because
5 domestic producers didn't seek out customers like
6 Ashley as a customer base. In fact, that was also
7 talked about this morning.

8 So, without further ado, I turn it over to
9 Jay Plummer of Ashley Furniture.

10 MR. PLUMMER: Good afternoon. My name is
11 Jay Plummer. I'm the Corporate Vendor and Supply
12 Chain Manager at Ashley Furniture Industries, Inc.
13 I've been at Ashley for thirteen years. It is my
14 responsibility to source our raw materials
15 domestically and internationally.

16 I'm here to speak on the issues of critical
17 circumstances, quality of Chinese produced conjugate
18 and job losses. Ashley Furniture is an American,
19 family-owned company based in Wisconsin. Ashley has
20 manufacturing plants and distribution centers in five
21 states: Wisconsin, Mississippi, Florida, California
22 and Pennsylvania.

23 Ashley also licenses its name to about 200-
24 Ashley Furniture Home Stores located throughout the
25 United States. Ashley currently employs more than

1 10,000 people, including approximately 5,500 to 6,000
2 people in jobs that are directly related to the use of
3 polyester staple fiber in upholstery operations.

4 In our estimation, the U.S. upholstery
5 industry employs over 71,500 people in related jobs.
6 If anti-dumping duties are ultimately placed on
7 imports of PSF from China, Ashley and others will be
8 even further challenged to maintain jobs in this
9 country because our raw-material costs would go up,
10 and it would strain us to maintain our competitive
11 prices while producing in the United States.

12 As my testimony today will make clear, we
13 are proud of the jobs that we have created. Of our
14 contributing to the American economy, and of the
15 superb quality of our product. I would like to
16 address the issue of critical circumstances.

17 As you know, the Department of Commerce made
18 an affirmative preliminary determination of critical
19 circumstances with respect to Far Eastern. Even if
20 the Commerce Department ultimately makes an
21 affirmative finding, which we think would not be
22 supported by the evidence, the Commission should,
23 nevertheless, make a negative finding on critical
24 circumstances because imports of PSF from Far Eastern
25 are not likely to seriously undermine the remedial

1 effects of anti-dumping duties.

2 As I understand it, the Commission examines
3 the following factors in making a critical
4 circumstances determination: One, the timing and
5 volume of imports; two, whether there has been a rapid
6 increase in inventories of the imports; and three,
7 other factors.

8 Our case brief addresses the issue of timing
9 and the volume of imports as well as inventories. We
10 demonstrate that the data collected does not support
11 an affirmative finding by the Commission. I would
12 like to speak here today on other factors that further
13 demonstrate that there is no danger of anti-dumping
14 duties being undermined.

15 First, a little background: Ashley has long
16 sourced various forms of PSF from domestic sources.
17 In recent years, it has found domestic conjugate PSF
18 to be inferior in terms of quality to conjugate PSF
19 made in foreign countries such as Thailand and China.

20 The foreign-made conjugate PSF produces a
21 higher-yield product than domestic-made PSF. Asian
22 suppliers, in particular, have developed a high-void
23 product that gives us significantly better fill power
24 per pound. Believe me, we would much prefer to
25 purchase PSF from domestic sources. The speed of

1 delivery, the ability to quickly and effectively
2 communicate issues relating to performance, and the
3 personal relationships that would be built would all
4 weigh in favor of sourcing from U.S. suppliers.

5 Just on a delivery alone, I would be able to
6 have product in three days, ordering it, if I sourced
7 it from a U.S. supplier. My orders from China take
8 three to four weeks to arrive at our factories. As
9 the person in charge of supply-chain management, you
10 can imagine that I would much prefer to avoid the
11 headache of unpredictability of sourcing from so far
12 away.

13 but there are two reason we do: First,
14 Ashley will not compromise on quality; second, the
15 domestic suppliers have made no effort to supply us
16 with the quality level of product that we need.

17 I will touch on this again later in my
18 testimony, but let me please try now to put our
19 company in perspective for you. We purchase
20 approximately sixty million pounds of PSF conjugate
21 per year. If we are not the largest single domestic
22 purchaser of PSF conjugate, we certainly believe that
23 we are among the largest.

24 given the magnitude of our purchases, you
25 would think that the domestic suppliers of PSF would

1 be eager for our business and beating down our door
2 trying to sell us their product. Not only have they
3 not done that, they barely return our calls, or prefer
4 to sell through distributors, limiting direct
5 communication.

6 So here we were improving our product,
7 growing our business and in need of high-quality PSF
8 conjugate. The increase you see in shipments from Far
9 Eastern is directly related to our purchases that stem
10 from our need for the highest quality, most reliable
11 fiber product available. This is what has led us to
12 Far Eastern.

13 It is my understanding, from the discussions
14 with Far Eastern, that Ashley is a significant
15 purchaser from Far Eastern. Our experience is,
16 therefore, instructive. Ashley has never made any
17 purchasing decisions based on any threatened anti-
18 dumping case. Ashley purchases were, instead, made to
19 coincide with demand requirements for the downstream
20 product: upholstered furniture.

21 Ashley is a large company with large demand
22 requirements for its upholstery operations. Any
23 increase in Far Eastern's exports during the six
24 months following the filing of the petition, are
25 simply the result of pre-existing orders placed by

1 Ashley months earlier, well before the filing of the
2 petition.

3 Let me elaborate: In late December 2004,
4 Ashley made contact with Far Eastern after doing its
5 own background research into Chinese PSF producers.
6 In February 2005 we visited Far Eastern to meet with
7 company officials and assess their facilities, and
8 Ashley took the internal steps necessary to establish
9 Far Eastern as a supplier.

10 After several sample shipments, we finally
11 began importing commercial quantities, and ramping up
12 supply from Far Eastern beginning in October 2005 for
13 one of our plants and then added Far Eastern as a
14 supplier for another of our plants, such that by March
15 2006, we had begun importing commercial quantities for
16 two of our upholstery plants.

17 Again, these imports from Far Eastern were
18 pursuant to a careful, calculated arrangement to meet
19 our quality requirements, and had nothing to do with
20 threatened anti-dumping duties. This critical
21 circumstances' allegation would have the department
22 and the Commission believe that Far Eastern's
23 customers made purchasing decisions in anticipation of
24 the imposition of anti-dumping duties.

25 We do not maintain excess inventory and do

1 not, and did not, make any purchasing decisions in
2 order to undermine anti-dumping duties. I will say it
3 again so that I'm perfectly clear: Ashley does not,
4 and cannot maintain any inventory beyond the projected
5 need of a single month. Quite literally, my job
6 depends on the precise, and accurate, projections of
7 need based on orders of the finished product.

8 If I misjudge our needs and order too much
9 raw material, there would be serious implications for
10 the production lines, and there would be literally no
11 place to store it. In short, Ashley, a significant
12 importer of PSF from Far Eastern, did not make any
13 decisions regarding purchases from Far Eastern to
14 undermine the anti-dumping duties.

15 Instead, Ashley's ramping up of imports from
16 Far Eastern was pursuant to a calculated plan to get
17 the high-quality conjugate we require; and Ashley did
18 not stock inventories of Far Eastern conjugate at any
19 time. For these reasons, we respectively request that
20 the Commission make a negative critical circumstances
21 determination.

22 I next want to talk about the quality of
23 Chinese conjugate fiber as compared to the domestic
24 conjugate product. As I stated before, Ashley prides
25 itself on providing the American consumer with a high-

1 quality product at an affordable price.

2 One key to our success is that we maintain a
3 very high level of customer satisfaction. In order to
4 do that, we must insure that the quality of our
5 furniture is consistently excellent. For that reason,
6 the quality and performance are crucial elements in
7 our purchasing decisions. Ashley has found that
8 domestic producers are not able to fulfill Ashley's
9 high-quality or yield requirements in a way that
10 Chinese conjugate produces can.

11 Ashley utilizes a rigorous product testing
12 process to determine which fiber best meets its needs
13 in producing upholstered furniture. Due to
14 differences in quality between domestic and Chinese
15 conjugate fiber, Ashley has found that Asian fiber is
16 superior. The differences between the U.S. versus
17 Chinese product can be readily seen.

18 I have here two photographs of the Chinese
19 and U.S. conjugate. These photographs can be found in
20 Exhibit 8 of our pre-hearing brief and do not need to
21 be added to the record here. the first photograph
22 shows the cross-sections of the conjugate fiber
23 produced by the Chinese producer Xianglu. The fibers
24 are consistent in appearance and there is no fracture
25 in the side wall of the fiber, even with a void or

1 open area of 28.8 percent. All marks of a high-
2 quality product.

3 by contrast, the other photograph of a
4 conjugate fiber produced by Nan Ya U.S.A. shows a
5 fiber that is inconsistent in appearance and has a
6 void of only 17.8%. This inconsistent void size and
7 fiber shape leads to spotty performance of the fiber
8 in Ashley's processes. The smaller void size leads to
9 a smaller yield or less pillows per pound.

10 It is therefore necessary to purchase more
11 of the Nan Ya U.S.A. product than the imported product
12 to perform the same function. What this would mean is
13 that we would have to buy an additional 1.7 truckloads
14 of fiber per week, and our production workers would
15 have to handle a 127 more bales of fiber per week at
16 our Ecrú, Mississippi facility to match what the Asian
17 product would provide.

18 The superiority of the Chinese-produced
19 conjugate fiber, therefore, limits the competition
20 between the domestic and foreign-like product. price,
21 for one, is not the most important consideration in
22 our purchasing decisions. Indeed, as I understand it,
23 the data collected by the Commission shows that even
24 if price is considered, Chinese produced conjugate
25 cannot reasonably be considered to undersell U.S.

1 produced conjugate fiber when analyzed over the period
2 examined.

3 For us, if performance of conjugate can
4 improve its yield, that is a critical factor in our
5 purchasing decisions.

6 I wanted to talk again of the availability
7 of U.S. product. As I said earlier, we are a
8 significant purchaser of conjugate PSF, 60 million
9 pounds per year. From my own personal view, I simply
10 cannot understand why the domestic suppliers of PSF
11 have not been banging down our door trying to sell us
12 their production. Even though that has always puzzled
13 me, I'm not too proud to go out and ask to become a
14 customer.

15 When seeking supply from U.S. producers,
16 there have been numerous instances where Ashley's
17 attempts to purchase a high-void conjugate fiber were
18 consistently and repeatedly ignored by U.S. producers.
19 How can we source from domestic producers who deal
20 with us like this. We have not had any of these
21 problems with the Chinese products.

22 In our experience, then, Chinese conjugate
23 fiber makes up for the lack of quality and
24 availability of domestically produced high-void
25 conjugate fiber.

1 Finally, I want to touch on the job losses.
2 An affirmative-injury determination in this case would
3 cause significant job losses in this country. The
4 Commission has reported that there were 1,119 workers
5 in a certain PSF industry in 2006. In our estimation,
6 by contrast, there are more than 70,000 workers
7 involved in production of downstream upholstery
8 products that use PSF as a key to raw material.

9 The imposition of anti-dumping duties
10 against PSF from China would further strain U.S.
11 downstream manufacturers, who must maintain every
12 efficiency in order to resist the pressure to move
13 jobs overseas and produce those products
14 competitively.

15 The upholstered furniture business must
16 compete globally. In just the last year, there have
17 been over sixteen announcements by domestic upholstery
18 manufacturers stating that they were closing U.S.
19 plants. In many of those announcements the companies
20 have expressly stated that they're moving their
21 productions overseas, but Ashley is holding strong.
22 We want to continue to produce here. If duties are
23 imposed on one of the key raw materials, we would be
24 strained because we would need to compete against
25 foreign upholstered products who do not have to deal

1 with the increased material cost in the way we would.

2 Those asking for duties against Chinese PSF
3 would force U.S. manufacturers like Ashley to
4 subsidize the inefficiencies of the domestic PSF
5 industry, in the face of losing profits and restricted
6 abilities to compete.

7 In short, an affirmative finding would
8 eliminate far more American manufacturing jobs than it
9 would preserve. I urge you to make a negative finding
10 on injury. Moreover, there is absolutely no basis on
11 which to make an affirmative critical circumstances
12 finding.

13 As we explained in our pre-hearing brief,
14 and as I elaborated here today, any perceived increase
15 in imports from Far Eastern are not significant are
16 the result of strategic planning by Ashley to improve
17 the quality of the end product. The evidence
18 unequivocally supports the conclusion that the imports
19 from Far Eastern are not the subject of critical
20 circumstances investigation, are not related in any
21 way to an effort to undermine anti-dumping duties.

22 That concludes my testimony. I would be
23 happy to answer any questions you may have.

24 MR. EPSTEIN: Hello, I'd like to thank the
25 Commission for the opportunity to speak today. My

1 name is Rich Epstein. I've spent my life in domestic
2 manufacturing. I was a luggage manufacturer and
3 served on the old industry sector advisory committees
4 for leather and footwear, ISAG (ph), as well as
5 textiles ISAC 15 (ph) during the Uruguay round of
6 trade negotiations.

7 I understand fully the difficult task you're
8 attempting to carry out in these proceedings. I did
9 love your questions this morning.

10 I speak today for Hollander Home Fashions,
11 Corp., one of our company's largest, if the not the
12 largest producer of pillows for the home furnishings
13 industry, a low-tech industry. We make pillows,
14 comforters, mattress pads, fiber beds and feather
15 beds. This year, we project that we'll make about 50
16 million pillows.

17 I'm not an attorney; I'm not an economist;
18 I'm not a representative of a representative of any
19 foreign government or entity. I come as a proud
20 employer of nearly 1,000 employees located in
21 manufacturing plants across the United States. Our
22 plants are located in: Pennsylvania with 169
23 employees; Georgia with 126 employees; Illinois, 120
24 employees; Texas, we have two plants with 198
25 employees; and California, two more plants, with 199

1 employees. Our corporate headquarters in Florida has
2 78 employees.

3 Bernard Hollander founded our company in
4 1953. A proud man that believed in the American work
5 ethic and understood the technical innovation coupled
6 with superb customer service would bring success.
7 Along with that belief was the supreme directive of
8 philanthropy and the Hollander family has exercised
9 that special command throughout all these years.

10 He passed his vision along to his son, Leo
11 Hollander, who guided the company through a major
12 group process until his untimely passing two years
13 ago. The company is ow guided by Leo son, Jeff
14 Hollander, who has been employed at Hollander for over
15 25 years, and continues to live by his father's and
16 his grandfather's vision. it is Jeff's hope to pass
17 this company along to his children.

18 I would like to point out that our major
19 customers are a who who's of the major retailers in
20 the country and abroad. Most likely the members of
21 the Commission have a Hollander product at home. Our
22 award are many, including the Wal-Mart Supplier of the
23 Year Award for the last two years.

24 This is a feat of which we are tremendously
25 proud, especially as an American manufacturer

1 surrounded by foreign competition. In a difficult
2 marketplace, our corporate group has been at 27% in
3 2005; 14% in 2006. We must be doing something right.

4 We are a user of the subject product in this
5 action. We've been buying this type of product from
6 domestic suppliers since our inception. I'm intrigued
7 how others can tell you about our own use of the
8 product. The bulk fiber is brought into our plants
9 and put into machines that open the tightly packed
10 fiber, processing it into a lofty product that used as
11 the stuffing in pillows.

12 There are many types of this fiber; and, of
13 course, the dense-thickness, staple-length, type-of-
14 twist- or crimp, and the cross-section of the fibers
15 all play a role in determining the loft and support
16 that can be achieved in the ultimate product. The
17 nature of our products demands that pillows remain
18 resilient, lofty, through prolonged use and buoyant
19 after washing.

20 In comforters, as an alternative to
21 expensive natural down-fill, we have to create
22 products that provide warmth without weight.
23 Fortunately, everyone here understands our products.
24 Everyone has his or her own particularly preference
25 for the type of pillow desired. We need to meet each

1 consumer's tastes. They're individual tastes. it is
2 possible to create a pillow that's as firm as a brick,
3 but it certainly would be very heavy and not very
4 appealing, as well as too expensive.

5 And some of us want very soft pillows, but
6 they need to look good and bounce back when not in
7 use. I bring all of this to you to show you that
8 there isn't one simple answer to making pillows nice
9 and low-tech. There are many different possibilities,
10 permutations and combinations.

11 We make pillows where the fiber eventually
12 comes out like a batting, and is folded into the
13 pillow shell and sewn closed. We make pillows with
14 fiber that's processed in special machines where the
15 output is a little ball or cluster of fibers that's
16 blown into the pillow shells and then closed.

17 each of these processes require different
18 types of machines, different polyester-stapled fibers
19 are necessary in each of these processes. In fact,
20 the machines that produce the little balls of fiber,
21 and I have samples here for you, were purchases from a
22 the Noel (ph) Machine Company in Finland. The
23 products form these production lines are among our
24 fastest-growing category. They're referred to as:
25 puff ball cluster. You can find them in all your

1 retailers.

2 Unfortunately, to date, we have been unable
3 to secure a domestic source of PSF that can be used in
4 those machines. Yet, this action seeks to place
5 penalties on these fibers as well. I have samples of
6 cluster; I have samples of fiber that produces a
7 batting or it comes from our garnet machines, you've
8 heard that term before.

9 each of them gives a different type of feel
10 to a pillows. I'd like to -- give that to the
11 Secretary there. You can feel that difference. All
12 these details point out that we still have to be
13 efficient in our production lines and manufacturing
14 plants, as this is what separates the successful
15 manufacturers from the less successful ones.

16 Plant product efficiency is one of the
17 primary keys of our success. Our plant engineers have
18 managed to increase the efficiency of our machinery
19 continuously over 50 years. We refuse to accept the
20 status quo. We always challenge our people to come up
21 with even better ways to increase the output of our
22 machinery.

23 Part of this improvement in efficiency,
24 concurrent with an increase in the variations of
25 pillow types that have been created, forces our plants

1 to be very demanding with regard to the quality of the
2 product delivered to us as bulk polyester fiber, PSF.

3 Our primary demands for the purchase of PSF,
4 as included in this action, are for a high-level of
5 quality that will produce the required type product
6 pillow. There must be level of consistency from one
7 bale to the next, from one shipment to the next.

8 furthermore, you need to understand how our
9 operation works. Each of our plants is set up
10 substantially to produce an identical product. When
11 we receive our orders from our customers, our systems
12 divide those order based on the location where the
13 pillows need to be shipped. Since we have customers
14 with stores all over the country, the plants nearest
15 stores, or distribution points, are the plants that
16 are given the work orders.

17 In many cases, we have only a couple of days
18 to produce those orders. For Wal-Mart orders received
19 on Monday have to be shipped on Wednesday, or they're
20 canceled on Friday. The nature of our business is
21 that we cannot keep refinished merchandise in stock.
22 All of our products are produced to order. Pillows
23 are extremely bulky and our plants can't keep even a
24 week's worth of product in stock. Some of our plants
25 can only hold three days' worth of finished goods.

1 Therefore, efficiency of our process, as mentioned
2 above, depends highly upon our ability to process the
3 fiber.

4 This fiber needs to run equally, whether
5 it's in California or Texas, whether it's in Georgia
6 or Illinois or Pennsylvania. If it doesn't the cost
7 of inefficiency and the tightness of our production
8 schedule will result in our failure to operate
9 profitably. Remember this: The fiber has to be of the
10 right quality, consistent and available as a constant
11 supply.

12 The loss of efficiency in our plants far
13 surpasses any consideration of price and equity. When
14 we talk about consistency, you also need to know that
15 Wal-Mart and most of our other major customers,
16 Penny's and Sears and Costco, they test our products
17 for consistency. And the weight, if a pillow is
18 supposed to have 22 ounces of fiber in it, and they
19 test it and it has 20 ounces, we pay a penalty.

20 The result of that is the question of how it
21 runs in our machines. I will tell you this because
22 I've heard it before today: low price does not mean
23 low quality. We produce that low price, but we don't
24 produce low-quality products.

25 I have internal documents that show how we

1 evaluate sample products for use in our machines.,
2 It's very similar from what you heard today. When a
3 possible PSF product needs to be evaluated, sample
4 bales of fiber, usually about 500 pounds are brought
5 into one or more of our facilities. If there is some
6 success using that fiber, sample orders are placed and
7 multiple bales are shipped to each of our factories.
8 If each plant is able to satisfactorily run that
9 product, we usually when then order a truckload for
10 each plant. That's 44,000 pounds for each plant. So
11 that's 250,000 pounds just to sample something.

12 You can imagine the logistics we must go
13 through to determine whether the fiber is acceptable
14 for use in our products across those six manufacturing
15 plants. There are so many variables that must be
16 addressed when dealing with the magnitude of
17 production: temperature, humidity, static electricity,
18 the relative age and types of our machines, all play a
19 role in determining whether we will be able to run
20 that fiber efficiently.

21 Fiber is tested on both day shifts and night
22 shifts; consistency from bale to bale must be
23 evaluated. Our plants spend a great deal of time and
24 effort going through the evaluation process.
25 Remember, that these are tested directly on production

1 machines, not sample machines. Each time we have to
2 go through this process, we lose a small amount of
3 efficiency in our plant. That's the price we have to
4 pay in order to maximize our production in the long
5 run to ensure ourselves an adequate supply of goods to
6 keep our production lines running smoothly.

7 Unfortunately, over the years, the level of
8 quality of domestic fiber producers has not kept up
9 with the levels of quality and consistency that's
10 become available from overseas, both subject and non-
11 subject countries.

12 Additionally, the domestic industry has not
13 kept up with the development of new fibers that are
14 now available from overseas. That puff ball right
15 there is a perfect example of it. Quite frankly, it's
16 not in our best interest to purchase PSF from
17 overseas. We're forced to carry larger inventories,
18 you've heard that, same for us. We don't have the
19 space for it in our plants. We have logistics
20 problems getting fiber to all our plants from the
21 ports.

22 Another thing, the reason that it's not in
23 our bet interests, the employees of our domestic
24 suppliers, the PSF suppliers, are our very customers.
25 They buy our pillows too. We don't want to put them

1 of work. We would prefer to do business in the United
2 States. In our questionnaire, we point out that the
3 average prices we pay for PSF fiber from subject and
4 non-subject countries is generally higher than what we
5 pay for domestic supplies.

6 But, from a practical approach, the cost of
7 inefficiency and the desire to produce the highest
8 quality products, as mentioned, are much larger than
9 the price variations. In our case, we pay more from
10 overseas in order to get quality, consistency and
11 technical invocation, even though we are low-tech.
12 Our average price for a pound, you have that in the
13 figures o it's not necessary to say.

14 At this time, I would like to introduce a
15 copy, or at least read a copy of an e-mail received by
16 Hollander's fiber buyer from the salesman from ne of
17 the petitioners in this case. On February 23rd, three
18 weeks ago, we received this communication from John
19 Helnick of Wellman. It includes the following
20 statement: Duke, as we discussed, we're having
21 problems with our lines running anywhere close to
22 efficiently on hollow and slick items in the 10 to 15
23 denier range.

24 We have not been able to keep with orders
25 versus inventory. I'm told it will take months, not

1 weeks, to effectively correct the problems. We need
2 to redesign some lines and they want to do that
3 shortly.

4 Then he goes on to say what inventory he has
5 and what of our orders he can fill and when he's
6 cutting us off.

7 This communication put our entire purchasing
8 operation in panic mode. As we scramble to replace
9 the expected supply of fiber from Wellman. Hollander
10 has been a loyal customer of Wellman for over 20
11 years. We bought 17 million pounds of fiber last
12 year. That averages out to over 300,000 pounds a
13 week. You know what? They were offering us that and
14 that's it. Where do you think we had to turn to fill
15 our needs? Yes, of course, we had to go to suppliers
16 in subject and non-subject countries to find addition
17 supply in order to keep our production lines running.

18 We cannot obtain our needed supply from
19 domestic suppliers. One of the other petitioners
20 here, DAK, doesn't even call on us looking for
21 business. We're a company that purchased over 50
22 million pounds of fiber. They didn't call on us. What
23 does that tell you? Please tell me why we're here
24 today? The Petitioners claim they're being injured by
25 imports from China because of price questions., I

1 submit to you here today that the injury they claim to
2 be experiencing is from their own failure to maintain
3 and upgrade their plants, introduce new technology,
4 and basically invest in their own businesses.
5 Capacity, production, utilization, have all decreased.
6 Is our government now in the position of bailing out
7 companies that have failed to compete in a world
8 economy?

9 We, at Hollander Home Fashions, didn't' come
10 to you complaining about Chinese competition. Leo
11 Hollander realized years ago, we had to improve in
12 order to compete. We had to bring a better product to
13 the marketplace in a faster time frame at a better
14 price. We wanted to stay in business and we've
15 succeeded. WE never for government intervention.

16 Refer to Table 39 of the Staff Report:
17 Employment seems to be steady, hours are up, wages are
18 up, hourly wages are steady. This is on the PSF
19 producers. From my perspective, it indicates that the
20 domestic suppliers are running more overtime. That's
21 jut from my perspective. From a manufacturing
22 perspective, overtime is a pretty poor way of
23 efficiently meeting demand.

24 It's further demonstrated in the line
25 productivity. Guess what? Productivity is way down.

1 Unit-labor costs are way up. Please tell me. I don't
2 get it. What does China have to do with this? You
3 might say they're running under-capacity because of
4 China, but there are things you can do to effectively
5 deal with that. We have. We've had business
6 downturns in the last 50 years. We learned how to
7 address that. Good companies learn that.

8 I submit to you that the domestic suppliers
9 are uniquely responsible for this. This isn't a
10 Chinese conspiracy. It's precisely why our business
11 is good. We're efficient. They are not. It's
12 nobody's fault but they're own. This is completely
13 validated by the aforementioned e-mail from Wellman.
14 Our company operates today in Bernard, Leo & Jeff's
15 vision where sales works directly every day with
16 manufacturing. We maintain a lean operation Without
17 many management layers. Quite honestly, we're really
18 good at what we do. Because of that, we're not coming
19 to you today to ask for assistance. We're here today
20 to let us continue to do what we do best: make quality
21 pillows.

22 We don't want to be burdened with additional
23 unnecessary costs that serve to destroy the very
24 underpinnings of what makes our company and our
25 industry successful.

1 Another tenet of our corporate policy is to
2 do everything possible to help our environment. To
3 that end, we have always pushed our suppliers to
4 provide a regenerated product. You've heard about it
5 today. This regenerated product uses non-virgin
6 recycled plastics to produce the PSF. It helps the
7 environment. It doesn't use additional oil. but it
8 requires new plants and equipment to produce the
9 product at the highest quality standards.

10 Suppliers in the subject and non-subject
11 countries have made that investment. They produce a
12 product that has good quality, consistency and
13 conserves natural resources. We purchase that
14 product. Our domestic suppliers are behind the curve
15 in that area. They tried to make high-quality
16 regenerated product but it just hasn't worked for our
17 needs. WE tried the regenerated that you hear about:
18 the Johnsonville plant, it didn't work. Yeah, they had
19 to close the plant. It didn't' run for us. It would
20 have been better for us to buy from them. We couldn't.
21 Why can't we get that similar product?

22 I need to spend some time discussing the
23 downstream effect of this action. While I have been
24 told the Commission does not consider that issue in
25 your deliberations, I believe there is some kind of

1 test in the case that says: What are we trying to do
2 here?

3 After all, the anti-dumping statutes were
4 instituted in order to protect American workers in the
5 world markets. At first glance, you might think that
6 you're protecting the petitioners. Of course, we feel
7 that the Petitioners have been their own worst enemies
8 by not choosing to compete with innovation, investment
9 in American ingenuity.

10 But let's take a moment to look at the
11 product that you're considering to protect. Every
12 single purchaser of PSF that you're dealing with in
13 this action is not an end user. Every purchaser of
14 this product is a manufacturer in one fashion or
15 another and you've many different kinds of
16 manufacturers here today. We're mostly in the textile
17 business. We purchase this bulk fiber and produce an
18 end product with a multitude of American employees.
19 by the figures posted in your Staff Report, our
20 company alone has a similar number of employees as
21 some of the respondent domestic suppliers.

22 And make no mistake about this, your
23 decision about this issue will have a definite effect
24 on our company's future employment levels. Tomorrow,
25 in a small town in eastern Georgia, the Town

1 council of Tignal, is considering our request to
2 expand our plant where we are by far the largest
3 employer.

4 We've been a major employer in that town for
5 over 30 years. Can you imagine having employees with
6 30-years of tenure. Representatives of the state of
7 Georgia keep asking us: How do you do it? You're in
8 the textile business, yet you're growing. Our answer
9 is the same as I'm saying here today: We're good at
10 what we do. We can beat the imports.

11 So tell me why we should be looking at the
12 expansion of our manufacturing capabilities when the
13 Petitioners are trying to increase our costs so as to
14 make us less competitive with the products of the very
15 country you're seeking to take action against?

16 You are considering putting a penalty on
17 bulk fiber imported from China that's used by
18 manufacturers in this country, yet there is no such
19 penalty being considered for the same products that
20 are completely finished in China. So you're telling
21 us and every other domestic manufacturer to close our
22 manufacturer to close our manufacturing plants and
23 become importers by buying the completely finished
24 products from China filled with the same PSF, but
25 having no such surcharge.

1 May I point out that the average export
2 price that you talked about before of the U.S. PSF
3 supplier shipments is lower than the average of their
4 U.S. shipments. Gee, is that dumping? Now maybe they
5 say it's a small amount, but is that dumping? Or is it
6 simply the idea of trying to meet market demands which
7 I think is more of the case. So they can meet market
8 demands, but not so in the other case?

9 Do you wonder the Chinese defend its might
10 not be here today to respond to you, look closely .
11 They're in a win-win situation. They know the
12 domestic PSF industry is not going to grow, invest and
13 survive. They know this action will decrease the
14 number of downstream American manufacturers like us.
15 they know that they will simply provide their bulk
16 fiber to their own market where products will be made
17 and finished completely in China.

18 The sum total of their business will not
19 change. They will simply sell more locally, and will
20 then find its way to our market. So you will not only
21 have failed to save what is one ailing industry, you
22 will contribute to the failure of a downstream
23 industry that happens to be successful today. The
24 employment in the domestic pillow industry is
25 certainly at least 10,000 today. this action will

1 almost certainly reduce that number substantially; and
2 the U.S. PSF producers will have lost their jobs
3 anyway.

4 What will you have effectively achieved? I
5 respectfully submit to the Commission today that you
6 will have created a much worse situation for the
7 American economic picture, and the original premise of
8 the anti-dumping statues will have been perversely
9 affected.

10 In summary, I ask you today to use a good,
11 solid dose of common sense to see the effects of what
12 is being considered in these hearings.

13 Is the domestic DSF industry truly harmed
14 due to the price considerations; or could it be,
15 they're simply not as competitive from a manufacturing
16 viewpoint? Operating at efficiency levels far lower
17 than the newer Chinese factories; and yes, I believe
18 with new technology and new plants they do operate
19 more efficiently and then they are able to charge
20 less, despite what you heard today.

21 Will the effects of your actions --

22 CHAIRMAN PEARSON: Mr. Epstein, are your
23 comments concluding? The red light has come on. You
24 can't quite see it.

25 MR. EPSTEIN: Yes, I got one more paragraph.

1 You're looking at trying to save a dying
2 industry, and you'll probably end up hurting a
3 downstream one.

4 Please seriously consider these questions.
5 We are proud of what we do. We can compete on a world
6 scale. Don't let the Petitioners put road blocks in
7 our way; thank you.

8 CHAIRMAN PEARSON: Let me express my welcome
9 to the afternoon panel. We appreciate all of you
10 being here. We know that you, just like the domestic
11 industry, have businesses to run and it's a
12 considerable commitment of your time and effort to
13 come here. We will begin the afternoon questioning
14 with Commissioner Pinkert.

15 COMMISSIONER PINKERT: Thank you, Mr.
16 Chairman, and I, too, welcome the panel.

17 My first question is for Ashley Furniture.
18 You may recall that Wellman testified that there are
19 no differences between the end uses for conjugant and
20 mechanical crimp PSF. Do you agree that there are no
21 differences in the end uses; or if not, please
22 explain.

23 MR. PLUMMER: In our experience, there is a
24 large difference between Wellman's product and the
25 product that we receive from our Asian suppliers in

1 terms of the amount of pillows that we can stuff, per
2 pound or per bail of fiber. In application, a true
3 conjugate with the curl that it has adds additional
4 bounce to the pillow and adds additional resiliency so
5 that that pillow doesn't become flat over time.

6 COMMISSIONER PINKERT: Now is that just a
7 difference in the product that you have looked at, or
8 are you saying that that it is a difference in the end
9 users for conjugate in general versus mechanical
10 things in general?

11 MR. PLUMMER: I can only speak for our end
12 uses, sir.

13 COMMISSIONER PINKERT: My next question is
14 for Insituform. My question resolves around the
15 physical description of the merchandise that you have
16 included in your testimony. Can the merchandise that
17 satisfies that physical description be used in other
18 applications, other than the ones that you've
19 described, that you use it for?

20 MR. COSTA: I'm honestly not an expert in
21 the other uses for the fiber, so somebody else would
22 have to make that determination if they could use that
23 in another application. We specifically engineer for
24 our application.

25 COMMISSIONER PINKERT: Thank you, turning

1 back to Ashley for a moment, you maintain in your pre-
2 hearing brief that quality is the number one factor
3 for purchasers in determining from whom to buy PSF.
4 Many purchasers also reported that price is a
5 determining factor. Can you comment on that, or
6 perhaps put those differences into perspective for us?

7 MR. PLUMMER: Sure, if the price is equal,
8 or even if the price is more expensive on a product
9 from Asia, in the photos I provided as an example, you
10 can see the void difference in that fiber. That truly
11 produces a better yielding product.

12 If you look at the 17.8 percent void, versus
13 a 28 percent void, it means that there's actually less
14 chemicals or less polyester in that product, which
15 gives us an overall higher yield because of the fact
16 that we have to use less polyester, and we can still
17 make the same amount of pillows.

18 COMMISSIONER PINKERT: Okay, anybody can
19 comment on this. The staff report states on page VII-
20 8 that exports of regenerated polyester staple fiber
21 from China to the United States increased by 159.3
22 percent, measured in quantity over the period of
23 investigation. Why are the Chinese exports in re-
24 generated fiber, and why has there been this increase
25 in exports if apparent U.S. consumption measured by

1 quantity has decreased?

2 MR. PLUMMER: I'm sorry, I don't know the
3 answer to that. I know that for our purposes, we've
4 tested several regenerated fibers, including Ningbo
5 Dafa, Cixi Wason, et cetera, and they do not provide
6 the same type of performances as the other fibers that
7 we purchase from Asia.

8 MR. SHAPIRO: We can address this further in
9 post-hearing. But it strikes me that the regenerated
10 fiber producers aren't subjected to the same global
11 cost of production increases that are related to the
12 raw materials associated with virgin producers; and
13 there is a qualified regenerated producer in the
14 United States that's able to make a product that's
15 similar.

16 COMMISSIONER PINKERT: Thank you; this next
17 question would possibly be appropriate for the
18 attorneys to comment on. How do you suggest that we
19 apply the Federal Circuit's decision in Bratsk in this
20 investigation?

21 MS. CRAMER: I know from this morning that
22 it was certainly an issue that the Commissioners are
23 very concerned with, and I think our position is that
24 we'd be happy to address it in our post-conference
25 brief.

1 COMMISSIONER PINKERT: Thank you; do you
2 agree with the Petitioner's arguments that Chinese
3 producers have large amounts of excess capacity, and
4 that the order on polyester staple fiber from China in
5 the European Union, the order that the European Union
6 has, has caused Chinese producers to direct their
7 production to the United States?

8 MR. SHAPIRO: One comment is that the
9 Petitioners stated that the Commission has inadequate
10 information from the Chinese producers, yet they were
11 willing to kind of expand this capacity, it seemed
12 infinitely, for what the Chinese producers had without
13 that information. So that would be our observation.
14 We don't have any additional data on any capacity by
15 the Chinese industry.

16 COMMISSIONER PINKERT: You raise an
17 interesting question with your comment on that, Mr.
18 Shapiro. Do you agree that, for purposes of the
19 critical circumstances analysis, that the agency
20 currently does not have sufficient information to
21 determine whether there are high volume and rapid
22 increases in shipments of the merchandise?

23 MR. SHAPIRO: I'm actually going to let Ms.
24 Cramer answer that, because we have no real interest
25 in the critical circumstances determination.

1 MS. CRAMER: Well, I don't think it's
2 uncommon in these types of cases to not have full
3 responses from the foreign industry. Nevertheless,
4 the Commission is able to make critical circumstances
5 determinations.

6 But what I would say is that you do have
7 information on imports. Some of this is confidential,
8 so I won't go too far down this road in this public
9 hearing. But you do have information from importers.
10 You do have information on inventories, both in the
11 confidential record and from Ashley here today,
12 talking about how they don't maintain excess
13 inventory. So we think you have enough on the record
14 to make a negative determination.

15 COMMISSIONER PINKERT: Another question
16 perhaps again for counsel, can you discuss whether, in
17 your view, any domestic producer should be excluded
18 from the domestic industry? Again, in doing so, if
19 you have to do this in a post-hearing submission,
20 please discuss the confidential data set out in III-7.

21 MS. CRAMER: We will be happy to do that in
22 a post-conference brief.

23 COMMISSIONER PINKERT: Thank you; now
24 turning to the certification process, you may recall
25 that I had questions about how the certification

1 process works, and whether the certification process
2 limits or may limit the purchaser's ability to switch
3 suppliers.

4 Again, to the extent you can discuss this in
5 your testimony today, I would appreciate any help you
6 can give with that.

7 MR. PLUMMER: Basically, we bring in, as Mr.
8 Epstein acknowledges, about a 500 pound or two to
9 three bales of product. We run it through a series of
10 tests, where we check the fill power.

11 We check the compression capabilities of
12 that fiber, to see whether or not that fiber is going
13 to break down over time; and we submit it to a series
14 of about 100,000 cycles to make sure that that product
15 will withstand the normal lifecycle or a unit back
16 within an upholstered furniture product. That's our
17 certification process on a new supplier, and in
18 development of new fiber suppliers.

19 COMMISSIONER PINKERT: And can you address
20 whether the certification may limit purchasers'
21 ability to switch suppliers?

22 MR. PLUMMER: It would limit it in terms of
23 our ability to do a direct replacement. All of our
24 bill of materials are established based on the yield
25 of the particular fiber product. So in order for us

1 to bring in a substitute product, we have to actually
2 create a substitute bill of material process, so that
3 we can calculate out what that new yield is going to
4 be. Then we actually, in some cases, have to add a
5 lot more fiber to get the yield that we need.

6 MR. COSTA: Commissioner Pinkert, the
7 process that we go through to qualify a new supplier
8 is very cumbersome. I spoke earlier about actually
9 shutting down our production line. There is no real
10 pilot process that we can employ that mimics what's
11 going to happen in the real world.

12 So we literally create the real world
13 situation with our testing. It goes through the
14 felting process. We build a tube. We test at each
15 one of the steps, where we have quality control tests.
16 We then invest by putting resin in the material, and
17 we bring it into the yard at our research and
18 development facility and do an inversion.

19 We then look at several of the key factors
20 that go into what makes a good tube installation; cut
21 the tube up; do physical property testing. Some of
22 that is, again, tens of thousands of dollars per
23 iteration. So we've got to be fairly convinced that
24 we've got a winner when we say, let's try one.

25 COMMISSIONER PINKERT: Thank you; thank you,

1 Mr. Chairman.

2 CHAIRMAN PEARSON: I recognize that this
3 panel won't be in a position to speak for all U.S.
4 users of polyester staple fiber. But perhaps you
5 could say a few words for each of your firms about the
6 demand prospects, as you see them, for your product.
7 Let's, for the moment, make the assumption that
8 there's no anti-dumping order put in place, so that
9 the availability of the materials that you use as
10 inputs would remain unchanged. Mr. Costa, how do you
11 see the demand?

12 MR. COSTA: We're very much in a growth mode
13 in our business. We see the demand rising, year over
14 year, with our customer base, as more and more
15 failures occur and critical failures of the
16 infrastructure in North America, as well as throughout
17 the globe. The demand is rising. In fact, there's a
18 huge gap that's created, year over year.

19 The typical infrastructure for the pipelines
20 under our streets was approximately a 50 year design
21 life. Much of our infrastructure in North America was
22 built back in the 1950s. So we've reached the point
23 where much of that has hit it's design life and is, in
24 fact, failing due to just simply age.

25 Right now, the funding gap between what is

1 failing physically, and the amount of money that's
2 available for solving those problems and
3 rehabilitating is growing, year over year. So right
4 now, we've got the capacity for this particular market
5 that we're in to just grow exponentially without the
6 funding for it. But at some point, we're going to
7 have to come up with the money, and at that point,
8 we've got an explosive growth opportunity.

9 CHAIRMAN PEARSON: And when you talk about
10 explosive growth -- and if this is business
11 confidential, you don't need to say it here -- but can
12 you give me some idea? Are we talking 10 percent year
13 on year growth?

14 MR. COSTA: We talk about gaps that are in
15 the billions of dollars of need, versus what's funded.

16 CHAIRMAN PEARSON: Okay, so it's a little
17 bit unpredictable. But the potential for growth would
18 be very great. That's the point.

19 MR. COSTA: Right, and again, like I said,
20 with the critical mass that our infrastructure built
21 in 1950s and 1960s, and that 50 year time bomb that's
22 happening right now.

23 CHAIRMAN PEARSON: And in the case of
24 Insituform, is it correct to assume that some
25 meaningful percentage of your production is used

1 overseas; produced in this country and then exported?

2 MR. COSTA: Yes, in fact, we also have a lot
3 of initiatives around, growing our international
4 business, particularly in Eastern Europe and in Asian.

5 CHAIRMAN PEARSON: Do you also produce
6 offshore, or are you producing everything here?

7 MR. COSTA: We produce primarily in the
8 United States. We do have a sewing facility in the
9 U.K.

10 CHAIRMAN PEARSON: Are you able, on the
11 public record, to say anything about what percentage
12 of your total production is utilized overseas, just to
13 give me some idea?

14 MR. COSTA: We'll hit it in the post-
15 hearing, yes.

16 CHAIRMAN PEARSON: Okay.

17 MR. COSTA: It's public.

18 MR. SHAPIRO: Chairman Pearson, the record
19 does show a positive trend with regard to Insituform's
20 purchases of polyester staple fiber.

21 CHAIRMAN PEARSON: Okay, and I should infer
22 that there would be some relationship between the
23 impetus of polyester staple fiber and their actual
24 sales of product.

25 MR. SHAPIRO: Right.

1 MR. COSTA: Correct, that's what we do. The
2 fact that we have a revenue is based upon the fact
3 that we built that product.

4 CHAIRMAN PEARSON: Okay, Mr. Plummer, for
5 your firm, how do you see demand?

6 MR. PLUMMER: Demand for our firm has been
7 growing dramatically, sir. Part of the reason for
8 that is, we've gone directly into retail, so we
9 control a little bit more of our own destiny.

10 In terms of the overall furniture industry
11 and upholstered furniture, in specific, in the U.S.,
12 lately, within the last year, there's been a lot of
13 competitive pressure from China, and about 16 firms
14 have decided not to continue.

15 CHAIRMAN PEARSON: Okay, so for the U.S.
16 furniture, upholstered furniture industry overall, it
17 might be correct to say that one would expect to see
18 big increases in demand?

19 MR. PLUMMER: No.

20 CHAIRMAN PEARSON: Or no increases in
21 demand?

22 MR. PLUMMER: Yes.

23 CHAIRMAN PEARSON: And Mr. Epstein, do you
24 have a sense for Hollander, the extend to which demand
25 prospects might be positive or negative?

1 MR. EPSTEIN: For our part of the home
2 furnishings industry, demand hasn't been strong. It
3 is reflective of the retail environment.

4 But our particular business has been strong.
5 We have captured a larger share of the pie. We are
6 efficient. We are good at it. We're creative. We're
7 constantly bringing new product to our retailers, and
8 I guess it's just grabbing more market share and
9 getting better at what we do. That's part of it.

10 It's not a strong industry, at this point.
11 We're also faced with a great deal of competition of
12 finished product coming in from overseas, a tremendous
13 amount. Our customers go directly for a larger and
14 larger segment of the industry.

15 CHAIRMAN PEARSON: Okay, and the segments of
16 the industry that your firm is in, that's very closely
17 related to housing starts or housing completions, in
18 terms of the demand for the products, or not so
19 closely related to it?

20 MR. EPSTEIN: It is, but it isn't. If people
21 buy new houses, they generally buy new bedding. But
22 then, again, if they don't move, sometimes to make up
23 for the fact that they're not moving, they buy new
24 bedding. So it isn't necessarily the case.

25 CHAIRMAN PEARSON: Okay, a question that

1 relates to this then, if an anti-dumping duty order
2 does go into effect, where would your firms obtain the
3 polyester staple fiber that they need? Let me start
4 with you, Mr. Costa, because I think you were
5 indicating that that would be a particular problem.

6 MR. COSTA: Well, the fact that we're
7 limited by the number of qualified suppliers right now
8 doesn't give us much opportunity. So unless we
9 qualify additional sources, we're left with our long-
10 standing supply agreement, which puts us into a
11 tenuous position. Obviously, we're not in a
12 negotiating position with single sourcing.

13 CHAIRMAN PEARSON: But you have, at this
14 point, no business relationship with a non-subject
15 supplier from off-shore, for instance.

16 MR. COSTA: No, no, we don't have it with
17 the non-subject supplier, no. Our current supplier is
18 not a party to this hearing today.

19 CHAIRMAN PEARSON: Okay, I'm sorry, I've
20 been listening to too much today. Did you indicate
21 that you currently work with one U.S. supplier and one
22 Chinese supplier?

23 MR. COSTA: Yes.

24 CHAIRMAN PEARSON: So in the event of the
25 Anti-Dumping Duty Order going into effect, do you

1 expect that you would continue to purchase at least
2 some product from that supplier, or would you likely
3 find the duty to be prohibitive?

4 MR. COSTA: I guess we would look at it from
5 all standpoints. Obviously, we need a back-up source.
6 We've got to look at what the quality of that product
7 is and make sure that we've got a good supply chain
8 from both sides and make that decision as a business
9 decision going forward. But we're not going to stop
10 in terms of qualifying additional vendors.

11 CHAIRMAN PEARSON: You would be out
12 scrambling to find additional sources.

13 MR. COSTA: And honestly, the reaction to
14 the North American Request For Proposal that we put
15 out last year, the initial response from our current
16 supplier was, oh, here's a new price for you, and it
17 was obviously lower, and they went into a scramble
18 mode. So there is profit in our business for people
19 in all walks of the world for supplying us.

20 CHAIRMAN PEARSON: Okay. Mr. Plummer, how
21 would you respond?

22 MR. PLUMMER: I'd respond that our primary
23 supplier is from a nonsubject country right now. They
24 provide actually the product that we benchmark all of
25 our products against. And we're also working on

1 development with another company out of a nonsubject
2 country also.

3 CHAIRMAN PEARSON: Okay. So you would be
4 affected to some degree by the Anti-Dumping Duty
5 Order, but you would of necessity try to find ways to
6 work around it.

7 MR. PLUMMER: Yes, and we're currently
8 working with one of the Petitioners, through
9 distribution, to try to develop a product that meets
10 our needs.

11 CHAIRMAN PEARSON: Okay; Mr. Epstein?

12 MR. EPSTEIN: In 2006, our purchases were
13 equally distributed between U.S., subject, and non-
14 subject countries. If the anti-dumping order goes
15 into effect, most likely, our company will cease
16 operations making comforters made out of PSF, and
17 mattress pads, and fiber beds, which are the things
18 that lie on top of the mattress, go under the sheets;
19 and we will become an importer of those products,
20 leaving us only with the pillow manufacturing.

21 At that point, to tell you the truth, when
22 one of the overseas PSF suppliers comes up with a
23 fiber that has complete resiliency that can be
24 compressed and then uncompressed, which they will
25 develop, by necessity, that will basically put us out

1 of it, if they do that. Because we make pillows here
2 locally.

3 So it doesn't speak well for the bedding
4 part of it, and the pillows later on. But it will
5 have a definite chilling effect on our employment.

6 CHAIRMAN PEARSON: Okay, and Hollander would
7 become less of a manufacturer and more of a marketer.

8 MR. EPSTEIN: That's correct, and that's not
9 what we want to do.

10 CHAIRMAN PEARSON: Okay, for purposes of the
11 post-hearing, perhaps you could give us some poundage
12 figure for how much polyester staple fiber might no
13 longer be used by your firm, if that adjustment would
14 take place, if you know it off the top of your head.

15 MR. EPSTEIN: Ten to fifteen million pounds.

16 CHAIRMAN PEARSON: Okay, well thank you very
17 much. My time has expired; Madam Vice Chairman?

18 VICE CHAIRMAN ARANOFF: Thank you, mr.
19 Chairman; I, too, want to welcome the afternoon panel.
20 Thank you for your patience in waiting for your turn.

21 Let me start with some questions for Mr.
22 Shapiro and Mr. Costa. Did you pursue an exclusion
23 from Commerce for the product that Insituform is
24 using?

25 MR. SHAPIRO: We're in the process of

1 preparing that at this time.

2 VICE CHAIRMAN ARANOFF: Okay, because it
3 strikes me, in some ways, that it's more of a scope
4 argument than it is a like product argument.

5 This morning, you heard the domestic
6 industry testify that the product specifications that
7 Mr. Costa laid out are nothing special, and that they
8 can make that product. Mr. Costa says they can't.
9 But he doesn't know whether anybody else could take
10 the product that he's buying and use it for another
11 PSF application.

12 It's sort of a "he said/she said", and I
13 don't know where the facts are that are going to help
14 me determine whether there is, in fact, a clear
15 dividing line between this product and other products
16 produced by the domestic industry.

17 MR. SHAPIRO: I guess there will be two
18 sides to this answer. There's two sides to the
19 question. We have a sample of what a coated fiber
20 that's usually used in a high operation -- you know,
21 application versus, this feels like.

22 There's sort of a stickiness to this. It
23 doesn't pull apart easy. The fibers stick together.
24 That is inherent to what makes it usable to make the
25 fill.

1 Whether there are other non-high loft
2 applications for the fiber, I don't know. The record
3 seems to support that high loft is generally
4 interested in slick fiber.

5 The Petitioners, as I mentioned at the
6 opening, talk only about high loft. That's what
7 they're really interested in. In their prehearing
8 brief, they talk all PSF use for high loft. Then PSF
9 that's used for fabric making is excluded from the
10 scope.

11 So they've drawn a line on one type of
12 product that they're interested in, and they believe
13 is injurious to them, and one type of product that's
14 not, and that line's largely on its application. Now
15 on the other side, Mr. Costa will address other
16 producers and his experience in testing those.

17 VICE CHAIRMAN ARANOFF: Well, let me ask you
18 then, I mean, if you're going to look at getting an
19 exclusion from the scope, are you going to be defining
20 what makes you distinct, based on the physical
21 characteristics of the product, which is what Mr.
22 Costa was telling the Commission, or based on the end
23 use?

24 MR. SHAPIRO: I actually think that they're
25 both. They're combined. It's very much like the

1 language of the petition and the scope of this case;
2 where they define both physical characteristics and
3 the use. So it is fiber that is used in woven
4 products to make apparel; fiber used in carpeting.
5 They'd give physical characteristics of those fibers,
6 too, based on their denier only. But they primarily
7 go to end use.

8 What we've tried to do here is give
9 characteristics that are physically objective and
10 could be tested, for example, by a Customs agent at
11 the port -- pulling a sample, take it to the lab, does
12 it have this tenacity, does it have this elongation,
13 does it have this crimp factor?

14 VICE CHAIRMAN ARANOFF: Well, just as a
15 sample, to answer the question that Mr. Costa was
16 unable to answer, Mr. Epstein, you make pillows. You
17 heard the description of the product that Mr. Costa is
18 buying with the eight to nine crimps per inch and the
19 tenacity and all those different properties. Could
20 you use that stuff in a pillow; would you?

21 MR. EPSTEIN: I really can't tell you for
22 sure. You know, it's like the soup. If it comes out
23 and it tastes good, that's what it is.

24 We make specifications on our product, on
25 our PSF. But if it won't run in our machines, if it

1 won't be consistent, if you've got six machine running
2 in a plant, all possibly of different age and all
3 that; and one can run and two can't run it; this one
4 can and this one slows up, then that fiber doesn't
5 work for us, you see? So everybody has to find
6 something that works for them.

7 VICE CHAIRMAN ARANOFF: Right, I mean, can
8 any of your machines work on coated fiber?

9 MR. EPSTEIN: No.

10 VICE CHAIRMAN ARANOFF: No? So you then you
11 couldn't use it, because his product is uncoated.

12 MR. EPSTEIN: Right.

13 MR. WANG: Commissioner, may I add a little
14 bit more? Based on our understanding, I mean, our
15 fibers cannot be used for their applications, mainly
16 because our fibers, our applications, are for the
17 structural applications.

18 By structural, we mean the material or the
19 felt we make has to take the load. Any pillows, I
20 mean, they do not have to be stretchy. Sometimes,
21 they only have to be pressed, if they want to bounce
22 back to the original loftiness.

23 But for us, sometimes we also compress it,
24 when we want it to keep the same thickness. When we
25 release the load, we don't want the thickness to

1 bounce back. So that's clearly a difference between
2 our application and their application.

3 VICE CHAIRMAN ARANOFF: Well, I take your
4 point, Mr. Wang. But what I don't understand is
5 whether this load bearing ability of your end product
6 is due to the way that you process it, the way that's
7 made together into this fabric and compressed, or
8 whether it's due solely to some quality of the input
9 that would make the input unsuited to other
10 applications.

11 MR. WANG: It would depend on both. One is
12 the property of the fibers. The other is a process to
13 make the felt. From the fiber properties, our fibers
14 are clearly not coated with silicon. Silicon makes
15 the surface very slick, and that slickness will reduce
16 the friction and will reduce the interlocking between
17 the fibers, which gives us the strength.

18 On the other hand, for them, they want this
19 slickness so the fibers can bounce back easily. We
20 have samples with both silicon coated and non-silicon
21 coated. So anyway, if you just close your eyes and
22 feel it, you can tell the difference.

23 VICE CHAIRMAN ARANOFF: Okay, I appreciate
24 those answers. All of you gentlemen who are industry
25 witnesses wouldn't be here if you weren't using some

1 product that comes in from China. So I want to ask
2 you all, have you actually been to China? Have you
3 been to plants of your suppliers? Well, have any of
4 you?

5 MR. COSTA: Yes, we have.

6 VICE CHAIRMAN ARANOFF: Mr. Epstein?

7 MR. EPSTEIN: I personally have not, but my
8 people have -- both sales and manufacturing.

9 VICE CHAIRMAN ARANOFF: Okay, in each of
10 your cases, when you first decided to pursue Chinese
11 product, did you go to the supplier or did the
12 supplier come to you, and how many suppliers did you
13 visit with; Mr. Costa, did you want to start?

14 MR. COSTA: Once we failed to qualify a
15 second source in North America, we put out just a
16 broad feeler for who was actually producing similar
17 products in alternative places. We just put out a
18 blanket request for a proposal at that point.

19 VICE CHAIRMAN ARANOFF: Okay, well, this may
20 be confidential, but if you can maybe follow-up in
21 post-hearing with a little bit more detail, you put
22 out a request for a proposal globally, I presume?

23 MR. COSTA: Correct.

24 VICE CHAIRMAN ARANOFF: Chinese producers
25 were the only ones you heard back from?

1 MR. COSTA: No, at that point, we had
2 Japanese producers, as well; India. So it wasn't
3 targeted to any one country or venue.

4 VICE CHAIRMAN ARANOFF: Did you test all
5 those products, or you did some kind of decisional --

6 MR. COSTA: We did a pre-screening at that
7 point, to understand who was going to be qualified,
8 and then we narrowed it down to two or three of the
9 various materials and brought those in.

10 VICE CHAIRMAN ARANOFF: And you did not
11 succeed in qualifying any non-subject product.

12 MR. COSTA: Right.

13 VICE CHAIRMAN ARANOFF: My time is running
14 out, but maybe I can get Mr. Plummer to answer the
15 same question.

16 MR. PLUMMER: We actually sent out RFPs,
17 both domestically and internally. We have offices in
18 several locations and Asia, and we had our Asian
19 offices search for PSF suppliers. At the same time, I
20 was contacting the domestic suppliers.

21 We also researched the polyester industry a
22 little bit to find out who potentially could be the
23 best producer of polyester fiber. In that, we found
24 that a non-subject company or non-subject country was
25 producing what we considered the best polyester fiber

1 in the world.

2 We began testing that product, and we set
3 that product as the benchmark for anything that we
4 did, going forward.

5 VICE CHAIRMAN ARANOFF: Okay, I'm going to
6 pursue this more in my next round, but my light has
7 turned red. Thank you all for your answers.

8 CHAIRMAN PEARSON: Commissioner Okun?

9 COMMISSIONER OKUN: Thank you, Mr. Chairman,
10 and I join my colleagues in welcoming this panel here
11 this panel here this afternoon. I very much
12 appreciate your participation. I always find it very
13 interesting to hear from the purchasers and to get
14 their perspective on the market and how the industry
15 works. So I appreciate that.

16 Let me ask, I think, a general question for
17 everyone, which is in the presentation this morning,
18 the Petitioners, in anticipation of the arguments that
19 they heard in the briefs about the quality issues or
20 availability of supply, had prepared charts based on
21 the public data in the staff report; or using the
22 staff report, produced public charts -- in particular,
23 Chart 4, which is this comparison of U.S. and China
24 products and the different purchasing variables,
25 looking at availability, product consistency, quality

1 exceeds industry standards, reliability, supply, et
2 cetera. I know you all have access to that.

3 The point the Petitioner has made -- and
4 again, I can look out at what I've heard from you and
5 say that you make good on one of these particular bars
6 or the other based on what you've said today. But
7 their point being, that if we look at the record that
8 we've developed as a whole, that the only difference
9 between the U.S. industry and the Chinese industry is
10 really based on price, and that explains the very
11 large swing in market share.

12 So I wanted to give you a chance to respond
13 to that point, and how you think we should evaluate
14 this record. It's kind of a little broader than your
15 own particular points, I know, but it helps me
16 understand, if there's anything else you can say about
17 what's going on in the market that would explain this
18 very large swing in marketshare from the U.S.
19 industry. Who wants to start; back row, Mr. Epstein,
20 do you want to start?

21 MR. EPSTEIN: Are you looking at
22 questionnaire part four?

23 COMMISSIONER OKUN: I'm looking at chart
24 four of these, yes.

25 MR. EPSTEIN: Okay, yes, all right, I can

1 read to you what we wrote. We wrote, "We do not know
2 how to provide this information, as there is no way to
3 compare global country pairs, as we only know how to
4 compare individual fibers. In fact, we often compare
5 the same fiber from the same mill made on different
6 production lines within the same facility -- product,
7 product, product. It has nothing to do with where it
8 comes from." That's my answer.

9 COMMISSIONER OKUN: Okay, and I want to come
10 back up to the front row. But just help me out in
11 terms of, what I've heard you say about your
12 testimony, trying to paraphrase, but just correct me
13 if I'm wrong -- which is you think that the U.S.
14 industries' prices, they're inefficient and,
15 therefore, their prices are too high.

16 MR. EPSTEIN: I said that we pay higher
17 prices from abroad than we do from the U.S.

18 COMMISSIONER OKUN: Okay, so help me out.
19 Then I did misunderstand you. If we look at our
20 record as a whole and, again, we can look at
21 individual questionnaires, but we have to make a
22 decision on the record as a whole, including the
23 pricing data. It shows a large degree of under-
24 selling by Chinese product.

25 So when I look at that, I'm having a hard

1 time reconciling whether it's just particular cases
2 where Chinese product is going to command a premium,
3 and that the overall record does support that the
4 Chinese product is in here at low prices, and that's
5 one of the statutory factors I need to look at.

6 MR. EPSTEIN: Unfortunately, the only thing
7 I could tell you about is what our record has been and
8 is. I will tell you, when you buy 50 million pounds
9 of fiber per year, you tend to have a pretty good idea
10 of where the market is and what it is.

11 COMMISSIONER OKUN: All right, so just to
12 follow-up with you, if an order is put in place, if
13 price is not the issue, you've talked about what you
14 had seen happen is a substitution of downstream. It
15 then becomes cheaper for the downstream product. Is
16 that correct? You could still purchase the same
17 product, but you think the different price would make
18 you non-competitive?

19 MR. EPSTEIN: If the order comes down and
20 the prices are unnaturally raised, it forces the price
21 of products to go up. Unfortunately, with prices in
22 our industry, in selling to retailers, when retailers
23 can go buy imports directly from overseas, price is an
24 issue.

25 When you have Targets and Penneys, and when

1 you have stores like that, that put goods out goods
2 for auction that are price-based, price-driven, if our
3 prices unnaturally go up, we become less competitive
4 in the overall world marketplace. That's the
5 downstream effect.

6 COMMISSIONER OKUN: Okay, well, I buy a lot
7 of pillows. I do see a lot of pillows. We had one
8 dog once who decided that chewing pillows is how it
9 would take out its frustration when it was angry at
10 us. We would sometimes come home and find six pillows
11 chewed up.

12 MR. EPSTEIN: And we love that.

13 COMMISSIONER OKUN: You love that.

14 (Laughter.)

15 COMMISSIONER OKUN: She grew out of it. But
16 I did see a lot of pillows at that point.

17 Let me come up to you, Mr. Costa. If you,
18 again, can help me put it in perspective. I do share
19 the Vice Chairman's view, in reading the information,
20 that it seems to me it's more of an inclusioner's
21 scope issue for you, as opposed to like product.
22 Because like product, to me, you have a U.S. producer.
23 So I'm not sure that I understand the like product
24 argument. But I understand that you feel like you
25 have limited supply options.

1 MR. COSTA: Well, I think we can draw a
2 fence around the specifications that we can clearly
3 define. There is this element that's called the
4 Finish, which is, I think, some proprietary blends of
5 things that, for some reason, some of the folks seem
6 to hit the mark and the Finish is what it takes to
7 make it through our machines.

8 We have that problem. We literally have
9 tried materials that started up the machine, the
10 machine chugged, and it literally wasn't going to go
11 through. We couldn't produce with that particular
12 material.

13 It could fall into all of the other
14 specifications, but the Finish, being a proprietary
15 blend from the supplier, could be the enabler or the
16 disabler, if it's incorrect.

17 COMMISSIONER OKUN: Well, obviously,
18 Commerce, and not the ITC, does the scope issue and
19 the exclusions.

20 But my other follow-up question for you is
21 also with regard to price which is, often when we have
22 purchasers who argue that they have a very specific
23 product, a niche product within the continuum, one
24 would expect to see a price premium in the data.

25 I know that you have argued price premium.

1 I looked at your brief, and at page 13 in particular;
2 and obviously, the information is confidential. But I
3 wondered, if for post-hearing, Mr. Shapiro, you could
4 address kind of my concern that you're not really
5 demonstrating that there's a price premium for the
6 subject product, vis-a-vis, the domestic product? I
7 don't know if I'm reading your data wrong, but I don't
8 want to expose anything confidential.

9 MR. SHAPIRO: Right, the Petitioners also
10 stated in their briefs that there is a price premium,
11 even for non-coated product, because it has a smaller
12 market. So there's something also on the record.

13 COMMISSIONER OKUN: Well, then maybe I'm
14 misunderstanding. Because again, for me, it would be
15 a price premium of trying to compare the apples to
16 apples, which would be, there is a domestic product
17 being sold and then there's an imported product that
18 you're purchasing. That was the comparison I was
19 trying to make. You're responding with, among this
20 PSF, there are ones that have a price premium.

21 MR. COSTA: I'm not sure we've actually
22 struck an equilibrium in our domestic pricing model,
23 because we've only got one source. So we've got no
24 dynamics there to really play as to what the true cost
25 in profit scenario is for that single supplier.

1 If at that point, we can qualify the
2 dynamics of supply and demand and equilibrium hitting
3 there, to truly represent what the market price is in
4 North America; but at this point, we can't clearly
5 define that.

6 COMMISSIONER OKUN: Okay, I understand that;
7 Mr. Shapiro?

8 MR. SHAPIRO: One other comment on the price
9 comparison, the argument has been that there's one
10 product line -- Regenerated and Virginia are the same,
11 which we wouldn't disagree with.

12 But the cost structures in producing them
13 are subject to different pressures -- Virgin being
14 subject to the pressures much more closely tied to the
15 petroleum industry; Regenerated being tied to the
16 recycled scrap industry. The data in the staff report
17 combines the two.

18 So where you have a Chinese market, where
19 the producers are producing more Regenerated than
20 Virgin, and a U.S. market, where they are producing
21 more Virgin than Regenerated, you have different
22 market structures there, that are based on their costs
23 of production.

24 COMMISSIONER OKUN: Right, but of course
25 then you'll hear, whenever you come before the

1 Commission, I'm sure, we don't make the margins.
2 They're given to us.

3 Mr. Plummer, my yellow light is on. But I
4 don't know if you could comment, just in terms of what
5 I see in the record. What the Petitioners have put
6 forward is generally comparable by purchasers as a
7 whole, and yet there's this huge market share shift.

8 MR. PLUMMER: In terms of speaking from
9 Ashley's standpoint, it truly is a quality issue. But
10 when you try to lump a Regenerated product together
11 with a Virgin product, you come up with an overall
12 cost structure.

13 For us, it's very difficult, because we
14 cannot use that Regenerated product. We have to use
15 the Virgin product, so that we don't have the cushion
16 compression issues and unit failure issues that could
17 potentially be a lot more expensive for our company.

18 COMMISSIONER OKUN: Okay, I still have a
19 little bit of time left. Then again, in looking at
20 the information on prices, what I don't see in that is
21 a price premium that the Chinese product receives,
22 vis-a-vis, domestic product? Again, I realize that
23 you have an issue about whether it's comparable or
24 not, but just on the record that I see on the record
25 that I see before me.

1 MR. PLUMMER: I guess the instance there
2 would be that the Regen and the Virgin are lumped
3 together, and I don't think you're getting a clear
4 picture of Virgin and Regin, in terms of the pricing
5 difference, that's out there between those two
6 products.

7 COMMISSIONER OKUN: Okay, I appreciate those
8 answer. Thank you, Mr. Chairman.

9 CHAIRMAN PEARSON: Commissioner Lane?

10 COMMISSIONER LANE: Thank you; Mr. Costa,
11 I'd like to start with you. As you heard this
12 morning, the domestic industry has argued that the
13 PSF, which you require, is available from domestic
14 sources, and that that product has multiple uses,
15 including fiber fill applications. Where and to what
16 extent do you disagree with the domestic industry?

17 MR. COSTA: Well, none of the Petitioners
18 have qualified any of their products with our process
19 list, to date. So I don't know what particular
20 material they would be referring to, and I can't
21 necessarily say whether that would, in fact, then be a
22 potential for the hollowfill marketplace.

23 COMMISSIONER LANE: Okay, thank you; now I
24 have questions for all three of the industries that
25 are represented here today. As I understand it, you

1 all are saying that price isn't really the issue; that
2 quality is the issue; and to the extent that the
3 domestic industry is here today, as Petitioners, you
4 are saying that they are their own worst enemy, and
5 that it is a quality issue that you all are not buying
6 product from them. I mean, I think that's what I
7 understood.

8 So let's start. Was there ever a time that
9 all three of you were sourcing only your product from
10 the domestic industry?

11 MR. COSTA: Yes, that was our historical
12 business motto with this product.

13 COMMISSIONER LANE: Okay, and when did that
14 change?

15 MR. COSTA: Just in the recent past, less
16 than a year.

17 COMMISSIONER LANE: Less than a year.

18 MR. COSTA: We had one supplier at that
19 point -- only one.

20 COMMISSIONER LANE: Okay, and you still have
21 the same supplier?

22 MR. COSTA: Yes, ma'am.

23 COMMISSIONER LANE: And you wanted a second
24 supplier, and you went to the domestic industry, and
25 none of them could qualify.

1 MR. COSTA: Correct.

2 COMMISSIONER LANE: You didn't really
3 consider taking your existing supplier and just
4 getting more product from that supplier?

5 MR. COSTA: They had 100 percent of our
6 business today, and they could supply us, potentially,
7 additional volumes, yes.

8 COMMISSIONER LANE: They couldn't?

9 MR. COSTA: They could.

10 COMMISSIONER LANE: But you didn't want to
11 up the amount that you were getting from them?

12 MR. COSTA: Well, we had some issues that
13 happened around the time of the shortages, and some
14 of the supply discontinuations, when material wasn't
15 available. That really put us behind an eight ball,
16 in terms of keeping our production going. So at that
17 point, we said, we're at risk here. We've got to get
18 a second supplier.

19 COMMISSIONER LANE: So at that point, and
20 that was a year ago, you then --

21 MR. COSTA: That was a little over a year
22 ago, and we engaged all of the other North American
23 manufacturers to come and look at our business, and
24 see if they could qualify material.

25 COMMISSIONER LANE: And what seemed to be

1 the problem that they didn't qualify?

2 MR. COSTA: They didn't qualify for various
3 reasons. Some of the materials literally wouldn't
4 work in our machines. Just like the pillow
5 manufacturing machines, we have particular
6 requirements for our needle punching operation that
7 builds our fabric; and some materials literally would
8 get bogged down and wouldn't go through the machines.

9 Other materials created such a cloud of dust
10 that they literally would have had a shutting down,
11 doing maintenance on our machines, or create a health
12 environment, where we had too much dust.

13 Products that did make it through the
14 machining operation then had to qualify from a
15 standpoint of the stencil strength and elongations,
16 two of the critical factors that we have in our
17 fabric. It's actually got to do work, once it's
18 produced.

19 It's not simply there for cushioning and
20 resilience. It's got to be able to maintain loads and
21 stresses through the installation process in putting
22 it into a pipe. So we have very specific
23 specifications around elongation and stencil strength,
24 and we had failures in those modes, as well.

25 COMMISSIONER LANE: And those failures were

1 from all of the U.S. producers, except for the one
2 that you were dealing with already?

3 MR. COSTA: Correct; they're still our main
4 supplier.

5 COMMISSIONER LANE: Okay, I thank you.

6 Mr. Plummer, Ashley Furniture, did you ever
7 source all of your product from the domestic industry?

8 MR. PLUMMER: No, we haven't. We've sourced
9 both from subject and non-subject countries throughout
10 time, as far as I know.

11 COMMISSIONER LANE: Okay, and I'm correct
12 though that you do get some of your product from the
13 domestic industry?

14 MR. PLUMMER: At this time, yes, we do
15 purchase some through from the domestic industry,
16 through distribution.

17 COMMISSIONER LANE: And would it be fair to
18 say that you get less from the domestic industry than
19 subject and non-subject?

20 MR. PLUMMER: At this point, yes.

21 COMMISSIONER LANE: Do some of the non-
22 subjects have orders from the U.S. against them
23 already?

24 MR. PLUMMER: No.

25 COMMISSIONER LANE: I can be more specific.

1 Are you getting product from Taiwan and Korea?

2 MR. PLUMMER: Right now, no; we have in the
3 past.

4 COMMISSIONER LANE: You have in the past.
5 Okay, what is the percentage in your finished product
6 that you would attribute to the polyester staple
7 fiber?

8 MR. PLUMMER: About eight percent, ma'am.

9 COMMISSIONER LANE: I'm sorry?

10 MR. PLUMMER: Eight percent.

11 COMMISSIONER LANE: Eight percent, and tell
12 me again why you're not getting from the domestic
13 industry --

14 MR. PLUMMER: I'd like to clarify that a
15 little bit further.

16 COMMISSIONER LANE: Okay.

17 MR. PLUMMER: That's eight percent of the
18 raw material costs, which are about 50 percent of the
19 total cost of the product.

20 COMMISSIONER LANE: Okay, and I believe you
21 said that the domestic industry won't talk to you.

22 MR. PLUMMER: That's been part of the issue,
23 yes.

24 COMMISSIONER LANE: Have you gone to them
25 and said, I want to buy your product?

1 MR. PLUMMER: Yes, I did.

2 COMMISSIONER LANE: And they just said,
3 we're not interested?

4 MR. PLUMMER: In some instances, they've
5 been interested. In some instances, they've not been
6 able to provide a like product. When I say like
7 product, I'm talking about the high void, high yield
8 product.

9 COMMISSIONER LANE: None of the domestic
10 producers can produce the product that you need for
11 your furniture?

12 MR. PLUMMER: Not that's passed our testing.

13 COMMISSIONER LANE: I'm sorry, what?

14 MR. PLUMMER: Not a product that's passed
15 our testing.

16 COMMISSIONER LANE: Did any of them make
17 multiple tries?

18 MR. PLUMMER: Yes, yes, actually, I've
19 trialed two of the Petitioners multiple times, and I'm
20 in the process of trialing one of the Petitioners now.

21 COMMISSIONER LANE: Okay, Mr. Epstein?

22 MR. EPSTEIN: Yes.

23 COMMISSIONER LANE: Same questions for you -
24 - did you ever get all of your product from the
25 domestic industry?

1 MR. EPSTEIN: Yes, we did; we have. We've
2 been in business a long time.

3 COMMISSIONER LANE: Okay, right, and when
4 did you change?

5 MR. EPSTEIN: I can't give you that. I
6 don't have that information. It was before my time.
7 But I will tell you that Leo Hollander was importing
8 feather and down many years ago into the U.S., and
9 that gave him the knowledge of how to bring in goods
10 from overseas and that just expanded into our
11 importation of fiber from other countries, as well, in
12 regard to that. It's been a slow process of shifting.

13 And you did ask the question of why you went
14 overseas; and the simple fact is, we created new
15 products, which our domestic suppliers didn't produce
16 the kind of PSF that were able to produce the kind of
17 products we were able to offer to expand our position
18 in the marketplace with our customers.

19 You asked the question about whether you go,
20 whether we sought out fiber suppliers. I'll tell you,
21 our sales forces go to our customers all the time and
22 show them new things. They are always looking,
23 pushing for new business.

24 My grandpa taught me an old expression. If
25 you don't go, you don't get. The fact is, that's how

1 it works. You've got to go. You've got to get.
2 You've got to ask for the order. The subject and non-
3 subject countries, the fiber makers, they ask. They
4 come. They offer. They try.

5 COMMISSIONER LANE: Now are you getting
6 product from Korea and Taiwan?

7 MR. EPSTEIN: We are getting product from
8 Taiwan, and I believe our numbers show -- I had that.
9 I was just looking at that. We are getting product
10 from Korea and we are getting product from Taiwan. We
11 are getting product from Thailand and from Indonesia,
12 and we are even trying product from Saudi Arabia.

13 COMMISSIONER LANE: Okay, thank you; thank
14 you, Mr. Chairman.

15 CHAIRMAN PEARSON: Commissioner Williamson?

16 COMMISSIONER WILLIAMSON: Thank you, Mr.
17 Chairman; I, too, want to express my appreciation to
18 the witnesses this afternoon for being here, willing
19 to answer our questions, and waiting this long.

20 First, I was wondering, are there types or
21 products that are not or cannot be produced in the
22 United States; and if so, where are these products
23 being produced, and why are they not available from
24 the U.S.? You may have answered some of this already,
25 but I would appreciate your brief answers to those

1 questions; Mr. Epstein?

2 MR. EPSTEIN: Of the sample that I passed
3 around, it that had that little envelope full of what
4 you call puff balls, the little circular stuffy
5 things. We cannot get that domestically. We can get
6 that from China. We can get that from Thailand. We
7 can get that from Indonesia. We can't get it from
8 America. The product isn't available that will run in
9 the machines that we have in every one of our plants,
10 and it's a growing segment of our business.

11 COMMISSIONER WILLIAMSON: Okay, Mr. Plummer?

12 MR. PLUMMER: Our experience has been much
13 the same. The product that is shown here in the
14 photos, it has a 28 percent void in that product.
15 It's a real high yield product. We cannot currently
16 get that product or a similar product from domestic
17 producers that works in all of our equipment, and
18 provides us the same resiliency that we experience
19 from products from Asia.

20 COMMISSIONER WILLIAMSON: Can you explain
21 why that's the case? Is it because the foreign
22 producers have newer factories or invest more in
23 technology? Is there an explanation for it?

24 MR. PLUMMER: I think it's a matter of two
25 issues. I think it could be the newer factories. But

1 I also think it could be a management issue. I think
2 that the creation of this high void product that you
3 see now is really reactionary to the fact that the
4 Asians have already developed a high void product that
5 works good in applications for high end users like
6 Ashley, or high volume users like Ashley.

7 COMMISSIONER WILLIAMSON: Mr. Epstein?

8 MR. EPSTEIN: I told you before, I was a
9 luggage manufacturer. Our company was in business for
10 58 years. We'd go to the marketplace and say to the
11 marketplace, this is what we make, please buy it. The
12 customers would say, no, we want that; but you only
13 make this. That's what we're saying.

14 We seem to be getting from the domestic
15 suppliers, this is what we make; buy it. We say, no,
16 no, this is what's selling. Can you make this for us?
17 Well, we can't. Well, we'll try, but we can't.

18 COMMISSIONER WILLIAMSON: Okay, Mr. Epstein
19 or Mr. Plummer, both of you seem to indicate that the
20 important thing for your companies is to get the
21 product of the right quality, the right nature, as
22 opposed to the price so much.

23 So do you have any objection if the foreign
24 producers are fairly traded, or they're saying they're
25 being penalized for not being fairly traded? Would

1 you still be getting product from overseas,
2 particularly given the preliminary margins that we
3 were seeing before?

4 MR. PLUMMER: Yes, and we actually do base
5 all of our costing on what that yield performance gain
6 is. So we look at the cost FOB Asia, the cost FOB the
7 U.S., and then we actually run it through a
8 performance test, to determine exactly what the cost
9 is of that pillow or particular unit back is from each
10 manufacturer, to try to determine what is the best and
11 most cost effective fiber for Ashley to use.

12 After these proceedings are done and we can
13 re-calculate our numbers, then we'll recalculate the
14 numbers and see if it makes sense to still bring in
15 products from Asia, from the Chinese suppliers that
16 we've used in the past.

17 COMMISSIONER WILLIAMSON: So in a sense,
18 you're saying, you're not objecting to the products
19 being fairly traded?

20 MR. PLUMMER: I can't answer that.

21 COMMISSIONER WILLIAMSON: Mr. Epstein?

22 MR. EPSTEIN: I'm not necessarily agreeing
23 that they're not fairly traded now. I can't say that
24 our usage will go up. I would probably say our usage
25 will probably go down, as we have to cut employees.

1 Because once again, as you raise the price
2 in China, non-subject countries, the U.S. will raise
3 their price. You're not going to get better product.
4 We'll probably still buy the Chinese product, because
5 it runs better in our factories. But it will make us
6 less competitive in our marketplace and, as I said,
7 we'll probably shut some productions accordingly and
8 become an importer. We have no choice.

9 COMMISSIONER WILLIAMSON: Mr. Costa, I was
10 wondering, you seem to make a fairly high tech
11 product. I mean, the processes you described after
12 you get the raw material lead me to believe that. So
13 what is the cost of the PSF, the raw material that you
14 use, as a percentage of the finished costs, roughly?

15 MR. COSTA: Well, if I look at it from a
16 percent of revenue, it's in the less than five percent
17 category. It really depends. One of the issues is,
18 really, it's hard to narrow down that number. Because
19 in a small tube, like you had a sample of, the felt
20 material is a small component of what it takes to put
21 that into the ground.

22 When we start talking about tubes that are
23 six, seven, eight feet in diameter, and the tubes get
24 very thick. Then the material of that gets very, very
25 large, relative to the overall tube costs. So you've

1 got some variance there.

2 But we are a construction company. So that
3 takes into account all of the factors that go into a
4 whole crew going out onto a street, setting up, just
5 like you would see crews doing street work, and
6 actually putting our product into place. So there's a
7 long cost chain beyond the materials.

8 COMMISSIONER WILLIAMSON: Thank you; this is
9 for Ashley Furniture. In its 2000 determination
10 regarding PSF from Korea and Taiwan, the Commission
11 found conjugated PSF to be of the same like product as
12 conventional PSF. What is the difference from this
13 investigation from the investigation in 2000 that
14 would warrant us to take a different conclusion?

15 MS. CRAMER: Well, first, I'd say that we
16 looked at those cases very closely, but since we
17 weren't involved in them, we don't have access to the
18 proprietary record. So we know in looking through
19 what the Commission did in those cases that so much
20 was proprietary, so we think it's necessary as it is
21 really in all cases to reexamine like product. And
22 there may well have been things on the confidential
23 record that we can't prove or disprove here, so we
24 want the Commission to look at it anew.

25 COMMISSIONER WILLIAMSON: Okay. But are you

1 aware of any significant changes in the way conjugated
2 is produced or the way it's marketed that might
3 suggest a different result?

4 MR. PLUMMER: I think during that time is
5 really where the high void fiber really came into
6 being. Right after that, the whole industry decided
7 that they need to find new ways to compete, especially
8 the Asian suppliers, and I think that's where the high
9 void product came from them as a potential opportunity
10 to get around or get past the issues of the additional
11 cost.

12 COMMISSIONER WILLIAMSON: Okay. Okay.
13 Again for Ashley, you argue that there is strong
14 demand in the U.S. for the conjugate PSF and that
15 imports from China are needed to supplement the
16 domestic supply. If demand is so strong, why did Nan
17 Ya shut down its conjugate PSF production line in May
18 of 2006?

19 MR. PLUMMER: I can't answer for why Nan Ya
20 would have shut down their line other than the fact
21 that they really didn't have a high void product that
22 would compete with the product that we're getting from
23 a nonsubject company.

24 COMMISSIONER WILLIAMSON: Okay. Thank you.
25 Okay. This is for Mr. Costa. You claim on

1 page 1 of your prehearing brief that Insituform has
2 found only two PSF producers worldwide that are
3 capable of producing PSF that meets your requirements,
4 yet you sort of acknowledge that the manufacturing
5 process for the PSF that you use and others is
6 similar. So I was just wondering could the PSF
7 producers adjust their equipment to manufacture the
8 type of PSF that you need?

9 MR. COSTA: That opportunity is open to them
10 to make those attempts. We've worked with DAK, and
11 they've gotten to the point where we've actually
12 purchased a large batch of material. When that large
13 batch was made relative to the small sample, we failed
14 online. But no, there are opportunities for folks to
15 make the adjustments, and I do believe that somebody
16 can unlock the key to what it takes and we'll have
17 additional vendors.

18 COMMISSIONER WILLIAMSON: Okay. Thank you.

19 CHAIRMAN PEARSON: Commissioner Pinkert,
20 before calling on you, permit me to just advise
21 parties that your former colleagues at the Commerce
22 Department have looked with favor on the Commission's
23 request for proprietary data relating to the critical
24 circumstances finding for Far Eastern. We hope that
25 that material may be available for APO pickup by the

1 conclusion of the hearing. So please proceed.

2 COMMISSIONER PINKERT: Thank you, Mr.
3 Chairman. I have a question for Mr. Epstein. Earlier
4 today you commented on the reasons for the absence at
5 this hearing of certain Respondents, and I was
6 wondering whether your testimony on that was based on
7 direct knowledge or whether it was an inference based
8 on the potential impact of an order.

9 MR. EPSTEIN: No. No direct knowledge. Not
10 dealing with them at all. I just felt that and we
11 feel that they're going to get the business anyway.

12 COMMISSIONER PINKERT: Okay. Now, Mr.
13 Epstein and Mr. Plummer, you've both questioned the
14 quality of the domestic like product relative to
15 subject imports, and yet we have data in Table 4 and
16 page II-21 that indicates that quality is comparable,
17 and I'm trying to reconcile these divergent points of
18 view. So I'm wondering whether a possible explanation
19 is that there's a range of quality on the domestic
20 side and that that range would encompass quality that
21 is comparable to the subject imports but also quality
22 that is not comparable. Would you comment on that
23 possibility?

24 MR. EPSTEIN: Up until three weeks ago, we
25 bought domestic nonconjugate product from one of your

1 Petitioners, and we were very happy to do so, and it
2 ran and it ran in our machines and we've been using it
3 for 20 years. So we don't have any complaints other
4 than the fact that now they can't supply it to us, so
5 we had to go elsewhere.

6 There is a range, and it also has to do with
7 our own facilities and our own machinery and our own
8 equipment. All our plants are union, and the union
9 contract calls for the fact that when a machine isn't
10 running and it's the cause, believe it or not, and if
11 it's the cause of the fiber that it's not running
12 well, we still have to pay our employees an equivalent
13 amount of their standard average output.

14 So it pays for us to make sure that that
15 fiber runs in that machine, and so if we have to pay
16 more for it and get it from overseas as opposed to
17 domestic where things didn't run, we do. Again, even
18 though it's a very large part of our cost, in terms of
19 productivity, productivity beats all.

20 COMMISSIONER PINKERT: Thank you.

21 Mr. Plummer, would you comment on the range
22 of quality question?

23 MR. PLUMMER: I don't think that the range
24 of quality from the domestic producers has quite hit
25 the level that it has from the subject countries right

1 now. I think that there's a potential that they can
2 get there, but in our tests, we can't get the yield,
3 nor the resiliency out of the domestic product that we
4 need in order to maintain our cost structures so that
5 we can continue to compete with product coming in from
6 Asia.

7 COMMISSIONER PINKERT: Mr. Plummer, what
8 about the product coming in from Asia itself? Would
9 you say that there's also a range of quality there
10 that ranges from insufficient for your needs versus
11 sufficient for your needs?

12 MR. PLUMMER: Oh, yes. Yes. We've tested
13 several Asian suppliers and failed several Asian
14 suppliers due to the fact that they can't hit our
15 quality standards.

16 COMMISSIONER PINKERT: Thank you. Thank
17 you, Mr. Chairman.

18 CHAIRMAN PEARSON: Mr. Epstein had made the
19 case, perhaps others have also, that the domestic
20 industry hasn't done a great job of keeping its
21 factories modern and of providing good customer
22 service. This question might be more for counsel, but
23 how do we deal with that possibility in light of what
24 I understand to be the statutory guidance that we are
25 supposed to assess the domestic industry as we find

1 it?

2 It's not unusual that we find a domestic
3 industry that might not be perfect, and yet I don't
4 know how we're supposed to incorporate information
5 regarding improvements that the domestic industry
6 hasn't made or customer service that it's not
7 providing, how we deal with that in the context of an
8 injury finding. Mr. Shapiro, do you have any
9 thoughts?

10 MR. SHAPIRO: We'll deal with it further in
11 the postconference brief, but it seems that that's
12 related to the core issue of injury and causation,
13 that there are several types of trade actions, but
14 one, to allow an industry to catch up to competitive
15 pressures would be a safeguard action, and maybe
16 that's what the industry here should have sought. But
17 that's not the role of an antidumping action.

18 The causation of the injury, the imports
19 can't be a primary cause or even an important cause of
20 the injury if the domestic industry isn't doing what
21 it needs to do on its own. They're injuring
22 themselves, and that's a significant additional cause
23 that needs to be accounted for.

24 CHAIRMAN PEARSON: Well, I would note that
25 the Department of Commerce did find dumping here, and

1 so we properly deal with this as a dumping case.
2 Whether it could have hypothetically been brought in
3 some other form, I don't know. Ms. Cramer, do you?

4 MS. CRAMER: Yes. I would just echo that.
5 The Commission is tasked with finding whether the
6 domestic industry is being injured by reason of dumped
7 imports, and we would say no, it's by reason of these
8 technological failures and also the management issues
9 that Mr. Plummer was talking about.

10 CHAIRMAN PEARSON: Okay. But if you're
11 going to make that argument, are you going to be able
12 to point to something in the record that shows that
13 the domestic industry has somehow gotten worse in the
14 period of investigation in terms of the maintenance
15 and operation of its facilities or in terms of its
16 unwillingness to serve customers? I mean, I hear what
17 you're saying. I'm just not sure the extent to which
18 those arguments are well-documented on the record as
19 it stands now. Mr. Shapiro?

20 MR. SHAPIRO: There's a couple things in the
21 record. One is the e-mail that Mr. Epstein read where
22 his major supplier is just saying, look, we've got to
23 do all this work to our equipment, we're going to be
24 out for several months.

25 Another is while there was some talk in the

1 Petitioners' panel regarding productivity, the thing
2 that was overlooked was and the thing I actually have
3 trouble getting over is there's an increase in hours
4 worked. I got it with there's no decrease in
5 employment and the change in that, but there was
6 during the period of investigation when you are
7 decreasing capacity and you're complaining of a lack
8 of capacity utilization, there's an increase in the
9 number of productive worker hours worked.

10 That's the part that doesn't quite make
11 sense to me. Where does that go? The productivity
12 issue is then tied to not I need the same number of
13 men to run these machines for the same number of
14 hours, but I've increased the hours.

15 CHAIRMAN PEARSON: Mr. Epstein, did you have
16 anything?

17 MR. EPSTEIN: I hate to bring up clichés,
18 but oh, woe is me. I didn't go ask for the order. I
19 didn't give my customer what he wanted, but give me
20 some money so I can stay in business. I'm sorry. I
21 don't agree with this.

22 CHAIRMAN PEARSON: And, of course, you're
23 aware that the statute limits us to looking at injury
24 to the domestic producers, and we're not really
25 allowed to consider the potential deleterious effects

1 of an order on downstream industries.

2 MR. EPSTEIN: I understand, but also the
3 question is what caused the injury. I submit to you
4 price did not cause the injury. If they would have
5 come up with products that we could use, we would have
6 bought them, and we did.

7 CHAIRMAN PEARSON: Well, if for purposes of
8 the posthearing you're able to put something on the
9 record that would help us understand better why some
10 individual firms in the domestic industry had
11 different results financially than other firms, then
12 perhaps that would speak to this. Maybe there's
13 something there that isn't entirely clear to me yet
14 that could be elaborated on.

15 Okay. The Petitioners have made an argument
16 that the European Union's 2005 antidumping measure is
17 having the effect of causing additional excess Chinese
18 capacity to be directed to the United States. In
19 other words, instead of polyester staple fiber from
20 China going to Europe, it's going to come here or is
21 coming here. How do you respond to that argument? In
22 other words, they're arguing that the prospects of
23 injury from Chinese polyester staple fiber have been
24 increased because of the antidumping duty order in the
25 European Union. Mr. Shapiro?

1 MR. SHAPIRO: Actually, our focus is
2 primarily on single different products and uses and
3 not the industry in general, so we can't really speak
4 to that. I'm not sure about the contemporaneousness
5 of that change. We know that we're just looking for a
6 supplier who is able to meet the requirements of
7 Insituform regardless of the global change that may be
8 affected by that.

9 CHAIRMAN PEARSON: Okay. Well, perhaps my
10 last question, and this has been touched on before, so
11 there might not be anything new to say, but in your
12 prehearing brief, you are arguing that the domestic
13 industry isn't being injured by subject imports, and
14 you point to rising prices as evidence of this.

15 But on the other hand, the domestic industry
16 is arguing that because of rising input costs, their
17 sales prices haven't been able to keep up with that
18 increase, and thus overall, their financial situation
19 has been deteriorating. Can you please address this?
20 Because we have kind of two different views of the
21 effects of price increases. Mr. Shapiro.

22 MR. SHAPIRO: Well, I guess, first of all, I
23 think every manufacturer on this panel would love to
24 be able to recover all the rising costs that they
25 incur in producing their products. I wouldn't want to

1 speak for Mr. Epstein, but I know that Wal-Mart has
2 serious restrictions on how much you can increase
3 prices to them as a supplier to them and may not be
4 able to recover those increased costs. I'll let him
5 answer that.

6 The thing that's overlooked also is to me,
7 it's very interesting that at the time during this
8 period of investigation when costs were relatively low
9 in 2004, the industry was reporting a gross loss, a
10 negative profit, and in 2006, when the costs were at
11 their peak, they're reporting a gross profit. So I
12 have trouble understanding how those things fit
13 together. They must be doing something to make that
14 transition.

15 CHAIRMAN PEARSON: Any further comments?
16 Mr. Plummer, do you have something to add?

17 MR. PLUMMER: Yes. We're really not in a
18 position to be able to rate pass-on price increases.
19 As a manufacturer, we understand that there's raw
20 material impact that we need to improve our
21 efficiencies on and make a better product or make a
22 more efficient product in order to compete in a global
23 marketplace, and we do that day in, day out, and
24 that's the reason that Ashley Furniture has grown at a
25 rate of 20 to 25 percent for the last 20 years is that

1 we continue to try to reduce the costs and become more
2 efficient at what we do, and that's part of being a
3 world-class manufacturer.

4 MR. EPSTEIN: Our approach is that if a
5 supplier brings us a product that will be creative
6 that will create something new and different and allow
7 us to bring it to our customer and get business, we'll
8 buy it even if it costs more. There's no question
9 about that. We do that now. We pay more for goods
10 from subject and nonsubject countries because it's
11 new, it's different, and it sells. So you just have
12 to be creative and you just have to listen and deliver
13 to your customers what they need, what they're asking
14 for.

15 CHAIRMAN PEARSON: Okay. Well, thank you
16 very much. My light is changing, so let me turn to
17 the Vice Chairman.

18 VICE CHAIRMAN ARANOFF: Thank you, Mr.
19 Chairman. I was exploring in my last round with all
20 of you your experiences in terms of turning to Chinese
21 suppliers, but I've been intrigued by the fact that a
22 number of you have testified that some or all of the
23 domestic producers never call on you to solicit your
24 business, and you've also testified that the Chinese
25 producers didn't call on you to solicit your business.

1 You went to them. Is it not the norm in the PSF
2 industry for salespeople to solicit your business?

3 MR. COSTA: Our experience is that, and I've
4 been with the company about three years, there's not
5 been a long line at the door of people that wanted to
6 necessarily have our business. When we put out the
7 request for a proposal, we targeted our North American
8 vendors first and gave them first crack at becoming
9 our next supplier.

10 VICE CHAIRMAN ARANOFF: Okay. Mr. Plummer?

11 MR. PLUMMER: No, there's not a big
12 difference between the Chinese industry in terms of
13 how it responds to customers or the domestic industry.
14 What they have done is they've responded with a
15 product that makes us more efficient.

16 VICE CHAIRMAN ARANOFF: Okay. Mr. Epstein?

17 MR. EPSTEIN: Subject and nonsubject
18 countries solicit our business themselves and through
19 brokers, and it's not necessarily the same for the
20 domestic suppliers.

21 VICE CHAIRMAN ARANOFF: Okay.

22 Let's see. Mr. Plummer, you indicated that
23 Ashley cannot use regenerated product; that you need a
24 virgin product. The Commission has found consistently
25 the last few times we've looked at this product that

1 regenerated and virgin products are used in the same
2 end uses generally, and we've found them to be part of
3 the same like product and we've gone so far in the
4 current investigation as to collapse our pricing data
5 together into a single category that mixes virgin and
6 regenerated.

7 Why do you need to use a virgin product;
8 what is it do to your product that regenerated can't
9 do, or the other way around?

10 MR. PLUMMER: The virgin product tends to
11 not break down as quickly as what the regenerated
12 product does. The regenerated product, depending on
13 how it was made and what type of process the
14 regenerated manufacturer went through, may have re-
15 heated that product several times. Basically, what
16 they're using, ma'am, is a ground up bottle like this,
17 and that bottle may have been heated or chipped or re-
18 used several times and some of my applications they
19 actually use clothing. In my experiences you re-heat
20 that plastic several times, the product tends to break
21 down quicker.

22 The walls -- if you look at the pictures
23 I've provided you -- the walls tend to have cracks and
24 will tend to fracture very quickly when you send them
25 through several compression cycles.

1 VICE CHAIRMAN ARANOFF: Okay, well the
2 Petitioners have testified -- and I'll certainly ask
3 them to address this in a post-hearing brief as well -
4 - that it doesn't matter what raw material you go into
5 the process with, you can eventually process it to
6 come out with the same specifications. So, I guess
7 what I'm trying to understand is, no matter what raw
8 materials go into the recycling process, you're saying
9 they always are not going to come out meeting your
10 specifications for not breaking, or only certain
11 really low end or repeatedly recycled products are
12 going to cause that problem?

13 MR. PLUMMER: There's a big range in
14 products in terms of the capabilities of a given
15 supplier within the regenerated market, and there's
16 also a big difference in the capabilities of a
17 supplier within the virgin market, and in our testing
18 of those different products what we do -- and Mr.
19 Epstein's noted it in his discussions, too -- is that
20 it really comes down to the product, that particular
21 manufacturer and that particular period.

22 If we have an issue with a given product, we
23 relate that information back to the supplier and the
24 supplier runs through their data to see if anything
25 changed within the process. So from given run to

1 given run you have difference in consistencies and
2 from manufacturer to manufacturer you have different
3 capabilities in consistencies also that all impact the
4 testing and the results of that product in our
5 product.

6 VICE CHAIRMAN ARANOFF: Right. I guess what
7 I'm trying to establish is whether you really, really
8 can never use a regenerated product or that you've
9 just found a virgin product that works consistently
10 for you and you're happy with is.

11 MR. PLUMMER: What it really comes down to,
12 ma'am, is the cost of the product. If I have to use
13 more regenerated product in that application -- in
14 some applications I've had to use an additional 25
15 percent more regen -- the cost difference between that
16 regenerated product and the product as it goes into a
17 pillow is not enough for me to move my product over
18 into that regenerated product, or my demand over into
19 that regenerated product.

20 Then I also have to deal with downstream
21 post-consumer problems with those cushions breaking
22 over time. They don't cycle as well as what a virgin
23 product does, so it's really a cost implication in our
24 whole system.

25 VICE CHAIRMAN ARANOFF: Okay, I appreciate

1 all of those clarifications. That's very helpful.
2 Which leads me to the next question and one that I
3 asked the domestic producers, which is the way that we
4 have grouped our pricing products, for those of you
5 who have access to the pricing data in the record --
6 we identified a few specific products to compare --
7 how tight are those categories?
8 I don't know if Mr. Shapiro or Ms. Cramer, if you want
9 to comment on that.

10 Are we comparing apples to apples when we
11 compare Chinese and domestic product within categories
12 that mix regen and virgin, or conjugate and non-
13 conjugate into a single category?

14 MS. CRAMER: Well, I'll address many of the
15 specifics of your question in our post-hearing brief,
16 but what I will say is that what we want the
17 Commission to look at is that conjugate product and
18 even when you do collapse virgin and regen, you don't
19 see the kind of underselling that would indicate
20 injury to the conjugate market; that goes into our
21 like product argument. And I'll address the remainder
22 in the post-hearing brief.

23 VICE CHAIRMAN ARANOFF: Okay. Mr. Shapiro,
24 did you want to comment on that?

25 MR. SHAPIRO: I actually didn't find the

1 chart that quickly, but I think I noticed that it
2 didn't include something on uncoated 15 denier as a
3 separate category. So I noticed that that was absent
4 as one of the price breakdowns which is one of the
5 products that we're interested in. It just wasn't
6 there.

7 VICE CHAIRMAN ARANOFF: Okay. Did you
8 comment on our draft questionnaires and suggest
9 pricing products?

10 MR. SHAPIRO: We actually joined into the
11 investigation later than that.

12 VICE CHAIRMAN ARANOFF: Thanks. Okay, Mr.
13 Chairman, I think that wraps up my questions for now.
14 I do want to thank all of the witnesses in this
15 afternoon's panel for your answers.

16 CHAIRMAN PEARSON: Commissioner Okun.

17 COMMISSIONER OKUN: Thank you, Mr. Chairman.
18 Let's go back to you -- question for you. You talked
19 about in particular providing products to Wal-Mart --
20 you know, people are always looking for something new
21 and different; I can walk into Target and come out
22 with much more than I went in to get because I see
23 something new and different -- so I understand kind of
24 the retail side of that, or at least have seen that;
25 the one thing that puzzles me about this record is

1 sometimes in cases we'll see a market that grows very
2 quickly, where apparent consumption, demand for a
3 particular product goes way up.

4 So you have a U.S. industry that's maybe
5 producing the same old stuff and their market share
6 stays pretty flat, and you see a new entrant come in
7 and they capture all that market share, and while -- I
8 can't speak to how different people would vote -- you
9 can sometimes look at that and say, well you may have
10 imports doing something differently or servicing a
11 different market or they have come in with something,
12 and the U.S. industry isn't in that area; when I look
13 at this record I don't see that because you had
14 apparent consumption which was going up and then it
15 goes down and the Chinese, the subject imports
16 continue to capture a growing share and you see the
17 actual market share of the domestic industry go down.

18 So I don't see that fact pattern that would
19 usually for me indicate that this really is something
20 that the domestic industry just isn't going to be able
21 to produce, they just haven't changed. I don't know
22 if there's any other information you could provide to
23 help me understand where there really is the subject
24 import products serving something that the domestics
25 either just don't want to do or can't do or -- is

1 there anything else that you have -- I know you've
2 cited this e-mail which we'd be happy to see
3 afterwards -- but if there's anything else from the
4 period of investigation.

5 MR. EPSTEIN: Well, the PSF that we've
6 always been buying, that we've been making for many,
7 many years. This is a certain product, you have it in
8 the marketplace, it's sold day in, day out; a staple.
9 I use the word again, it's a standard as you would
10 know. Firm, soft, extra-firm, that type of thing,
11 density pillows, day in, day out, that kind of
12 business. And we've been doing business in that. But
13 remember we have to keep getting more efficient at it
14 because as our costs go up and everything goes up, the
15 prices we can get at the retail marketplace cannot go
16 up as quickly as our costs go up, so we have to just
17 be better at it and we do get better.

18 When you get better you have to use the
19 fiber more efficiently, you have to get more pounds
20 per hour running through your machines. So that same
21 old, same old staple you've been running for say, 20
22 years, you actually have to learn how to run it
23 better, you actually have to get your machines running
24 better, you have to increase your efficiency. We do
25 that. Add to that the newness, the creativity, the

1 new kinds of products that you have to develop to get
2 to the marketplace, to get shelf space and all that.
3 All of the newer type products have not been coming
4 from the domestic side. The newer type products have
5 been coming from subject and non-subject countries.

6 There is growth in that end of it, so as you
7 expand your offerings out at retail, you have to
8 expand the types of fiber that you buy.

9 COMMISSIONER OKUN: Okay. It's very
10 interesting to hear your testimony. If there's
11 anything that you have for post-hearing that would
12 help support that on the record, because again for me
13 the record -- the thing that I see the most is this
14 market share differential not really being explained
15 by what's on the record in terms of where that product
16 is going or where it's not going. Specifics. So if
17 there's anything more specific you could supply that
18 would be great.

19 MR. EPSTEIN: I could send pillows.

20 COMMISSIONER OKUN: I don't know if that
21 would help me. Give them to my dog, no, no. But
22 anyway, anything else specific just about your
23 products, if there's something new that was offered
24 where you asked the domestics and they couldn't supply
25 it, that for me would be helpful.

1 Then coming up to Mr. Plummer, and I'm not
2 sure if you had a chance to speak to this; if you have
3 I can look at the transcript, but one of the anecdotal
4 points that Petitioners made this morning is that with
5 respect to conjugate, the demand -- there's been this
6 argument about who's buying conjugate and who's not,
7 what the domestics can produce or not -- the fact that
8 Nan Ya had a plant that shut down but that they were
9 able to bring back on line once preliminary duties
10 were put in place would point us to evidence that if
11 you have fair pricing in the market they are going to
12 have a demand for their product.

13 I didn't know if you had a chance to -- if
14 you have any response to that.

15 MR. PLUMMER: I really can't respond in
16 terms of why Nan Ya would have brought their plant
17 back up. There's really no change in our purchases
18 and I believe they brought it back up in early July;
19 there were no real changes in our purchases during
20 that timeframe, so I can't respond to why they would
21 have brought their plant back up.

22 COMMISSIONER OKUN: Okay, well I appreciate
23 that. And with that, Mr. Chairman, I have no further
24 questions, but I do want to thank all of you for your
25 answers this afternoon. I very much appreciate it.

1 CHAIRMAN PEARSON: Commissioner Lane.

2 COMMISSIONER LANE: I have a question for
3 Mr. Costa and I first have to admit that I am not an
4 engineer, never wanted to be an engineer, and so I
5 sometimes have a hard time understanding engineering
6 concepts. So I have a question for you -- is this the
7 form that is actually put into the pipe and then it's
8 treated with heat and it becomes this?

9 MR. COSTA: The portion that you don't have
10 in your hand is the polymeric resin, that is a liquid
11 that is actually impregnated into that tube. So the
12 material on the right hand is impregnated with the
13 polymer. It becomes a tube that's full of liquid. At
14 that point it weighs four times the amount that you
15 have in your hand; five times the amount depending on
16 the thickness. We then invert it into place using one
17 of our apparatus we call an inversion unit and put it
18 into the ground. We hold it against the host pipe,
19 add pressure and heat, and then you get the ending
20 result right there.

21 COMMISSIONER LANE: Okay, so after you have
22 done this, what is the life expectancy of this in the
23 ground?

24 MR. COSTA: We engineer that material for a
25 50 year life expectancy.

1 COMMISSIONER LANE: And if in year 45 people
2 wanted to be really ahead of the game, could they do
3 this process again?

4 MR. COSTA: To reline additionally?

5 COMMISSIONER LANE: Yes.

6 MR. COSTA: Yes, you could. The only caveat
7 to that is each time you reline a pipe, you literally
8 cut some of your cross-section area out. So as long
9 as you have flow capacity you're still engineering
10 some.

11 COMMISSIONER LANE: And once the pipe has
12 broken in the ground, it's too late for this process?

13 MR. COSTA: Then it's dig and replace.

14 COMMISSIONER LANE: Now, can this be used
15 for natural gas lines also?

16 MR. COSTA: Yes.

17 COMMISSIONER LANE: Do you use it a lot for
18 natural gas?

19 MR. COSTA: No.

20 COMMISSIONER LANE: Is that because it just
21 hasn't caught on in that industry yet?

22 MR. COSTA: There's other product forms that
23 do a better job for natural gas, but in general there
24 are some other difficulties that are encountered by
25 natural gas applications that they typically replace

1 those lines at this point.

2 COMMISSIONER LANE: Okay. If you believe
3 that the Commission should analyze the particular PSF
4 product that you use as a separate life product, then
5 why didn't you file comments on the Commission's draft
6 questionnaires requesting that the Commission collect
7 separate data on the product?

8 MR. SHAPIRO: Commissioner, we answered that
9 previously. We weren't participating in the
10 investigation at that point. Insituform joined the
11 investigation at a later point than that. They
12 weren't a regular importer of this product, so this
13 all of a sudden hit them and it took a while to
14 process, what's this all about, what's this do, how do
15 we approach this.

16 COMMISSIONER LANE: Okay, I'm sorry. I must
17 have missed that answer. Can you get the data so that
18 we can do a separate injury analysis that you all are
19 proposing?

20 MR. SHAPIRO: In some ways it's fairly
21 simple, because there's one qualified U.S. producer.
22 Until recently they supplied all of Insituform's
23 needs, and they still supply the vast majority of them
24 and will continue to. As we stated in our brief, they
25 were operating for this product at what appears to be

1 a profitable level.

2 COMMISSIONER LANE: Okay, thank you. Mr.
3 Epstein for Hollander. Who do you market your pillows
4 to?

5 MR. EPSTEIN: Wal-Mart, Sears, JC Penney,
6 Target, Costco, Kohl's, Belk's; you name the store, we
7 sell to them.

8 COMMISSIONER LANE: And are your pillows the
9 same across the board to all of your customers?

10 MR. EPSTEIN: No, for the most part each
11 customer has their own cover, they have their own fill
12 weight, they have their own resiliency, they have
13 their own desired specs that they want to sell for
14 their customers. That's the way that the buyers
15 specify it.

16 COMMISSIONER LANE: Do any of your customers
17 put pressure on you as to the price and how much
18 they're willing to pay?

19 MR. EPSTEIN: I don't think I have anyone
20 that doesn't. They all do.

21 COMMISSIONER LANE: And does that drive your
22 decision on where you source your product?

23 MR. EPSTEIN: No.

24 COMMISSIONER LANE: Okay, thank you. That's
25 all I have, Mr. Chairman.

1 CHAIRMAN PEARSON: Commissioner Williamson.

2 COMMISSIONER WILLIAMSON: Thank you, Mr.
3 Chairman. I just have two brief questions for
4 Insituform. You began the conclusion of your brief by
5 stating that the data shows that the domestic industry
6 producing PSF is being injured or threatened with
7 injury by its imports of the subject PSF. You then
8 state that the situation is different for the
9 particular type of PSF that you use.

10 You're now arguing that the industry is not
11 being injured. So which is it?

12 MR. SHAPIRO: I regret that error in our
13 brief. That was a typographical error in that final
14 sentence. I think the whole brief made it clear that
15 we were arguing that the domestic industry was not
16 being injured.

17 COMMISSIONER WILLIAMSON: We were just
18 wondering. Thank you.

19 MR. SHAPIRO: Thank you.

20 COMMISSIONER WILLIAMSON: One other question
21 for you. You've pointed out that you cannot get or
22 are not happy with the situation in terms of what you
23 are getting domestically and I was wondering if you
24 could reconcile that argument with the -- in your
25 post-hearing brief -- with the data in Table 3-3 on

1 page 37 of the pre-hearing report. Thank you, that's
2 all I have.

3 CHAIRMAN PEARSON: Commissioner Pinkert.

4 COMMISSIONER PINKERT: I just want to thank
5 the panel this afternoon. Again, I have no further
6 questions at this time.

7 CHAIRMAN PEARSON: I also have no further
8 questions. Madame Vice Chairman, any further
9 questions from the dais? Do members of the staff have
10 questions for the Respondents' panel?

11 MR. VON SCHRILTZ: Yes, Mr. Chairman, I have
12 one question for Mr. Epstein. Out of curiosity, what
13 is the --

14 CHAIRMAN PEARSON: Please identify yourself.

15 MR. VON SCHRILTZ: Pardon me, Mr. Chairman.
16 Karl von Schrilzt. Mr. Epstein, out of curiosity,
17 what is the import penetration in the pillow market
18 and approximately what share of Hollander's sales
19 consists of pillows as opposed to other products?

20 MR. EPSTEIN: That's a different -- what
21 share of Hollander's sales of --

22 MR. VON SCHRILTZ: I'm sorry, let me repeat
23 the question. What is the import penetration rate of
24 the U.S. pillow market; in other words, what share of
25 the U.S. pillow market has been captured by imports of

1 pillows?

2 MR. EPSTEIN: I honestly can't tell you. I
3 can say our pillows right now of both PSF and I will
4 say natural fibers, down and feather, is 100 percent
5 domestic. In the industry, it's certainly not 100
6 percent. Decorative pillows are heavily impacted; the
7 fashionable decorative pillows that you see are very
8 heavily impacted by import products.

9 MR. VON SCHRILTZ: And what share of your
10 sales is comprised of pillows as opposed to comforters
11 and other products?

12 MR. EPSTEIN: Pillows represent about 70
13 percent of our business.

14 MR. VON SCHRILTZ: Thank you very much.
15 Staff has no further questions, Mr. Chairman.

16 CHAIRMAN PEARSON: Does Counsel for the
17 domestic industry have questions for this panel?

18 MR. ROSENTHAL: We do not.

19 CHAIRMAN PEARSON: Okay. Fine. Then, let's
20 see. Let me express my thanks to all the panels; it's
21 been for me a very interesting afternoon. I think the
22 other commissioners share that view. It's amazing
23 what one can learn in a Title VII hearing. It's been
24 a good day.

25 Let me just review the time remaining. The

1 Petitioners have five minutes left from their direct
2 presentation plus five minutes for closing, so ten
3 total, and Respondents have five minutes for closing.
4 So with that, we'll dismiss the Respondents' panel and
5 turn it back over to Petitioners.

6 Will you be using your ten minutes
7 consecutively or do you want to break it up somehow?

8 MR. ROSENTHAL: No, we'll use it
9 consecutively, please.

10 CHAIRMAN PEARSON: Okay. Mr. Rosenthal, it
11 appears that you took quite a few notes.

12 MR. ROSENTHAL: I had some help.

13 CHAIRMAN PEARSON: Please proceed.

14 MR. ROSENTHAL: I must have had a big lunch
15 because I was dozing and I woke up and I thought I was
16 watching afternoon tv and a rerun of "That's
17 Incredible." It was very difficult to reconcile
18 these statements by some of Respondents' witnesses
19 with the data in the record and the information that
20 is very clearly logical.

21 Let's start with Mr. Epstein's testimony
22 where he struggled mightily to suggest that at one
23 point price was not an issue, then ultimately I guess
24 Commissioner Aranoff wore him down where he admitted
25 that price was an issue and that if costs rise his

1 company would be uncompetitive, then in response to an
2 inquiry by Commissioner Lane he suggested that of
3 course costs don't matter; he'll buy something even at
4 a higher cost than the domestic industry. But then
5 again he's selling to Wal-Mart and Penney's and of
6 course he can't expect them to pay more in costs.

7 I can't go back to this transcript and try
8 to track the contradictions in that testimony. It is
9 truly incredible testimony. He goes on and says, gee
10 the domestic industry never solicits Hollander, yet
11 then he says Wellman's been a supplier
12 for 20 years. Then he says, gee I'd love to continue
13 buying from the domestic industry.

14 He failed to mention of course that because
15 of Hollander's low end customers, he is probably the
16 least willing to pay a reasonable price for domestic
17 industry product.

18 The e-mail he read to you -- February of
19 2007 which is outside the period of investigation --
20 was from Wellman essentially saying, you know we're
21 closing down our Johnsonville facility so we have to
22 transition our production over to the Palmetto plant.
23 We have some issues there and by the way,
24 parenthetically, you're not going to be first in line
25 for our sales because you're willing to pay the lowest

1 prices; we will transition you when we can but when
2 you're not willing to pay us a reasonable price, it's
3 hard to put you first.

4 There's so much of the testimony by the
5 other witnesses that is inherently contradictory as
6 well. Normally, my clients get very upset when I get
7 up and I contradict their customers in public. It's
8 hard to let some of these statements go, however and I
9 have to mention some of these things that we've just
10 heard earlier. We will address a lot of the other
11 contradictory statements by the Respondents in our
12 post-conference brief, because we don't have a lot of
13 time today.

14 I will tell you that while Mr. Costa tried
15 mightily at times to suggest when he referred to
16 Petitioners not supplying product that Insituform can
17 use, he did ultimately admit that his main supplier
18 was a domestic producer. It's not as if he can't get
19 the product here. He does get the product here. He
20 wants an alternative supply and it's not as if other
21 companies in the U.S. can't supply that or are
22 unwilling to. They are.

23 The same is certainly true of Ashley
24 Furniture and what is incredible about that testimony
25 was how Ashley's supposedly demanding this high

1 quality product again for their low end customer uses.
2 I don't mean to insult anybody but let's face it, they
3 are not supplying the high end of the market. What
4 ultimately was elicited as an admission was that what
5 Ashley does and what everybody else in this industry
6 does is -- look at the product they get, they want a
7 high-void product; they'll take a lower-void product
8 if the price is lower. They're looking at this as a
9 total value proposition.

10 So price is very important to them. You
11 don't think that they have used and will use product
12 that doesn't have the exact void that they have shown
13 you in that piece of paper that they passed up? Of
14 course they have, and of course they will. If they
15 could get that product at a lower price than the one
16 they're paying now, they will do it in a heartbeat.
17 Of course they will. Indeed, a couple of
18 commissioners asked, quite appropriately, if this
19 product is so much better, why aren't you willing to
20 pay more for it? Why don't you pay more for it? Why
21 don't you get a premium for it?

22 The obvious answer is that the reason why
23 they're buying that product is they can get it for
24 less. You all recognize this. The commissioners saw
25 what the purchasers had to say -- rarely do purchasers

1 willingly provide information that will drive up their
2 costs -- but in this particular case it is so obvious
3 that price is the key variable that drives the change
4 in market share. It's not all of a sudden that
5 Commissioner Okun's dog has been driving up demand for
6 pillows and that's why Hollander is doing so well.

7 Price is driving the decisions by the purchasers
8 here. A couple of other quick
9 points. What you have before you are three companies
10 who represent a small fraction of this market. You
11 are seeing, in essence, a small bump on the elephant.
12 They do not represent the total marketplace by any
13 stretch of the imagination. Certainly that's true of
14 the specialized product by Insituform. I can't
15 pronounce it, I'm sorry.

16 Commissioner Okun is the only commissioner
17 who was here for the original investigation and she
18 may recall that we had similar testimony by some
19 companies who wanted to focus on what was clearly the
20 most irrelevant arguments you could possibly imagine.
21 I shouldn't say irrelevant, but did not go to the
22 heart of the case. They wanted to focus, you may
23 recall, I said on the hole rather than the doughnut,
24 and I think I took a bite out of the doughnut, in fact
25 I know I did. I smuggled the doughnut into the room

1 here for illustrative purposes only, of course.

2 The same pattern was followed here today.
3 The Respondents had you focus on really what was not
4 the heart of the case. You really did not hear any
5 argument about the change in market share. You never
6 got a response to the question about the diversion
7 from the EU to the U.S., Commissioner Pearson. No one
8 ever provided an answer to the question why was the
9 market share shift so great if it wasn't for price?
10 You can search the record and you will not find that
11 answer.

12 When you have purchasers coming in here and
13 telling you price isn't important, I'm buying for all
14 these other reasons, yet the market share shift by the
15 Chinese goes from six percent to 22 percent in a
16 couple of years, that's all based on superior quality?
17 Has the domestic industry forgotten how to make this
18 product? Have the Koreans and the Taiwanese not been
19 able to make this product because they hadn't invested
20 in this? Of course that is a story that does not
21 withstand scrutiny.

22 And as correctly recognized by the
23 commissioners in their questioning, this whole
24 argument about focusing on the downstream industry and
25 the implications of an anti-dumping order on that is

1 irrelevant to your consideration.

2 Now, we want these companies to succeed even
3 though I don't believe they were telling you an
4 accurate story today. I want them to succeed because
5 if they're not our customers today, I want them to be
6 the industry's customers tomorrow and frankly I think
7 they can still succeed if they pay anti-dumping duties
8 or if they pay a more reasonable price. But as a
9 practical matter the statute does not allow the
10 consideration of the downstream industry's argument on
11 that score.

12 Similarly, the statute and the history of
13 the Commission; going back to the all-terrain vehicles
14 case in the mid-1980s makes it very, very clear
15 domestic industry isn't required to produce every
16 single item and a whole array of products. If the
17 domestic industry can't produce an item, as long as
18 it's not a significant part of the market, it really
19 shouldn't be relevant to your consideration. And no
20 one here has said that the domestic industry can't
21 produce the vast, vast majority of what's needed in
22 the marketplace.

23 In sum, this case is very, very clear.
24 There is one reason why the domestic industry is
25 losing money, one reason why the domestic industry is

1 shutting down plants, there's one reason why capacity
2 utilization is so bad: that reason is imports from
3 China. I urge you to make an affirmative
4 determination in this case. That's what the record
5 demands, that's what justice demands.

6 Thank you.

7 CHAIRMAN PEARSON: Thank you, Mr. Rosenthal.
8 Mr. Shapiro, am I correct to understand that you will
9 be doing the closing for Respondents? While you're
10 coming forward, I would just mention that I'm advised
11 that the APO release that I had mentioned earlier
12 regarding the critical circumstances determination is
13 now available in dockets.

14 MR. SHAPIRO: Would it be okay if we sort of
15 tagged this closing?

16 CHAIRMAN PEARSON: Absolutely.

17 MR. SHAPIRO: Thank you very much.

18 MS. CRAMER: Again, thank you for the
19 opportunity for Ashley to appear here today on the
20 issues of critical circumstances and conjugates. What
21 we think is notable here is that we didn't hear
22 anything from the Petitioners to dispute the fact that
23 Ashley's purchases from Far Eastern are wholly
24 unrelated to anti-dumping duties and are instead
25 related to a calculated effort by Ashley to get the

1 high-void fiber that it needs from any source that it
2 could find, and that source was Far Eastern.

3 We welcome the opportunity to address the
4 Commerce Department data that Commissioner Pearson has
5 indicated is available and we think what that data
6 will show, regardless of what the import data show, is
7 that the inventory data do not support an affirmative
8 finding.

9 Also shown here today was that the quality
10 of the subject and non-subject imports of conjugate
11 have not been met by domestic sources. They say a
12 picture is worth a thousand words and that picture we
13 want to focus you on and that shows the difference
14 between what you can get here in the States and what
15 you can get abroad.

16 Finally, let me respond to something that
17 Petitioners keep harping on regarding Ashley. They
18 say Ashley is a low quality producer. Well, no,
19 Ashley is a high value producer and high
20 value/affordable furniture is not the same as low
21 quality and to provide a high value Ashley needs the
22 most efficient raw materials they can get, and that
23 comes from the high-void product that they get from
24 China and other non-subject countries.

25 MR. SHAPIRO: In an overall setting, it's

1 interesting to me that this is a case about injury and
2 the domestic industry did not discuss profit, because
3 the record shows a negative gross profit early in the
4 investigation to a positive profit later in the
5 investigation. They harp on costs, that they had
6 increasing costs, but during the increasing costs they
7 received a radical change in gross profit. So, it's
8 really a complaint that they are losing market share.
9 The question then has to be, why?

10 They're doing better and they're losing
11 market share. And the answer came from the
12 Respondents who showed there are various products that
13 the domestic industry just isn't able to produce. And
14 these are the newly developed polyester staple
15 products that are serving the industry going forward.

16 They are the conjugates, they are the fiber
17 that Insituform needs to build out these tubes. And
18 the domestic industry isn't able to do it. The
19 domestic industry isn't able to get there. They are
20 being injured by virtue of imports. They are being
21 injured by virtue of their own inability to invest and
22 to go after these new types of markets.

23 They like to talk about all products being
24 interchangeable. The language from the petition was
25 that all PSF is used in high-loft applications. I

1 know I said this before, but they drew a clear line,
2 and perhaps it is an argument as Commissioner Okun
3 suggested, for an exclusion from scope. But they drew
4 a line that they are interested in products that are
5 used in high-loft and the products used in these
6 fabric operations, in textile operations are not their
7 interest.

8 The Petitioners' counsel noted that
9 Insituform referred that the Petitioners here don't
10 make the product that they need, domestic industry
11 does. Insituform acknowledged that they sourced all
12 their product from one single supplier. This is a
13 vital product for their manufacturing operation. Rita
14 and Katrina said that's a dangerous thing for a
15 producer to do, so they began to source other places.
16 They couldn't find it from the domestic industry, they
17 keep trying to find it from the domestic industry, and
18 the domestic industry can't produce it so they had to
19 go abroad,

20 The interesting thing is that you're buying
21 from a sole supplier at increasing volume at a good
22 price -- that supplier can't be injured by the
23 imports. They're maintaining an increasing volume,
24 they're subject to a market that is facing growth,
25 that is facing a good price and indeed we note that

1 that supplier isn't here and wasn't a Petitioner in
2 this case. That can't be a major concern of theirs
3 for the same reason that the Petitioners note that the
4 foreign manufacturers weren't here at this hearing.

5 We thank you very much for your time; it's
6 been a long day. I think it's been fascinating, and
7 thank you very much.

8 CHAIRMAN PEARSON: Thank you, Mr. Shapiro
9 and Ms. Cramer. Fortunately it hasn't been a terribly
10 long day by the standards of Title VI, because we're
11 getting out of here before 5:00.

12 Let me go now to the closing statement.
13 Post-hearing briefs, statements responsive to
14 questions and requests of the Commission, and
15 corrections to the transcript must be filed by March
16 22, 2007. In an unusual comment, comments on
17 Congress's final determination of sales at list and
18 fair value, not to exceed five pages, are due on April
19 16. Closing of the record and final release of data
20 to parties, May 8, and final comments on May 10, 2007.

21 This hearing is now adjourned.

22 (Whereupon, at 4:53 p.m., the hearing in the
23 above-entitled matter was concluded.)

24 //

25 //

CERTIFICATION OF TRANSCRIPTION

TITLE: Certain Polyester Staple Fiber
from China

INVESTIGATION NOS.: 731-TA-1114 (Final)

HEARING DATE: March 13, 2007

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: March 13, 2007

SIGNED: LaShonne Robinson
Signature of the Contractor or the
Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

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

SIGNED: Carlos E. Gamez
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

SIGNED: Christina Chesley
Signature of Court Reporter