In the Matter of: 

CERTAIN COATED PAPER SUITABLE FOR HIGH-QUALITY PRINT GRAPHICS USING SHEET-FED PRESSES FROM CHINA AND INDONESIA 

) Investigation Nos.: 701-TA-470-471 and 731-TA-1169-1170 (Final) 

Pages: 1 through 409 
Place: Washington, D.C. 
Date: September 16, 2010
THE UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:                     )
CERTAIN COATED PAPER                 ) Investigation Nos.:
SUITABLE FOR HIGH-QUALITY            ) 701-TA-470-471 and
PRINT GRAPHICS USING                 ) 731-TA-1169-1170 (Final)
SHEET-FED PRESSES FROM               )
CHINA AND INDONESIA                  )

Thursday,                             
September 16, 2010                    
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 DEANNA
TANNER OKUN, Chairman, presiding.

APPEARANCES:

On behalf of the International Trade Commission:

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DANIEL R. PEARSON, COMMISSIONER
SHARA L. ARANOFF, COMMISSIONER
IRVING A. WILLIAMSON, COMMISSIONER
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United States Senate Appearances:

THE HONORABLE JOHN D. ROCKEFELLER IV, United States Senator, West Virginia
THE HONORABLE HERB KOHL, United States Senator, Wisconsin
THE HONORABLE RUSSELL D. FEINGOLD, United States Senator, Wisconsin
THE HONORABLE OLYMPIA J. SNOWE, United States Senator, Maine
THE HONORABLE SUSAN M. COLLINS, United States Senator, Maine
THE HONORABLE DEBBIE STABENOW, United States Senator, Michigan
THE HONORABLE AMY KLOBUCHAR, United States Senator, Minnesota
THE HONORABLE SHERROD BROWN, United States Senator, Ohio
THE HONORABLE AL FRANKEN, United States Senator, Minnesota

U.S. House of Representatives Appearances:

THE HONORABLE JAMES L. OBERSTAR, U.S. Representative, 8th District, Minnesota
THE HONORABLE THOMAS E. PETRI, U.S. Representative, 6th District, Wisconsin
THE HONORABLE ROSCOE G. BARTLETT, U.S. Representative, 6th District, Maryland
THE HONORABLE BART STUPAK, U.S. Representative, 1st District, Michigan

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THE HONORABLE ED WHITFIELD, U.S. Representative, 2nd District, Kentucky
THE HONORABLE MIKE ROSS, U.S. Representative, 4th District, Arkansas
THE HONORABLE MICHAEL H. MICHAUD, U.S. Representative, 2nd District, Maine
THE HONORABLE MICHAEL H. TURNER, U.S. Representative, Ohio
THE HONORABLE STEVE L. KAGEN, U.S. Representative, 8th District, Wisconsin
THE HONORABLE CHELLIE PINGREE, U.S. Representative, 1st District, Maine

State Government Appearance:

THE HONORABLE TED STRICKLAND, Governor of Ohio

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

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STEVEN DEVOE, General Manager, Sheet and Caliper, NewPage Corporation
MARK GARDNER, President and CEO, Sappi Fine Paper North America
JENNIFER MILLER, Executive Vice President, Strategic Marketing and Chief Sustainability Officer, Sappi Fine Paper North America
ANNE AYER, Vice President, Corporate Development and Chief Information Officer, Sappi Fine Paper North America
SANDRA VAN ERT, President and CEO, Appleton Coated LLC
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GEORGE SCHOEDINGER, Vice President, Universal Printing Company
MIKE MARCIAN, President, Corporate Press
DR. SETH KAPLAN, Principal, The Brattle Group
BONNIE B. BYERS, Trade Consultant, King & Spalding

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KEN HARRIS, Vice President of Operations and Sales, Eagle Ridge Paper
ANTHONY ATAMIMI, Sales Manager, Digital Products, Global Paper Solutions
TERRY HUNLEY, Advisor, Global Paper Solutions
MARK DRAGOOG, Vice President of Paperboard Sales, Global Paper Solutions
IAN LIFSHITZ, North American Sustainability & Public Outreach Manager, Asia Pulp & Paper

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DANIEL L. PORTER, Esquire
JAMES P. DURLING, Esquire
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PROCEEDINGS

(9:30 a.m.)

CHAIRMAN OKUN: Good morning. On behalf of the U.S. International Trade Commission, I welcome you to this hearing on Investigation Nos. 701-TA-470-471 and 731-TA-1169-1170 (Final), involving Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from China and Indonesia. The purpose of these investigations is to determine whether an industry in the United States is materially injured or threatened with material injury or the establishment of an industry in the United States is material retarded by reason of subsidized and less than fair value imports of certain coated paper suitable for high-quality print graphics using sheet-fed presses from China and Indonesia.

Schedule setting forth the presentation of this hearing, notices of investigation and transcript order forms are available at the public distribution table. All prepared testimony should be given to the Secretary. Please do not place testimony directly on the public distribution table. All witnesses must be sworn in by the Secretary before presenting testimony. I understand that parties are aware of time allocations. Any questions regarding time allocations should be directed to Heritage Reporting Corporation (202) 628-4888.
should be directed to the Secretary. I would note if there's time that because of the large number of congressional witnesses, as well as full participation by parties for both the Petitioners and the Respondents, we expect this to be a lengthy hearing.

I anticipate that we will take a break for lunch and a break for dinner, but we will set the times for those breaks later when we see how things are moving. I would note for witnesses that, again, we know it's going to be a lengthy day. If you need to leave the hearing to stretch your legs, please do so, but please be available for questions from Commissioners. Speakers are reminded not to affirm their remarks or answers to questions to business proprietary information. Please speak clearly into the microphones, state your name for the record for the benefit of our court reporter. Finally, if you'll be submitting documents that contain information you wish classified as business confidential, your request should comply with Commission Rule 201.6. I would now like to turn to Commissioner Lane to welcome some special guests from West Virginia.

COMMISSIONER LANE: Thank you, Madam Chair. I would like to welcome to the Commission's hearing today law students from the West Virginia University Heritage Reporting Corporation (202) 628-4888
College of Law and their professor, Professor Allison Peck. They are students in the international trade class, and so I would like for them to stand up so that we can give them a warm welcome.

(Applause.)

COMMISSIONER LANE: We hope that you learn a lot today. Thank you.

CHAIRMAN OKUN: Thank you, Commissioner Lane, and again, welcome to all of you. We enjoy having you here. Madam Secretary, are there any preliminary matters?

MS. ABBOTT: Madam Chairman, there are no preliminary matters.

CHAIRMAN OKUN: Very well. Will you please announce our first congressional witness.

MS. ABBOTT: Our first witness is the Honorable Olympia J. Snowe, United States Senator from Maine.

CHAIRMAN OKUN: Welcome, Senator, and good morning.

MS. SNOWE: Thank you. Thank you very much, Madam Chairman. I appreciate very much the opportunity that you've extended to me, and I want to thank the members of the Commission as well for providing me this opportunity to offer my input on the
exceptionally injurious effects of dumped and subsidized coated paper imports from China and Indonesia that we're witnessing with respect to the American coated paper industry and the thousands of jobs it supports across the United States. No one understands the stakes involved better than the mill workers in my own state of Maine, some of whom, I'm proud to say, are joining us here this morning from mills in Skowhegan and Rumford, Maine.

Their willingness to travel such long distances and to take their own time to be here demonstrates just how critical this issue is to their livelihood, as well as to the financial well-being of their families and their communities. Furthermore, I'm very proud to say as well that the entire Maine congressional delegation is here today that will deliver testimony to the Commission. I think that's a fact that speaks to the incredible significance of these proceedings to the economic future of paper production in our state. Today you've been asked to consider whether imports of dumped and subsidized coated paper from China and Indonesia have caused or threatened material injury to our domestic coated paper industry in accordance with your governing statute.
You may hear testimony from foreign producers or importers who will argue that the level of coated paper imports from China and Indonesia is fair and has little to do with mill closings or layoffs within the American paper manufacturing industry. They may point to other factors, such as rise in electronic communications or the internet, or the economic recession. However, as President John Adams once said, facts are stubborn things. So let's examine some of the evidence. In May of this year, the Department of Commerce announced preliminary determinations that the governments of China and Indonesia are providing countervailable subsidies to producers of coated paper and that imports from these two countries are being dumped in the United States at levels far below fair market value.

These foreign subsidies come in the form of preferential lending from state-owned banks, income and value added tax exemptions, and privileged rates for timber, pulp, electricity, coal, and other services. As a result, the Commerce Department founded that coated paper imports from China and Indonesia are being unfairly subsidized at rates of 20 percent and 17 percent, respectively. Furthermore, according to the Department's findings, in 2009,
imports of certain coated paper from China were estimated to be valued at $213.3 million and $46.9 million of value of imports from Indonesia.

It's bad enough that our industry has been forced to compete with dumped imports at margins of approximately 10 percent since 2001, but now the Department of Commerce has discovered that in some cases these margins have skyrocketed to more than 90 percent less than the fair market value. There can be no other reasonable explanation than the existence of unfair trade distortions which no U.S. producer could remotely be expected to overcome. Let there be no question. This dramatic increase in subsidies in dumped products since 2008 has served as an accelerant, igniting market distortions and spurring greater underutilization of capacity. This means lost wages, more mill closures and contributing to job losses of nearly 160,000 workers across the entire American paper sector.

It would defy all logic to believe it is mere coincidence that based on the ITC's prehearing staff report between 2007 and the first six months of 2009 imports from China and Indonesia jumped from 14 percent of the U.S. market to more than 20 percent of the U.S. market at a value of more than $300 million.

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Let's be clear. These imports have undersold U.S. coated paper producers and depressed the value of U.S. coated paper products by margins of 20 percent or more, as I have heard from mill operators in my state. In the State of Maine I can attest to the human toll from these inequitable trade practices.

Statewide unemployment in Maine remains above eight percent, which is slightly better than the national average, but in Oxford and Somerset Counties where Maine's impacted factories are located, that rate rises to 10.6 percent and 10.7 percent, respectively. In Maine, the paper production industry is not just a major employer with nearly 10,000 Mainers working the pulp and paper industry, there are 35 manufacturing facilities and an annual payroll of more than $1 billion. The paper production is an indispensable economic pillar of our state, as it is across America. It is the very heart and soul, and it is the lifeblood of our rural communities.

Maine is home to a large number of paper manufacturers, including the NewPage Corporation and Sappi Fine Paper North America, who are Petitioners in these investigations. NewPage's mill in Rumford currently employs approximately 980 people, down from 980 at the end of 2008. The company has informed me

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that the material injury it has suffered as a result of unfairly traded imports has forced it to lay off workers, idle several paper machines, as well as closing several operations in several states, resulting in a loss of more than 1,190 jobs in the United States.

Likewise, in response to market distortions, Sappi's Somerset mill, which is Somerset County's largest employer with 800 people on the payroll, has regrettably been compelled to reduce production at its paper machines, meaning that in 2009 Sappi saw massive curtailment at the mill equalling 70,000 to 80,000 tons in lost production and contributing to a loss of 50 jobs in Maine during that time period.

Collectively, the Petitioners in this case report that about 6,000 production workers at 20 mills operating in seven states have been materially injured by these unfair market distorting trade practices.

Now, that's over and above the already harmful effects from China's ongoing undervaluation of its currency, the Yuan, at a rate of up to 40 percent compared to U.S. dollar, according to leading economists. In fact, this is an issue that the Treasury Secretary will be addressing today. It's a practice that already places U.S. businesses at a

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severe disadvantage in competing globally. So what is
the net effect of these inequities on an America that
has the most efficient paper making industry in the
world and has ample access to raw materials? Well,
confoundingly, China, as of two years ago, has managed
to overtake the U.S. to become the world's leading and
largest producer of paper and paper products, so much
so that in 2009 it produced over 17 percent of the
world's total output. That's almost one-fifth of the
world's supply.

That begs the question how is this possible
when China has no natural competitive advantage in
paper making, when China lacks in natural resources to
propel its paper industry, given that its forest base
is among the smallest in the world and when China,
according to a recent study by the Economic Policy
Institute, spends three-fourths of its paper producing
costs just on raw materials alone, which it has to
import from countries, for example, like Brazil,
halfway across the globe. Yet with all of these
building challenges, our own Department of Commerce
reports that producers in China still sell the
finished product in some cases at rates of over 90
percent less -- 90 percent less -- than the fair
market value.
So how does this happen? Well, it happens because of subsidies. In fact, according to the Economic Policy Institute, since 2002, China's global paper industry has been fueled by over $33 billion in cumulative government subsidies. It's undeniable the rise of China's paper industry is less related to market forces than to a decision by the country's government to implement an industrial policy that subsidizes and promotes domestic paper production. Over the years, I have witnessed our state paper manufacturers and their workers going to great lengths working mightily to improve their competitiveness. These are the types of companies that should thrive in a global economy, but they cannot if the foreign producers are playing with a proverbial stacked deck. Neither the U.S. paper industry, nor America itself can continue to countenance destabilizing forces in the global trading system that disadvantages the paper industry and its workers in Maine and throughout the country. I urge the Commission in the strongest terms possible to make a prompt affirmative determination in these investigations to rectify these egregious inequities in our trading system. Thank you, Madam Chairman, and members of the Commission.

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CHAIRMAN OKUN: Thank you for your testimony. Let me turn to my colleagues, see if there are questions. Seeing none, we want to thank you again.

MS. SNOWE: Thank you very much. I appreciate it. Thank you.

MS. ABBOTT: Our next speaker is the Honorable Herb Kohl, United States Senator, Wisconsin.

CHAIRMAN OKUN: Good morning, Senator Kohl.

MR. KOHL: Good morning. Thank you for having me here today. Madam Chairman and fellow Commissioners, I thank you very much for this opportunity to appear today on behalf of two Wisconsin paper companies in support of their case. For generations, the paper industry has supported Wisconsin's families and helped grow our middle-class. A healthy paper industry is vital to Wisconsin's economy, but they cannot compete against unfair trade practices. The importance of paper to Wisconsin cannot be understated. Wisconsin has 241 pulp and paper facilities which employ approximately 35,000 people.

Together, NewPage Corporation and Appleton Coated employs nearly 3,000 workers. Both NewPage and Appleton have mills in my state that produce paper.
that is the subject of your investigation. This case means a lot to these companies, and, in particular, to their workers, some of whom traveled here today from Wisconsin to attend the hearing. My office received hundreds of letters from employees at these companies all with similar stories. These men and women, many of them second and third generation paper workers, have been with their companies for many years. They're worried that they're going to lose their jobs, not because they aren't working hard enough, but because of unfair subsidies from countries, like China, as well as Indonesia.

These people are worried because they've seen job losses due to unfair competition for many years. Two years ago, I testified before the ITC regarding lightweight thermal paper. Unfortunately, the story then is similar to the story today. In 2008, NewPage closed down mills in Kimberly and Niagara, Wisconsin, and had to lay off about 1,000 people. Last year, Appleton Coated laid off nearly 80 people at its combined locks mill. These jobs have been lost and they have a negative ripple effect. Unemployment at a large employer is felt throughout the supply chain, as well as all the other small businesses dependent on consumer spending.

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Unless action is taken, this story of unfair competition and lost jobs here at home will continue, but that's why we have this process. We must enforce the laws on the books and discourage these unfair trade practices from happening in the future.

Wisconsin paper producers are among the most competitive in the world if they're allowed to play on a level playing field. They have invested continuously in technology upgrades and state of the art equipment. They have a dedicated sales force focused on customer service. Wisconsin paper companies are intertwined with our abundant and renewable forest resources.

I urge you to review carefully the evidence you've gathered in this investigation. When you do, I'm confident that your final determinations will find that the dumping and subsidization of the coated paper industry has resulted in material injury. We're hopeful that the lost jobs return and future job losses are stopped. Thank you again for the opportunity to participate today and for your hard work on behalf of workers all over the world. Thank you so much.

CHAIRMAN OKUN: Thank you for your testimony. Do my colleagues have questions? Thank

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you very much.

MS. ABBOTT: Our next speaker is the Honorable Russell D. Feingold, United States Senator, Wisconsin.

CHAIRMAN OKUN: Good morning, Senator Feingold.

MR. FEINGOLD: Good morning, Chairwoman Okun and members of the Commission. I certainly appreciate the opportunity to testify today on behalf of Petitioners NewPage Corporation, Appleton Coated, and their workers represented by the United Steelworkers union, which is also a co-Petitioner. The coated paper sector is a significant employer in my state, as is evident from the participation today by my other colleagues from the Wisconsin congressional delegation. It has provided thousands of families supporting jobs in several communities for a long time. The damage done to the industry by the unfair trade practices that you are reviewing has been felt throughout those communities, beyond just the affected companies.

When a paper mill closes, it affects many more than just those who work at the mills. The grocer is selling fewer groceries, the clothing store is selling fewer clothes, and the same is true of the

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electronics store, the hardware store, and businesses all around those communities. Anyone who has traveled around my state can see the breadth of the devastation that these closings have caused. NewPage Corporation and Appleton Coated combined have nearly 3,000 workers, most of them members of the United Steelworkers. Their Wisconsin mills provide good paying, family supporting jobs for their workers, as well as a significant amount of fiscal support for the vital services provided by our state and local governments.

Wisconsin is home to 241 pulp and paper facilities that employ approximately 35,000 people, and NewPage Corporation has more than 2,000 workers in its mills located in Whiting, Stevens Point, Byron and Wisconsin Rapids. Appleton Coated has 650 workers at its Combined Locks facility. I understand NewPage closed its paper mill at Kimberly and its pulp and paper mill in Niagara. Nearly 1,000 of those workers were laid off last year. Then Appleton Coated laid off 70 workers in its Combined Locks facility. Those closures rocked their communities and continue to do so. They are a direct result of the unfair trade practices you're examining in these investigations. Generations of families have worked at these jobs and

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are devastated by what is happening. Instead of these mills expanding and creating new jobs, workers look around and wonder who's going to be the next person to lose their job. The Wisconsin paper industry and its workers can compete with anyone if they're given a level playing field. They've stayed ahead of the curve when it comes to technology and efficiency. Their competitive shipping costs and shipping times, coupled with their access to an abundance of wood fiber and water resources put them in a strong position to do well against their Chinese and Indonesian competitors, if not for the unfair dumping and subsidizations. I say that because China, I'm told, must turn to Latin America for wood fiber and lacks sufficient access to water.

Wisconsin paper producers also practice good environmental stewardship and succeed in reducing their environmental impact. The three petitioning companies, NewPage, Apple Coated and Sappi, are being battered by the unfairly traded imports of coated paper from China and Indonesia. These imports adversely affected their ability to price competitively in the U.S. market. Commerce Department has found preliminarily that these two subject

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countries are both dumping and subsidizing these imports. Wisconsin paper producers and their workers are joining those in other states in providing the facts that will provide the basis for this Commission to set things straight.

The coated paper industry has experienced capacity reductions and underutilization, resulting in loss of jobs in communities all across the country. These petitions, these companies and their workers, have filed and the evidence being gathered in this final phase in these investigations will show that China and Indonesia are significant contributors to these problems. Production workers at 20 paper mills in seven states are affected. Their future and that of their families, friends and communities depends on the outcome of these investigations, so I urge you to continue to carefully weigh the information you have before you, as I'm sure you'll do, including today's testimony. When you do, I'm confident that your final determinations will find that the dumping and subsidization of the coated paper industry has resulted in material injury. So thank you so much for the opportunity to participate today.

CHAIRMAN OKUN: Thank you for your testimony. Any questions? Thank you.

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MS. ABBOTT: Our next speaker is the Honorable Susan M. Collins, United States Senator, Maine.

CHAIRMAN OKUN: Good morning, Senator.

MS. COLLINS: Good morning. Madam Chairman, members of the Commission, I so appreciate the opportunity to testify before you today about how Chinese and Indonesian subsidies are injuring the American paper industry. U.S. manufacturers and their employees can compete against the best in the world, but they cannot compete against foreign manufacturers who receive huge government subsidies and other unfair advantages. Time and time again I hear from Maine manufacturers and workers whose efforts to compete in the global economy are unsuccessful because Chinese and Indonesian manufacturers enjoy advantages from illegal pricing and subsidies.

The results of these unfair practices are lost jobs, shuttered factories and decimated communities. Since 2002, the U.S. paper sector has lost an estimated 60,000 jobs. Over the past decade, China has undergone a significant economic transformation, and today its economy is no longer controlled completely by the government. Unfortunately, as China has become a key international
economic player, it has repeatedly refused to comply
with standard international trading rules and
practices. The use of subsidies and other economic
incentives that are designed to give its producers an
unfair competitive advantage is clearly in violation
of international rules.

In 2006 and 2007, the ITC conducted an
investigation on behalf of NewPage Corporation. This
investigation focused on unfair subsidies to the
coated paper industries in China, South Korea and
Indonesia, as well as injurious dumping by those
producers in those countries. Although the Department
of Commerce's investigation had shown that these
countries were engaged in unfair dumping practices and
receiving government subsidies, the ITC at that time
determined that U.S. manufacturers had not been
injured. Unfortunately, the Chinese and Indonesians
have viewed that determination as a green light to
increase their dumped and subsidized exports to the
U.S.

Between 2007 when the determination was made
and the first half of 2009, imports of coated paper
from China increased from 13 percent to 21 percent of
the U.S. market. In Maine I would tell you we have an
abundant supply of the primary renewable resource

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timber which produces very high-quality pulp for paper production. We also have ample hydroelectric power to run our mills, and we're proud to have the best trained, highest-skilled and most dedicated paper workers in the world. I have a feeling you've heard that from the representatives of the other states as well. With this winning combination, American producers should easily succeed in this market, but instead, they've suffered losses in market shares to countries like China that don't even produce their own pulp.

The loss of market share is a direct result of China subsidizing its domestic coated paper industry. In addition to national and local income tax exemptions, the Chinese government provides low cost loans through government-owned banks, as well as outright grants for the development of new capacity, and tax breaks based on export performance and domestic equipment purchases. These subsidies have unfairly put American producers, like NewPage and Sappi, at a competitive disadvantage. The Department of Commerce found in its recent investigation that China has used a number of subsidies deemed illegal under WTO rules, including the loans to the paper industry, the income tax redemptions, exemptions and

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redemptions of local income taxes for foreign-invested companies, value added tax rebates on purchases of domestically produced equipment, tariff exemptions on imported equipment and grants to state-owned enterprises.

The Department found that the Indonesian government was subsidizing its domestic paper industry by providing timber below cost, forgiving government loans and banning the export of logs. If that were not enough, the Department of Commerce has also found both nations guilty of dumping their paper. I was disappointed that the Department of Commerce decided earlier this month not to investigate as a potential subsidy China's manipulation of its currency, which I think is another critical waste of our nation's competitiveness, but I realize that is beyond the purview of the Commission. Unfair trade practices in China and other countries have had a negative impact on many industries in Maine. The pulp and paper industry in Maine has often been called the backbone of our economy and for good reason.

Last year, the industry put nearly $900 million into the state's economy. In total, the pulp and paper industry accounts for 22 percent of all manufacturing wages in the state. It used to be much
higher, I would add. In some communities it is the paper mill that is the only big employer. It's really the engine of the community, and it can represent 60 to 80 percent of total local tax revenues for the community. When machines or mills are shut down it is devastating. In 2009, NewPage's mill in Rumford, Maine, was forced to take an extended unscheduled down time due to market conditions.

The lost wages associated with these machine shut downs hurts our communities in so many ways. According to PricewaterhouseCoopers, each paper making job in Maine creates 3.28 additional direct jobs -- direct jobs -- for suppliers and contractors. When logging transportation, retail and other fields are taken into account, each job at a Maine paper mill created six additional jobs in the community. Five Maine mills produce coated paper: NewPage's mill in Rumford, the Verso Paper mills in Bucksport and Jay, and the Sappi Fine Paper mills in Westbrook and Skowhegan. These mills are efficient, they're up-to-date, they employ sustainable forestry practices that help ensure a viable supply long-term of timber while protecting our environment.

Altogether, some 4,000 workers in Maine derive their employment from the production of coated
paper. These workers are highly-skilled with average salaries of $60,000, so these are good jobs. Some of the best jobs that we have in Maine. Nevertheless, I am deeply worried. Some of Maine's mills and paper machines have been idle for weeks or months at a time, leaving these workers without a steady paycheck, and the ripple effect throughout the community is significant. These shut downs, even if they're temporary, can cause lasting damage to communities.

Mills in the United States need to have a healthy rate of return not only to allow them to stay in business, but also to be able to invest in upgrades and the latest production technologies.

In a capital intensive industry, like the paper industry, continued investment is critical. These workers and their communities rely on the economic benefits of these mills. Given these circumstances, I respectfully urge the Commission to consider the record carefully, as I know you will do, as I believe that clear violations of the international trading rules and practices exist. If these violations are not remedies, Maine's proud tradition of producing pulp and paper could be lost forever to foreign manufacturers who have benefitted from unfair government subsidies and assistance. All

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we're asking is for a level playing field. Thank you very much for the opportunity to appear before you today, and thank you for the seriousness with which you take on your considerable responsibilities. Thank you.

CHAIRMAN OKUN: Thank you for your testimony. Any questions for the Senator? Thank you.

MS. COLLINS: Thanks.

MS. ABBOTT: Our next speaker is the Honorable Ted Strickland, Governor of Ohio.

CHAIRMAN OKUN: Good morning, Governor.

MR. STRICKLAND: Good morning. It's good to be back, Chairman Okun, and members of the Commission. I appreciate the opportunity to appear before you today. I've come to Washington to add my voice to those who sought a remedy from the injury to the U.S. coated paper manufacturers being inflicted by dumped and unfairly subsidized imports from China and Indonesia. The issue here is basic economics, but what's at stake is beyond that. You know, we teach our children in Ohio and across this great country that working hard and making a quality product will be rewarded, and yet, the lives and the livelihoods of hard working Ohioans are threatened by a huge system that rewards product subsidies over product substance.
Some people think that we can't make things in America anymore, but we know that's not true. Manufacturing is just not some figment of our past, it's a foundation for our future. In fact, Ohio is third among the 50 states in manufacturing job growth this past year, and we're proud of that. But there are sectors within our manufacturing base that are being left behind, sacrificed to overseas competitors that employ aggressive, unfair production and sales tactics that depend upon government subsidies and that dump products into the U.S. market at artificially low prices. In fact, I would respectfully argue that a significant portion of manufacturing job losses that we've seen come at the hands of anticompetitive trading practices from overseas.

Ohio is home to over 26,000 jobs in the pulp and paper industry. NewPage is a Petitioner in this case. They are headquartered in Miamisburg, Ohio. SMART Papers has both its headquarters and its production facility in Hamilton, Ohio. NewPage has about 350 employees in Ohio, and SMART has about 250 employees. NewPage is the largest producer of coated paper in the United States. SMART produces premium coated and uncoated papers with a broad range of applications in the graphic art, label and packaging industries.
and specialty converting markets. No company can make new investments in its technology, assemble a skilled workforce and maintain an unwavering commitment to the pursuit of market opportunities while sustaining the types of losses being dealt to the coated paper industry in today's marketplace.

Given this, we in Ohio are concerned because absent direct efforts by the federal government to put a halt to artificially low priced and subsidized imports of coated paper, Ohio companies will not have a fair chance to compete. We can ill afford to wait and see what further damage would come if we leave our paper producers to fend for themselves against illegal competition. In Ohio, we surely cannot afford business contraction and job losses, and our paper sector should not be asked to bear the burden of a biased system. On behalf of the State of Ohio, I respectfully urge the Commission to uphold the dumping and illegal subsidy findings issued last week by the Commerce Department because paper is a strong and great industry in Ohio that has thrived here for generations. If NewPage, SMART Papers and the rest of the domestic industry are to survive, we must give these companies, their workers and the communities which rely upon them a fair chance. The companies

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have done their part. They have reinvested in their workers and mills in order to stay competitive. Now we must do our part as a government. I ask that the Commission reinstate balance to the marketplace to give American companies every reasonable chance to succeed. Today, I ask that you consider the compelling facts in this case, as well as the tremendous cost to the nation of inaction. I hope that the Commission will make a resounding affirmative decision in the final stage of this important investigation, and I thank you for giving me the privilege of appearing before you this morning.

CHAIRMAN OKUN: Thank you for your testimony. Any questions for the Governor? Thank you very much.

MR. STRICKLAND: Thank you.

MS. ABBOTT: The next speaker is the Honorable Bart Stupak, United States Representative, 1st District, Michigan.

CHAIRMAN OKUN: Good morning, Congressman Stupak.

MR. STUPAK: Good morning, thank you for having me here. In my 18 years I think it's been five or six times I've appeared here. That's because I represent northern Michigan and we in northern

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Michigan rely heavily on our natural resources for economic vitality. And this petition here which I'm pleased to support follows up really on a previous petition we had in 2008 with the coated paper industry.

In 2008 the Department of Commerce had actually put tariffs or a finding there should be tariffs for China for unfair dumping in the coated paper industry, I and others testified in support. It's my understanding after the hearing in 2008 the ITC ruled that, it's my understanding, well yes there was a violation, there was dumping, but the impact on the U.S. economy wasn't that great and therefore no tariffs or anything were put forward. And thus you see we're back here again because China and others have continued to dump illegally in our country.

2008 I testified because Niagara, Wisconsin, which is a border to Michigan, we lost 340 workers. The more that move from the 340 workers we lost our communities. In my district these are one-mill towns. 340 workers, half from Michigan half from Wisconsin, which made up the Niagara mill, in the communities they lost their identity, they lost their school system. They've lost so much that you can't replace.

So while we look at the economic impact,
let's also look at the impact to our small towns and communities. So here we are now two years later, and I'm from Michigan where our unemployment is over 14 percent, highest in the nation. And now we're being threatened, NewPage and Escanaba which has 1,100 employees. Escanaba's been a paper mill town for many years. So are we once again seeing a decision, which I pray it won't happen, that the ITC somehow finds that, well it may be a violation but doesn't have enough of an impact upon our economy and therefore we can ignore the illegal practices of China and others?

So what it does for all of us who are policy makers who've appeared here so far this morning, it's hard for us to go back and say we have to have trade, there has to be freight freezes, fair trade. Because when you lose one worker or 340 at Niagara or 1,100 at Escanaba, you not only lose these workers and put them out of business, you kill small communities in districts like mine. So I ask that you take a look at this petition, uphold the Department of Commerce ruling because these workers and these communities have so much at stake.

And for myself as a policy maker we always say everyone's going to play by the same rules, we'll
have fair trade. But whether it's one job, a thousand jobs, or a million jobs, a violation's a violation. I think you have to uphold this petition to uphold the integrity of the trade laws, uphold the integrity of the American worker, uphold the integrity of our communities that we all represent.

So I ask you to take a close look at this petition, uphold the findings of the Department of Commerce, and restore integrity back to the trade laws which, where I stand and where I go home every weekend, more and more people complain all the time that the laws aren't there to help us anymore and they are just for economic advantages. And in this setting and this global economy one country can't have an advantage over another. It's more than just countries, it's one worker with an advantage over another worker, small town in China having advantage over us here in the United States. So I ask that you uphold the Department of Commerce ruling, and again thank you for having me here today.

CHAIRMAN OKUN: Thank you for your testimony this morning. Any questions?

(No response.)

CHAIRMAN OKUN: Thank you.

MR. STUPAK: Thank you.
MS. ABBOTT: Our next speaker is the Honorable Michael H. Michaud, United States Representative, 2nd District, Maine.

CHAIRMAN OKUN: Good morning and welcome.

MR. MICHAUD: Good morning. I would like to thank you, Chairwoman Okun and all of the members of the Commission, for allowing me to testify before you today on these very important antidumping and countervailing cases on certain coated paper from China and Indonesia. I also want to thank you for your work on this and other trade enforcement issues, which is critical to ensuring that our workers and companies compete on a level playing field in this area as well as other areas.

As you may know, I worked in a paper mill in East Millinocket, Maine, for nearly 30 years, and watched my hometown decline when the paper mill shut down the same year I was sworn in as a Member of Congress. Once the paper mill shut down, the town didn't know if it would have enough money to keep the school running and the senior class didn't know if it would be able to graduate or not because the mill accounted for over 80 percent of East Millinocket's tax base.

All of this goes to show that the economic

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The impact of these subsidies are real, especially in small communities such as East Millinocket, which has faced over a 32 percent unemployment rate after the mill closed. And while the good people of the Katahdin Region are hardworking and are resilient as ever, no one can deny that the community was changed for the worse when the mill shut its doors. But my hometown is not the only one that has suffered from this fate, which is why we are all here today.

The impact of Chinese and Indonesian coated paper imports on American producers has been significant. Some estimate that 6,000 production workers represented by the United Steel Workers Union at 20 paper mills operating in seven states are affected. Our companies simply cannot compete against the Chinese and Indonesia subsidies. These subsidies are not only unfair but also illegal, and they disadvantage our American businesses and put our fellow citizens out of work.

In fact, the last two years trade adjustment assistance has been given to laid off Maine workers from both Sappi Fine and NewPage as a result of increased foreign imports. That is why I'm pleased that the preliminary decision in this case has indicated that there has been material injury to the

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U.S. coated paper industry. And I strongly support the findings that the China wide dumping margin is 135 percent and subsidies rates range as high as nearly 13 percent.

This preliminary decision underscores just how much China's high levels of dumping and enormous subsidies harm our industry. And to the paper mill employees in Maine and around the country there is much needed relief. In 2008 China surpassed the United States and became a new leading global producer of paper and paper products, all because of their subsidies. This unfair trade advantage has come at the risk of our own industry and we must respond.

I urge you to continue your efforts to evaluate the negative effects of China's and Indonesia's subsidies on our U.S. paper industry and ensure that our manufacturers and our workers are able to compete on a level playing field in the global economy. I also would be remiss if I did not point out in Washington there's been a lot of partisan arguments going on.

As you will see that you have the entire Maine delegation, Republicans and Democrats, House and Senate here today to encourage you to look at what's happening with China and Indonesia and the subsidies...
that they're receiving. So I want to thank you for allowing me to participate in today's proceeding, look forward to your outcome of this hearing today, so thank you very much.

CHAIRMAN OKUN: Thank you for your testimony. Any questions?

(No response.)

CHAIRMAN OKUN: Thank you.

MR. MICHAUD: Thank you.

MS. ABBOTT: Our next speaker is the Honorable Shelley Pingree, United States Representative, 1st District, Maine.

CHAIRMAN OKUN: Good morning, welcome.

MS. PINGREE: Good morning, thank you very much. Madam Chairman, Commissioners, thank you for allowing me the opportunity to speak on behalf of NewPage Corporation, Sappi Fine Paper, and their workers in Maine and across the country today. As I think you can see, I'm the fourth member of the Maine delegation, that means all of us as Congressman Michaud said, Republicans and Democrats, House and Senate, have been before you today and we're very pleased to be here.

I too am deeply concerned about the subsidized and dumped imports of coated paper from Heritage Reporting Corporation.
China and Indonesia. In recent years coated paper mills in my state have been forced to slow down production and lay off many of their employees. As you can imagine this has a serious effect on the communities around the mill. As you may know, Maine has always been a leader in the manufacturing of paper products. We need to keep these high quality good paying manufacturing jobs in Maine. There simply are no replacements for Maine's paper industry jobs.

Keeping and creating good jobs across the state is the number one issue I hear about wherever I travel in Maine. But Maine is looking at an 8 percent unemployment rate, the worst in years. From December 2007 to December 2009 Maine lost a staggering 6,000 manufacturing jobs. That would be like the largest employer in my state, Bath Iron Works, just packing up and leaving the state completely.

When it comes down to it, coated paper companies such as Sappi and NewPage can choose to be anywhere, but they choose Maine. We have the history, the infrastructure, the natural resources, and are close to North American customers. But without a level playing field that is not always enough. Take a look at China. Chinese producers do not have the natural resources or the proximity to the U.S. market,
but what they do have is the ability to dump into the
U.S. market and a government who provides them with
significant and distorted subsidies, causing severe
material injury to U.S. producers.

The move by Chinese coated paper producers
into the U.S. market clearly was not the result of a
market based decision making process. The surge that
took place a couple of years ago in low priced coated
paper imports from China and Indonesia caused U.S.
prices to bottom out at a time when the economic
recession softened demand, and yet the imports
continued to flow.

In addition fuel costs became prohibitively
expensive. Asia is a long way away to ship in order
to sell products for well below the prevailing market
price, especially since the major raw materials have
to be shipped from elsewhere to get to the paper mills
in China. To me this looks more like a government
industrial policy than individual market forces. I am
a long time supporter of Maine's coated paper industry
and the dedicated men and women who work so hard to
create the kind of high quality products that Maine is
known for.

Not only am I proud of Maine's paper making
tradition, which has been around for over 100 years, I
am also proud of its sustainable forest practices ensuring that these resources will be around for generations to come. The industry should not be asked to continue to compete on the unlevel playing field that China has constructed through heavy subsidization of domestic production.

This is important work that you have before you and I urge the Commission to examine the facts carefully. An affirmative determination by the Commission in these investigations will ensure that this important sector of the U.S. coated paper industry has the ability to compete now and in the future. I thank the Commission for giving me the opportunity to appear today in support of Maine coated paper industry and its workers.

CHAIRMAN OKUN: Thank you for your testimony. Any questions?

(No response.)

CHAIRMAN OKUN: Thank you.

MS. PINGREE: Thank you very much.

MS. ABBOTT: Our next speaker is the Honorable Thomas E. Petri, United States Representative, 6th District, Wisconsin.

CHAIRMAN OKUN: Good morning and welcome.

Just hit the button.
MR. PETRI: Good, good morning.

CHAIRMAN OKUN: Good morning.

MR. PETRI: Thank you again for having this important session and giving me the opportunity to testify at it. It's a pleasure to speak on behalf of Wisconsin's paper mill workers and their employees at Appleton Coated and NewPage Corporation. As I'm sure you've heard from some of the others who have or will testify, paper making has a long history in our state and the industry is an important component of our manufacturing environment.

For those of us in Wisconsin, numbers are not necessary to explain paper making's central role in our economy. Paper mills, pulp mills, lumber trucks, expansive forests are so visible that we learn early that paper is being made nearby and that many of our friends and neighbors are employed in the industry. Numbers, however, can help in painting the picture for those who are not entirely familiar with our section of our nation.

Recent study published by the alliance for American manufacturing citing Census Bureau data on employment in the paper industry showed Wisconsin as the nation's leader in paper industry jobs with approximately 8 percent of the national paper and

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paper product workforce. By Congressional Districts, the 6th of Wisconsin which I represent was second in terms of paper industry employment, behind only our neighbors in the 8th Congressional District in northeast Wisconsin.

Well as you know today's hearing concerns the importation of coated paper from China and from Indonesia. The Department of Commerce has already announced a preliminary finding of subsidization and issued a preliminary determination that coated paper from these countries has been dumped in the United States. You will determine whether the domestic coated paper industry, both employees and employers, have been harmed by this dumping, and I urge you to do so.

I believe that the pattern of subsidization and dumping found by the Department of Commerce has had a significant and negative impact on paper industry employment. For the past decade paper employment has been falling nationwide. According to the Bureau of Labor Statistics, as recently as November 20th the industry employed more than 600,000 workers. By October 2009, nine years later, paper sector jobs had fallen below 400,000. Where did they go?

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Well an example was provided in 2008 when NewPage in Kaukauna in Kimberly in my district was closed, putting more than 500 experienced paper makers out of work. Unaddressed dumped paper from China was an important factor in the decision to close that mill. For more than a century Kimberly's mill stood at the heart of the community's economy. In a town where the high school athletics teams are called the Papermakers, the mill was central to its culture as well.

The Kimberly mill was a modern, state-of-the-art facility with a dedicated and experienced workforce. The mill offered quality products and was competitive in the coated paper market. No mill, however, can compete successfully against subsidized producers, and Kimberly's mill was shut down a casualty of unfair trade and unenforced trade laws. The paper industry faces many challenges including a decline in demand for the high quality coated paper that's the subject of today's hearing.

This decline, however, should not be allowed to divert attention from a deliberate and persistent policy of subsidizing the production of coated paper for export to the United States by China and by Indonesia. Rather, shrinking demand should be
considered in concert with these subsidies because as
the market gets smaller it should be fair competition
that determines the winner. Today we have an
opportunity to take a step towards such fair
competition.

I've generally supported keeping our markets
open in a phase for new overseas opportunities for
American companies to create confidence that our
companies and our workers can compete with the best in
the world. However, we cannot be foolish enough to
think that pursuing fair and free trade is enough to
make it happen. It's imperative that our laws
prohibiting dumping be enforced and safeguards be put
in place to defend those in harm's way.

So in closing I'd urge you to consider
carefully the testimony given today and to study the
record developed by these proceedings. Having taken
these steps I believe you will conclude that the
subsidization and dumping of coated paper that have
been substantiated by the Department of Commerce
cannot help but bring material harm to the domestic
coated paper industry in Wisconsin and throughout the
United States. Thank you for letting me appear before
you today.

CHAIRMAN OKUN: Thank you for your
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testimony. Do colleagues have any questions?

(No response.)

CHAIRMAN OKUN: Thank you.

MS. ABBOTT: Our next speaker is the Honorable Michael R. Turner, United States Representative, 3rd District, Ohio.

CHAIRMAN OKUN: Good morning and welcome.

MR. TURNER: Good morning. Good morning, Chairman Okun and members of the Commission. I appreciate the opportunity to testify before the Commission today regarding the important investigation concerning the imports of coated paper from Indonesia and China. Madam Chairman, in 2008 I testified before the ITC on behalf of paper producers in my Congressional District. Ohio and paper manufacturers are closely linked, as well as labor organizations which represent the paper producing workforce in Ohio. NewPage Corporation is headquartered in Miamisburg, Ohio, employs 350 workers at this facility. And SMART Paper is located in Hamilton, Ohio, right outside of my district, produces coated paper, and employs about 220 workers. Additionally, Appleton Papers has a facility in West Carrollton, Ohio, which employs approximately 500 Ohioans. A good number of coated paper employees are represented by Heritage Reporting Corporation

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United Steel Workers, a Petitioner in this action. I would like to recognize those employees of NewPage who have traveled to be here today to attend this proceeding.

NewPage is an important employer now only in my Congressional District, which is the 3rd Congressional District in Ohio, but also in the districts of my fellow Members of Congress. Last year I was able to visit NewPage's facility in my district to hear directly about the issues such as overseas competition that are negatively impacting the domestic paper industry.

Today's hearing is of extreme importance. Part of the challenge Ohio is facing with the current recession is unfair competition by foreign manufacturers. Ohio manufacturers and those throughout the United States find themselves in an uphill battle with foreign producers who are unfairly subsidizing. We need to level the playing field for domestic manufacturers and to ensure that foreign manufacturers are held accountable when they break the rules, rules that they have already agreed to abide by.

I have learned that the volume of coated paper imports from China and Indonesia grew...
significantly in the last few years. Additionally I understand that imports from these countries undersold U.S. producers' prices and that this has resulted in significant number of lost jobs and lost sales for domestic companies. In Montgomery County, Ohio, where NewPage is located, the unemployment rate is 11.5 percent, which is higher than the national average.

We cannot allow foreign manufacturers to continue to illegally undercut our manufacturers. This issue today goes straight to our ability to support and defend our economy from those who are acting unfairly. The Department of Commerce has made a preliminary determination that coated paper imports from these two countries are being dumped into the U.S. market and that the Chinese and Indonesian governments are providing significant subsidies to their coated paper producers.

It is imperative that the ITC also make a final determination that both the dumping and the illegal subsidies cause material harm to the United States industry and that the Department of Commerce apply duties accordingly. This determination will help eliminate the unfair advantage that these practices give Chinese and Indonesian producers.

Coated paper imports from China and

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Indonesia surged as high as 40 percent in the first half of 2009 in the face of decreased demand caused by the recession. The imports flooded the U.S. market so deeply that the U.S. coated paper companies had to close facilities, curtail production, lay off workers, and put a stop to additional investment plans to add capacity and to install upgrades. Without relief, NewPage's presence as a U.S. coated paper manufacturer is in jeopardy.

Madam Chairman and members of this Commission, when the playing field is level, workforces like the ones at NewPage and SMART Paper can thrive and compete globally. We cannot allow these unfair trade practices to continue, and I urge you to make an affirmative decision in these investigations. And I thank you so much for your dedication to what is an incredibly important task.

Thank you.

CHAIRMAN OKUN: Thank you for your testimony, Congressman. Any questions?

(No response.)

CHAIRMAN OKUN: Thank you. Madam Secretary, I understand that there are no further Congressional witnesses at this time?

MS. ABBOTT: That is correct, Madam
Chairman.

CHAIRMAN OKUN: Then let's start with our opening statements.

MS. ABBOTT: Opening remarks on behalf of Petitioners will be by Terence P. Stewart of Stewart & Stewart.

CHAIRMAN OKUN: Good morning, welcome.

MR. STEWART: Good morning, Madam Chairman, Commissioners, and Commission staff. We are co-counsel with King & Spalding for the Petitioners in these investigations. The record before the Commission presents a compelling case of material injury to the domestic industry and its workers producing certain coated paper, what we will call coated sheet industry, by reason of imports from China and Indonesia.

While the period of investigation includes the recent recession, which reduced demand overall, the record before you confirms that starting in the latter part of 2008 the prices of subject imports declined precipitously. When U.S. producers responded to the price aggression by reducing prices to try and hold volume, the reduction in prices resulted in compressed margins, operating losses, and other negative effects.
Significant margin compression in such circumstances is a classic example of material injury by reason of subject imports. The record also demonstrates that when domestic producers deeply discounted the economy grade sheet to compete with the bulk of the imports, the resulting depressed pricing structure on economy sheets dragged down the prices on the higher brightness grades as well. Thus imports adversely affected the entire domestic product offering.

Since purchasers typically view the quality of subject imports as comparable to domestic product, price has been and is a critical determinant of sales. The staff report reviews that the majority of purchasers view subject imports as lower priced than domestic product. While domestic producers may be perceived as price leaders in terms of price increases, the record makes clear that subject imports were the price leaders on the down side during the period of investigation.

The pricing comparisons showed underselling by subject imports in 48 of 58 quarters with margins of underselling up to 25 percent. Moreover, there was a near unanimous view by purchasers contacted about lost sales and lost revenues that domestic producers

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lowered prices during the period of investigation to compete with subject imports. In short, you have before you a compelling record of subject imports leading prices down with consequent injury to the domestic industry.

Petitioners believe that the Commission's preliminary determination on various threshold issues, including like product, domestic industry, negligibility, and accumulation are equally supported in this final investigation based on the record before you. Subject imports have increased absolutely, relative to apparent consumption and to domestic production, while domestic producers suffered significant decreases in most factors considered by the Commission.

Price leadership on the down side by subject imports and the domestic industry's effort to maintain volume by lowering prices to compete with the subject imports provides the necessary causation. While those opposing relief have raised a seemingly endless series of alleged reasons for the problems experienced by the domestic industry during the period of investigation, in the end the issues raised are without merit and often are simply in error.

The price aggression of the dumped and

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subsidized imports from China and Indonesia are the
direct and immediate cause of the margin compression
suffered by the domestic industry. The recession
obviously reduced demand, making the industry more
vulnerable to material injury from imports during this
period. We have included as an exhibit to our
prehearing brief a report by our economist that
debunks the claim that the recession is the cause of
the margin compression suffered by the domestic
industry.

Finally, while Petitioners believe the
record on material injury is compelling, we have also
reviewed in our brief why on the facts before you
there is a threat of material injury that is both real
and imminent even with the partial withdrawal by the
subject imports from the market in interim 2010.
Accordingly the Petitioners urge the Commission to
render affirmative determination in these four
investigations, consistent with the record before you,
and provide the domestic industry and its workers the
relief they so urgently need. Thank you very much.

CHAIRMAN OKUN: Thank you.

MS. ABBOTT: Opening remarks on behalf of
Respondents will be by James P. Durling of Winston &
Strawn.

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CHAIRMAN OKUN: Good morning and welcome.

MR. DURLING: Thank you, Chairman Okun.

Good morning. My name is James Durling with the law firm of Winston & Strawn appearing today on behalf of Respondents. It will be a long time before the Commission hears from us again today, so let me offer you a few key points that we believe distinguish this case. First, subject imports have not surged. They have remained flat and then declined in 2010. This fact alone distinguishes this case from so many before the Commission.

Moreover, the domestic industry gained more than 5 percentage points of market share. Total imports fell. These volume trends explain why Petitioner's case focuses so heavily on the allegation that low priced subject imports somehow drove down prices. But that theory is just wrong. Everyone in this industry knows the truth as evidenced by the contemporaneous business communication that was provided in Petitioner's prehearing brief.

As this email from xedx to Sun Paper shows, one of the key events was the recession in late 2008 that triggered an unexpected and sharp drop in demand. The collapse in demand led to severe inventory adjustments. Many customers like xpedx simply stopped
ordering coated paper in early 2009. The other key event in 2009 relates to costs. Pulp prices declined, which combined with the collapse in demand pushed down prices.

Pulp prices declined in large part because of the Black Liquor Tax Credit. As these quotes from NewPage demonstrate, this tax credit became a direct passthrough leading to lower prices for coated paper.

This point bears repetition. The largest Petitioner in this case has told the investment community repeatedly that Black Liquor subsidies drove down market prices in 2009. And they did. Taken together these demand and supply factors explain prices over the entire period.

This slide shows indexed domestic prices for both coated sheets and coated web rolls. Both follow the same trend because both are reacting to the same economic forces, which drove prices up prior to 2009 and drove prices down during 2009. Demand changed in 2009, falling sharply. Merchant inventories dropped in 2009 as merchants worked through their inventory and reduced purchases.

Pulp costs declined and the Black Liquor Tax Credits further offset costs. Subject imports of coated sheets could not and did not drive down the
prices of web rolls, yet both sheets and web rolls saw
the same trends in 2009. Petitioner's theory of
adverse price effects simply is not supported by the
evidence. The Black Liquor Tax Credits are important
for a second reason, they dramatically changed the
financial performance of the domestic industry.

Given that NewPage admits that the Black
Liquor Credits operated as a direct offset to raw
material costs, the Commission should add the Black
Liquor Credits to the industry operating performance
when analyzing the profitability of the industry.

Adding the Black Liquor Tax Credits back to operating
income better portrays the true performance of the
industry. The weak 2009 financial results are
transformed into record breaking performance.

The strategy of lowering price to chase
volume and earn more tax credits proved quite
successful in 2009. But this business strategy had
nothing to do with subject imports. Nor is there any
threat from future imports. Markets other than the
U.S. have consistently absorbed more than 90 percent
of Chinese exports. Historically imports have been
flat, not increasing. There's no evidence to suggest
there will be any future surge in imports.

Consumption in China for all types of coated

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paper will grow dramatically. Combined with strong
growth in other Asian markets, this new consumption in
China will absorb any actual increasing capacity.
Extensive and detailed questionnaire responses from
virtually all of the Chinese exporters eliminates the
need to rely on any press speculation about capacity.
Commissioners, we ask you to consider this evidence as
you listen to the presentation by Petitioners today.
Press them on this evidence. As Senator Snowe
reminded us this morning, facts are stubborn things.
Petitioner's theory cannot survive careful scrutiny in
light of the facts that are on this records. Thank
you.

CHAIRMAN OKUN: Thank you. Madam Secretary,
I understand we have Congressional witnesses here?

MS. ABBOTT: That is correct, Madam Chairman. Our next speaker will be the Honorable Ed
Whitfield, United States Representative, 2nd District, Kentucky.

CHAIRMAN OKUN: Good morning and welcome.

MR. WHITFIELD: Well thank you very much for
giving me the opportunity to be here today. I know
you all are excited to hear from, what, fifteen
Members of Congress and the Senate, so I'm sure it's a
stimulating day for you. I'm delighted to be here,
and I certainly appreciate the opportunity to appear on behalf of my constituents and NewPage Corporation and its employees. I know that we have some of the employees here today, it's my understanding that Dale Lovett is here today, who's one of the maintenance mechanics and is also a USW member from local 680.

NewPage has, its Wickliffe mill is located in western Kentucky. The mill has 480 employees and has a total payroll of over $38 million, which is vitally important particularly at this time of our very weak economy. And Kentucky does have an unemployment rate now of over 10 percent. Not only does it provide a payroll of over $38 million but it provides $83 million in the purchase of additional resources in the region to run the mill.

I might also say that the average wage at NewPage is almost $80,000 a year, which is 91 percent higher than the average wage for the entire state of Kentucky. This as a matter of fact translates into an hourly wage of about $30 per hour. I know that you agree with me that we do have a responsibility as government officials to protect our American companies so that they do compete in an impartial environment.

It is my opinion from the evidence that I've seen and articles that I've read that China and Heritage Reporting Corporation (202) 628-4888
Indonesia are participating in unfair trade imports. We all believe in free and open markets, but predatory pricing and government subsidies tilt the playing field in favor of companies and governments that engage in these practices. China and Indonesia are both members of the WTO and have agreed to abide by the rules of that organization governing global trade.

In the case of Indonesia the government provides below market timber prices for its paper products, it has a ban on logged exports which creates an even cheaper material for coated paper products. In the case of China, the Chinese government has provided subsidized loans to build its plants and it's my understanding that they have four new coated paper mills coming online within the next year or two with a total capacity of between 2 and 3 million tons per year.

Chinese producers also receive extraordinarily liberal income tax breaks, and they do not pay import duties or VAT taxes when they import their capital equipment. These subsidies give them a tremendous advantage, an unfair advantage over their American counterparts, and that, it's my understanding, is totally impermissible under the WTO rules.

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I hope that you all will consider closely all of the data that you've collected on this important subject, this investigation. We appreciate the tremendous job that you do and the responsibility that you have, and I hope that you will protect U.S. coated paper producers and make sure that they do not continue to be hurt by unfair trade practices of China and Indonesia. Thank you very much.

CHAIRMAN OKUN: And thank you for your testimony. Any questions?

(No response.)

CHAIRMAN OKUN: Thank you.

MR. WHITFIELD: Thank you.

MS. ABBOTT: The next speaker is the Honorable Roscoe G. Bartlett, United States Representative, 6th District, Maryland.

CHAIRMAN OKUN: Good morning and welcome.

MR. BARTLETT: Good morning. Madam Chairman, members of the Commission, thank you for your invitation to testify at today's very important hearing regarding China and Indonesia's price dumping into the coated paper market. I am honored to represent the 6th District of Maryland, which has been the home of NewPage Corporation's Luke Mill since 1888. The Luke Mill is located in Allegany and

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Garrett Counties and is the heart of the local economy dominated by the small towns of Luke and Wester Port in Maryland and Piedmont in West Virginia, as well as the small Maryland cities of Frostburg, Cumberland, and Oakland.

Most of these jobs are represented by United Steel Workers's local chapter 676 and the International Brotherhood of Electrical Workers's local chapter 1653. They have maintained a tradition of cooperation and collaboration with management. I am here not only to represent Luke Mill but also the communities that are dependent upon it. Luke Mill provides good jobs which support a great number of families in my district.

In fact the average income for workers at Luke Mill is about $61,000, which is 62 percent higher than the average income elsewhere in the area. These jobs help fund schools, public safety, and other social services. The direct economic impact from Luke Mill is $200 million a year. Further, Luke Mill represents a renewable and sustainable use of America's natural resources and committed stewardship of our beautiful mountainous environment. These values and contributions should be protected.

Right now Luke Mill employs approximately...
970 people but it is currently bracing for another round of layoffs to take place by the end of this year which will account for nearly 10 percent reduction in jobs. Luke Mill has already lost over 450 jobs in the last few years. It is our responsibility to fight to make certain that these jobs do not continue to be lost due to unfair imports from China and Indonesia.

Coated paper imports from China and Indonesia have recently skyrocketed according to the Wall Street Journal. From the beginning of 2008 to the beginning of 2009 the market share of U.S. paper consumption produced by China and Indonesia have doubled, while U.S. produced products have lost at least 15 percent of the market share. The Commission should take note of these dramatic shifts and the causes for them.

It is because Chinese and Indonesian imports are coming into the U.S. market at prices below the cost of production. That is because they are benefitting heavily from Chinese and Indonesian government subsidies. Due to these internationally condemned practices, U.S. coated paper producers have lost significant business resulting in lost income.

The domestic industry went from an operating income of $107 million in 2007 to an operating loss of
$68 million in 2009, at a time when Chinese and Indonesian imports were surging into the U.S. In 2009 NewPage's Luke Mill had to take production downtime, temporarily shut down a paper machine, and close the entire mill during various parts of the year. During these scattered shutdowns, Luke Mill's employees were required to either use vacation time or take unpaid leave.

This lost income in a small rural community has had adverse effects throughout the region. City and county governments rely on local tax revenues from small businesses and small businesses rely on a strong local economy. These most recent announcements of upcoming layoffs put western Maryland's precarious situation at even greater risk. I believe in fair trade. I do not support trade barriers because they damage the relationship between countries and reduce economic well being compared to an open trade relationship.

What China and Indonesia are doing is wrong. Robust trade brings benefits to this country and other citizens that are not just economic, they can also serve to build strong partnerships with our trading partners. In 2001 China agreed to a rules based international trading regime when it joined the World
Trade Organization. It is in the United States's best interest to keep global trade flowing. In time that trade will provide opportunities for our country. But we should always expect our trading partners to play by the rules. That is clearly not happening in this situation, and that is why I'm here today.

When another country fails to comply with the rules the U.S. must enforce the rules on behalf of American companies and American workers through the global trading system. The system must remain honest. I am very concerned that the Chinese and Indonesian governments are heavily subsidizing their products of coated paper and thus exporting these products into the United States. Without applying the remedies available under U.S. law and the WTO, the U.S. coated paper industry and communities like those around the Luke Mill face substantial and lasting harm.

Unfair trade practices should not be tolerated by the U.S. government. I am confident this Commission will take the appropriate time to consider carefully the facts in this investigation. Thank you for the opportunity to testify today on behalf of NewPage Corporation and the millers who work at the Luke Mill with whom I am entrusted to represent in the Congress. Thank you very much.

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CHAIRMAN OKUN: And thank you for your testimony. Any questions?

(No response.)

CHAIRMAN OKUN: Thank you.

MS. ABBOTT: Our next speaker is the Honorable Mike Ross, United States Representative, 4th District, Arkansas.

CHAIRMAN OKUN: Good morning and welcome.

MR. ROSS: Good morning, and thank you all for the opportunity to testify before the Commission today in support of the hardworking men and women in Arkansas's paper and wood products industry. I represent Arkansas's 4th Congressional District where the paper products industry is critical to the sustainability and growth of our economy. I know that the outcome of these investigations will greatly impact the jobs of workers in my district, many of whom are members of the United Steel Workers Union, a Petitioner in these investigations.

Last year labor and management joined together to fight against the unfair and predatory trade practices utilized by Chinese and Indonesian coated paper producers that have injured our U.S. industry and its workers. At each stage of the process both at this Commission and at the U.S.

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Department of Commerce their allegations have been confirmed and preliminary dumping and countervailing duties have been authorized. But the battle continues, and that is why I'm here today to urge that the process that has started out well ends well.

I appreciate the time and focus the Commission has given to the interest of this very important industry. The people and the communities that have had to compete against these unfair trade practices urgently need this resolved. I appear before you today to urge that you prevent our domestic coated paper industry from disappearing as a result of unfair trading practices employed by certain Chinese and Indonesian manufacturers aided and abetted by the unfair subsidies granted by their governments.

For generations manufacturing has been the backbone of our economy here in the United States. The paper industry is an important part of not only Arkansas's economy but the U.S. economy. Over the past ten years, however, we have lost more than 200,000 paper industry jobs in the United States, with many of our great assets and unique strengths. The coated paper industry has witnessed some very serious economic challenges and struggled to survive.

Increasing quantities of low priced, heavily...
subsidized imports of coated paper from China and Indonesia have eroded our domestic producers' share of their own market, causing severe injury to these companies, their workers, and the people in their communities. The same set of rules should be equally applied to China and Indonesia, not just to us here at home in America.

Instead, today U.S. manufacturers have been forced to play by a different set of rules than their competitors. The results are not only lost revenues but also lost jobs, 200,000 jobs, and a loss of economic security for American workers, their families, and their communities. I believe it would be unfair to allow our manufacturers to fall prey to the illegal pricing strategies of global competitors who refuse to compete on fair terms. I am a supporter of U.S. trade laws that will maintain the strength of the coated paper industry for workers today and protect our resources to create more of these jobs in the future.

I for one welcome U.S. manufacturing jobs because I know they provide good paying jobs. I also believe that the purpose of the trade laws is to ensure that industries such as the coated paper industry are not made extinct by a flood of dumped and

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subsidized imports. Unfair trade practices from China and Indonesia should not be tolerated. It is my hope that this Commission will review all the facts on the record and make affirmative final determinations in these investigations. Thank you for affording me the opportunity to testify before you today.

CHAIRMAN OKUN: Thank you for your testimony. Any questions?

(No response.)

CHAIRMAN OKUN: Thank you.

MS. ABBOTT: The next speaker is the Honorable Steve L. Kagen, United States Representative, 8th District, Wisconsin.

MR. KAGEN: Since I know who I am, I'll put this down.

CHAIRMAN OKUN: Good morning and welcome.

MR. KAGEN: Chairwoman, thank you for the kindness of allowing me to be with you this morning. I would ordinarily say it's good to be back with you. I can't say that today. I wish I didn't have to be here. But I certainly appreciate your taking the time and your serious consideration reviewing the case, particularly of Appleton Coated Paper. I grew up in Appleton, Wisconsin, which is the heart of what we know as Paper Valley. There's a whole chain of cities
along the Fox River where we didn't invent paper making but we took advantage of it, we developed the science and technology.

Menasha, Neenah Menasha, you heard of Kimberly, Kimberly Clark, you heard of Kleenex, you heard of Proctor and Gamble. We have 22 different paper companies from Neenah Menasha along a 25-mile stretch of the Fox River to Green Bay. We developed paper making because we had access to timber, and we had a lot of logging going on. We had access to hydroelectric power. We had the very first in the world home to be lit by hydroelectric power because we have a dropoff of 350 feet going from Appleton, my hometown, to Green Bay.

So we had cheap energy, raw materials, and the science and technology and we invested very heavily in not just developing the science and technology of paper but also in educating the workforce which over the years has become known as the premier source of paper making throughout the world.

Back in 2008 I appeared before this body to testify on behalf of Appleton, a coated paper operation owned by its employees, during investigations involving lightweight thermal paper from China.

In the case of Appleton you ruled correctly,
six to nothing, that China had illegally dumped their
products into the United States and now they're paying
a fine. I trust you will come to the same conclusion
and find that China is cheating again and stealing our
jobs, our homes and our future, by dumping their
illegal paper into our domestic markets. I am here
not to review the facts with you because you have them
before you and you've taken the time to consider all
the facts, but I'm mostly here to testify on behalf of
one of the families you see in this blowup picture
here before you.

This is Mr. Tony Swanningson along with his
wife Sherry, his teenage son Corey, and his daughter
Kayla. They're in front of their home, and they're
just like everybody else I represent. They go to
work, they like to work hard, in addition to working
hard they like to have a living wage, a wage that
allows them to educate themselves and their children
to come. But they want to stay in their own home,
that's their American dream and that's really what's
at stake.

I also submitted for the record Mr. Tony
Swanningson's handwritten letter to me. I'd like to
share it with you and with everybody else in the
audience. And it reads and I quote, "Congressman
Kagen, I've been a paper maker for eighteen years. I'm grateful for the opportunity to provide for my family that the industry has given me. In 2009 I lost my job through no fault of my own and through no fault of my company, Appleton Coated. My job was stolen because somebody broke the law, and that's not right."

"The dumping of foreign paper into the United States from companies that are subsidized by their own governments creates a marketplace that seriously threatens my family and countless other families throughout the United States. The ability to sell paper at a price that is less than the cost to produce it places our companies and families at a severe disadvantage."

"This kind of cheating hurts people like me and my family. It hurts the production workers on the floor and it hurts our managers too. I have survived four layoffs. Sometimes sales are bad and machines get shut down. I can live with that. But the illegal dumping of paper into the United States and capacity that it steals is something that my union brothers and sisters and I throughout the United States cannot survive. Signed Anthony Swanningson."

Tony's not alone, and he faces other challenges in his family with the health condition not
just of his family but also of his -- I'll just leave it at that. Since I am a physician there are certain rules I will respect with regard to HIPA. In Wisconsin we want a level playing field, because we can compete and we can win against anybody and any corporation in the world when the rules are fair and the ground is level.

We know that no corporation can defeat a government that manipulates the value of its currency, subsidizes its industries with cheap labor, has no environmental standards, no social safety nets, and offers free raw materials and energy. No company anywhere can succeed and grow the jobs that we need now when the deck is stacked against them as it is now with Appleton Coated Paper.

Simply put, China and Indonesia have cheated and won. They've stolen our jobs, and the Swanningson family that you're looking at here cannot afford to have that continue. China and Indonesia have caused real damages to real people and every area business surrounding the affected paper companies as these businesses try to survive these tough economic times. You have the numbers in your report and I'd urge you to do what is right, level the playing field and punish those who have not been playing fair.

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Appleton Coated Paper employs over 600 people and helps the nearby area to thrive. In 2009 Appleton Coated Paper laid off 63 workers at combined locks alone. Such layoffs have very lasting effects on our small tightly knit communities all throughout the Fox Valley. In 2008 you may recall that NewPage closed its mill in Kimberly and its pulp and paper mill in Niagara.

Almost 1,000 workers were laid off in these two plants. Highly skilled and experienced paper workers were forced to accept lower paying positions elsewhere, changing not only their lives and the lives of their families but the small businesses and the communities in which they had lived and grown and developed for over 100 years of paper making. When a paper mill closes, it's like a death.

I know in medicine that once the patient is gone there's no do-over, there's no coming back. Small businesses and these paper mills when they're gone is really really hard on the community. It's personal when you lose your identity and your friends that you've been working with alongside for decades and it devastates the entire community. For the first time in over 120 years the Kimberly mill is silent.

In Kimberly, if you go to high school there,
you wear a shirt, you go out to play basketball or
soccer, you're the Papermakers. Well that moniker
doesn't work anymore, that emblem doesn't work because
they're not making paper today in Kimberly. The paper
mill in Kimberly was profitable, it was the major
employer in the community and paper making jobs that
provided the necessary revenues to provide for our
school and the education of our children is gone. And
without that revenue the entire community is
suffering.

In Wisconsin we grow timber. In addition we
have some really great rivers. I'm proud to represent
more surface area in water than most any other member
in Congress. I've got Door County, I've got the Great
Lakes, I've got lakes galore. You ought to come and
visit us, stimulate our economy. I've seen your
financial reports, you're doing okay, you can afford a
vacation.

But these are some of the reasons why we've
been successful. We've got a hardworking ethic, we've
got raw materials, and we've got fresh water that we
are now cleaning up. When I grew up along the Fox
River, the color of the water and the bubbles that
would form depended upon what they were running in the
paper mill. It could be purple, could be yellow,
could be green. You couldn't catch fish. And we've changed that.

We've invested in the technology to clean our water and clean our air. We want a level playing field. We want to make sure that our values are shipped overseas, not our jobs. The facts show that Indonesian and Chinese coated paper producers are not playing by the rules, and neither are their governments. It's past time to level the playing field, and I have faith that you'll rule in favor of the Swanningson family here before you and their coworkers who wish to be able to live in their own homes and enjoy the fruits of their labor.

I'm also convinced, I'm also convinced we're going to make it in America when you decide to level the playing field and make China play by our rules, not theirs. They should adopt our values instead of taking our jobs. I thank you for your time and your serious consideration. And please never forget these faces you're looking at. They need your help now and they can't afford for you to get this case wrong.

Thank you so much.

CHAIRMAN OKUN: Thank you for your testimony.

(Pause.)

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CHAIRMAN OKUN: Madam Secretary, can you please announce our first panel?

MS. ABBOTT: Will the first panel in support of the imposition of antidumping and countervailing duty orders please come forward and be seated. Madam Chairman, all members of this panel have been sworn.

CHAIRMAN OKUN: Mr. Stewart, I think your panel is seated. You may proceed.

MR. STEWART: Thank you. We're largely here, Madam Chairman. Thank you very much. We'd like to go through an opening presentation before our witnesses. On the preliminary issues, as I mentioned in my opening the record in the final investigation supports the same decisions by the Commission that it made in the preliminary on a whole host of important threshold issues for you, and Gil is going to walk through like product and domestic industry.

MR. GILBERT KAPLAN: Let me just say briefly we agree with your decisions on like product and domestic industry. We are neutral as to the inclusion of sheeter rolls, we don't think that affects the ultimate outcome. Web rolls are not part of the domestic industry -- rather, the domestic like product. You made the right decision on that at the preliminary, you found they serve a different market,
have different physical characteristics and different prices, and we agree with that. And on domestic industry we agree with your decisions on domestic industry and have no objection to your decisions on converters or related parties.

MR. STEWART: When you look at the major statutory criteria, all of them are met in terms of the record that you have in front of you. First, import volume increased absolutely, certainly during the recessionary period which you see in this slide, and increased relative to production and apparent consumption where imports increased 4 to 5 percentage points up to 34 percent from their base. At the same time as I reviewed there has been significant price underselling, as confirmed by the quarterly price comparisons, 48 of 58 that you have show underselling, average margin about 11 percent up to 25 percent.

And what is clear is that the domestic producers in response to that price aggression reduced their prices to compete, and that's not only the statement of the producers but that's identified by virtually every purchaser who was asked the question. Not surprisingly, domestic industry has seen a large - - excuse me. So that resulted in margin compression, as you can see in 2009 with a significant increase in
the COP as a percent of sales.

At the same time the domestic industry has seen virtually every factor that you look at decline, most cases very large amounts. And the industry went from net operating profits to net operating losses, from a net income to a net loss, during the period of investigation. The Commission has often reviewed in its decisions that when confronted with this type of price aggression domestic producers have two options. One is to try to hold on to their margins with the inevitable loss of market share, and the other is to lower their prices in the hope of maintaining volume. What you see in this case is the latter situation.

The record also shows that the products are highly substitutable and that in fact price is an important factor in the purchasing decision. As witnesses testified at the preliminary staff conference and as they will testify here today, the effect of the imports while concentrated in the economy grade had the effect of reducing prices across the board, and you can see that in the price series that the staff has collected in the questionnaire responses.

Finally with regard to other conditions of competition, looking at the recession, while it
obviously affected demand it doesn't detract from the material injury that was caused by the subject imports, particularly the price of the margin compression that has occurred. And the economic analysis in our prehearing brief goes through that in significant detail. Gil on that?

MR. GILBERT KAPLAN: Thank you. We believe the industry is injured by imports, as Mr. Stewart says, but we believe there is also very strong legal justification for finding threat of injury. Without going through each of the factors which obviously are in our brief and will be in our posthearing submission, we'd like to point out that heavily subsidized industry in both China and Indonesia has led to a real big buildup of capacities.

The RISI prediction of capacity increases in China are 30 percent in the near term, greatly exceeding likely demand growth. At least four major new mills are coming online in China within the next year, including APP's mill on Hainan Island, Shandong Chenming has a new mill coming on, Oji Paper and Shandong Huatai. And the capacity of these four mills is about 2.5 million metric tons, which is much larger than the entire capacity of the United States industry.
The situation in Indonesia is comparable with RISI predicting a 16 percent increase in capacity. I'd also say that the other factors regarding threat are met. There's a significant increase of subject imports in the immediate prior period. As a percent of import quantity China's share increased 47 percent and Indonesia's increased 74 percent from 2007 to 2009.

The imports are at very low prices, as we noted underselling was found in 48 of 58 instances by a margin of up to 25 percent. Both APP and Sun Paper have established sophisticated distribution networks in the United States, and in particular there is a significant degree of significant danger of market and product shifting, particularly given the E.U. case on coated paper started earlier this year. Thank you.

CHAIRMAN OKUN: Mr. Kaplan, just before we turn to industry witnesses we have a Congressional witness that we will accommodate. Good morning and welcome.

MR. OBERSTAR: Good morning, Madam Chair. Thank you for the opportunity to participate in this morning's hearings on coated paper. And I've been here so often over the years on steel and iron ore this feels like home and I greatly appreciate the
opportunity to present here. And I was just fumbling with my Blackberry to shut off the sounds, we're going to have votes in a few minutes in the House. So I heard the previous testimony and read a great deal of what has been submitted to the Commissioners on this unique issue.

In the northern part of my district, which stretches from the Canadian border to the twin cities, iron ore mining and processing and wood fiber products account for 55 percent of the gross regional product. They have been the mainstay, the backbone of our economy for over 100 years. I have traveled to China at least seven times on aviation issues, I've spoken at aviation conferences, I've traveled to see their infrastructure investments. I am immensely impressed with the extraordinary advances the Chinese economy has made.

In 1987 China had 167 miles of interstate quality freeway. Today they have 25,000 miles of interstate quality freeway, six-lane, access divided, controlled superhighways. They have invested 9 and a half percent of their gross domestic product in their infrastructure needs and in doubling the capacity of their ports from Guangzhou, Shanghai, Qingdao to smaller ports. They have modernized 35 existing
airports, they've built six new airports with 12,500-foot runways.

They're building 47 airports in the interior of the country. They're developing high-speed passenger rail. They'll be able to connect, this fall I think you'll be able to ride from Beijing to Shanghai, 820 miles, in four hours on a 220-mile-an-hour train. That's the distance from Boston to Richmond on the east coast of the United States. But what I don't appreciate about the Chinese economy is the level of subsidy that the government has put into these products that they have developed for export purposes.

We have enormous trade imbalance with China. A great deal of that is our own doing. We're buying enormous amounts from China, not shipping very much back. In fact the first seven months of last year we developed a new export product, used road machinery equipment, because our economy was in the dumps. But this practice of subsidy of the export of coated paper goes right to, strikes at the heart of the economy of the area that I represent.

I have seen this in 1982 in Japan with steel when the Bank of Japan enormously subsidized the production, processing, manufacture, and export of...
steel so that in the end the Bank of Japan was paying Japanese steel makers to export product. This Commission acted then. You've acted subsequently on South Korea, on other steel manufacturers who are subsidizing, dumping their product in the U.S. marketplace, including members of the European Union, Germany, France, and Belgium, all of which, and Spain, all of which were engaged in dumping practices in the 1980s.

What we're seeing today with China is literally taking a page out of the steel dumping practices and applying it to paper. This was bound to happen when the world economy crashed. China built up this enormous production capability, and when, principally for export but also for more than half of their production was domestic. And we just knew that this excess capacity would be flooding the world marketplace when we had an economic downturn.

And I'd just throw out a cautionary note, China last year produced 546 million tons of raw steel. The United States produced 46 million tons. China last month produced 57 million tons of raw steel, that was equal to the amount that Canada, the U.S., Mexico, South America, and the European Union together produced. That excess steel production, I
mean that production will soon become excess steel
they'll be dumping down on the world market just as
they're dumping coated paper.

Now it's not just the paper mills of Duluth
and Cloquet, my district, and I've submitted written
testimony to cover this issue, it's the logger in the
woods. That third generation, fourth generation
Maturi, Art Maturi or John Raleigh, who are logging
under sustainable forestry practices, the woods,
forests of northern Minnesota, and logging on cut
selected areas that their father and grandfather
logged previously.

I assure you that the forestry products
being used to produce paper in China are not coming
from sustainable forestry practices. It is cut, rip,
and run. I know, I've seen it. And then you add to
that the governmental subsidy, which in effect means
they're taking the revenues from products we're buying
from China, subsidizing the industry, dumping that
product in the United States to compete against our
domestic industries and our workers.

You've seen the facts, you have the
documentation, 18 to 20 percent amount of subsidy to
drop that price below world market prices. A classic
dumping case, I've seen it time and again in the steel

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sector, in iron ore, and now we're seeing it again here in paper. That's the essence of my testimony.
You have the facts, I urge you to act on a countervailing duties request and I'll be happy to answer any question you might have.

CHAIRMAN OKUN: Thank you for your testimony. See if my colleagues have any questions.

COMMISSIONER PEARSON: Congressman Oberstar, I just want to greet you again. I don't believe we've had anyone from the 8th District of Minnesota in front of us since you last were here so it's a pleasure to have you. I also would report that I recently was involved in an investigation of the walleye market in the 8th District, and I can report that the supply of walleyes was somewhat less than the demand, however the smallmouths went the other way. So I drove through Cloquet on September 5th, the breeze was from a direction that you couldn't observe that there was a paper mill there just by driving through. But it's good to have you here again, we very much appreciate it.

MR. OBERSTAR: Well the decline in the walleye population is due to the cormirinth, it's not due to subsidies of any kind, I assure you.
COMMISSIONER PEARSON: I understand.

MR. OBERSTAR: It is not due to expert fishermen like this witness before you. The walleye population was safe for fifty years, I haven't caught one.

CHAIRMAN OKUN: Thank you. Any other questions?

(No response.)

CHAIRMAN OKUN: Thank you very much.

MR. OBERSTAR: Thank you. Thank you for your service and for the duty you perform on behalf of all of our coworkers.

CHAIRMAN OKUN: Thank you.

MS. ABBOTT: If the witnesses would like to be reseated.

CHAIRMAN OKUN: You may proceed.

MR. MARTIN: Chairman Okun, Commissioners, Commission staff, good morning. I am George Martin, President and CEO of NewPage Corporation, the country's largest producer of coated sheets. I am accompanied this morning by our Senior Vice President of Sales, Barry Nelson, and our General Manager for Sheets and Caliber, Steve DeVoe. Our company has five mills that produce or have capacity to produce coated sheets located in Michigan, Maryland, Maine, Kentucky,
and Wisconsin. I am pleased to have representatives from all five of those mills in the audience today. The mills in Maryland and Wisconsin also have sheeting equipment to convert sheeter rolls into sheets.

I have worked for NewPage and its predecessor companies for 27 years, first as a research chemist, and then in the coated paper business, specifically in the company's mills. I have extensive experience in the production side of the business, having been responsible not only for the five mills that produce coated sheets but also for our other five mills that produce other paper products. Indeed, prior to becoming President and CEO earlier this year I was the Senior Vice President of Operations since 2005.

We together with Sappi, Appleton Coated, and the Steel Workers are here today because of the enormous harm that dumped and subsidized imports of certain coated paper from China and Indonesia have caused to the domestic industry. As the public prehearing staff report confirms, importers of the subject merchandise offered these products throughout the period of investigation at prices far below domestic producers' prices. In more than 80 percent of pricing comparisons, subject imports undersold.
domestic product by margins ranging up to 25 percent. As a consequence, the subject imports were successful in buying the substantial share of the market at the very time that the market experienced significant contraction due to the recession. All this has had significant consequences for NewPage. First it puts significant pressure on our pricing structure, and Barry will address that in more detail. Second, the combination of a sharp decline in demand and increasing subject imports meant that we had more capacity than we could fill.

As you know, this industry is highly capital intensive, which means we must run our mills as close to full capacity as possible to cover our fixed costs. After we acquired Stora Enso North America, it became clear that we would have to shut down at least one of our mills to take out excess capacity. Initially we shut down the number 11 paper machine in our Rumford, Maine, plant, and then number 95 machine in our mill in Kimberly, Wisconsin.

When it became apparent that we still had to take out more capacity we made the very painful decision to close the Kimberly mill entirely, resulting in the loss of hundreds of jobs. You will hear more about that from Leo Gerard. And we also

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took out significant production in 2009. I understand that counsel for APP contends that the closing of the Kimberly mill was simply part of NewPage's restructuring and it had nothing to do with subject imports. Nothing could be further from the truth.

We have every reason to keep Kimberly operating. Prior to our acquisition of Stora Enso in 2007, which included the Kimberly mill, Stora had invested tens of millions of dollars in the mill's state-of-the-art paper machines. The decision to shut down Kimberly was due directly and unmistakably to the pricing pressures from the subject imports and the loss of millions of dollars in sales and revenues. In fact the news release announcing the closures that APP included in its prebriefing hearing says so.

Our decision to close the mill is the result of a weak economy, the continued effects of low priced import products, and skyrocketing costs. A copy of the news release with the language underscored is attached to my statement. Relative to our other mills Kimberly was more costly to operate, but that was only because Kimberly did not produce its own pulp.

Consequently, when pulp prices increased the combination of high pulp prices and drastically low priced imports of certain coated paper from China and

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Indonesia made it unfeasible to price certain coated paper produced at Kimberly at the level that would now cover NewPage's production cost.

But for the pricing pressures coming from the subject imports there is no doubt in my mind that we would have kept Kimberly up and running. In 2009 as demand fell and subject imports increased further, we took out thousands of tons of production as our commercial shipments continued to decline. We also closed our sheeting facility in Chillicothe, Ohio, which meant the loss of additional jobs.

Another consequence flowing from the impact of subject imports on NewPage is that we have been unable to make the kinds of capital investments in our plants and equipment that we need to make to remain globally competitive. As our questionnaire response indicates, the rate of deprecation of our assets greatly exceeds our capital expenditure levels. That is simply not sustainable for any extended period of time.

Happily, since we've filed our petitions last September and the Department of Commerce issued its preliminary affirmative determinations last spring, imports of certain coated paper from China and Indonesia have nearly disappeared from the market. As
the public prehearing staff report shows, their combined share of the market fell by more than two thirds in the first half of 2010 compared with the same period in 2009.

And make no mistake about it, that decline is due directly to the preliminary antidumping and countervailing duties. Don't take my word for it. As Mr. Terry Hunley from Global Paper Solutions stated last March, it, speaking of the preliminary duties, "is damaging to us. We will take product and put it into different markets." The domestic industry has greatly benefit from this departure from the market. In the first six months of 2010 the industry's market share was 61 percent compared to 50.9 percent during the same period in 2009, and NewPage has seen some recovery in our prices.

However, we saw much the same thing happen in 2006 and 2007 when NewPage filed its petition on coated free-sheet. Following affirmative preliminary decisions by the Department of Commerce, imports from China and Indonesia fell off as those producers withdrew from the market. After the Commission issued its negative determination the imports came right back in. I urge you not to let that happen again. The record in this case strongly supports affirmative
determinations that grant badly needed relief to the
domestic industry from the harmful effects of dumped
and subsidized imports. Thank you.

MR. GARDNER: Good morning. Good morning,
Chairman Okun, Commissioners, and Commission staff. I
am Mark Gardner, President and CEO of Sappi Fine Paper
North America. I am accompanied this morning by
Jennifer Miller, our Executive Vice President of
Strategic Marketing and Chief Sustainability Officer,
and Anne Ayer, our Vice President of Corporate
Development and Chief Information Officer.

I have worked in the paper industry for
nearly 30 years, joining in 1981 Sappi. I have worked
in the coated paper part of the industry for nearly 25
years, both in my experiences on the production side
of the business, including paper mill manager at our
Somerset mill in Skowhegan, Maine, and managing
director of our Muskegon, Michigan, mill which we
closed in August of 2009.

Speaking on behalf of all of our employees
and our two remaining coated paper mills in Cloquet,
Minnesota, and Skowhegan, Maine, I want to thank you
for providing for this opportunity to tell you first
hand about the economic harm that the imports of
unfairly dumped and subsidized coated paper from China
and Indonesia have inflicted on Sappi over the last several years.

The most direct evidence of that harm was the fact that we were finally forced to close our mill in Muskegon, Michigan, last year. Having worked in that mill for a number of years, that decision was especially painful for me because of many friends and colleagues that lost their jobs. The Muskegon mill, largely a sheet mill, had been the pillar of the local economy on the eastern shore of Lake Michigan for more than 100 years.

Sappi purchased the mill in 1994 and we have invested over $100 million in capital over the last ten years to make that mill a state-of-the-art facility. As recently as 2005 the mill employed more than 550 workers, but imports from coated paper from China and Indonesia were taking their toll. In 2005 we were forced to cease production on one of the mill's paper machines, and as a consequence close the pulp plant.

This in turn resulted in 365 workers losing their jobs. Thereafter the mill continued to operate with one paper machine, but it struggled to compete with the low priced imports from China and Indonesia. The dramatic jump in imports in the first half of 2009...
right when demand was falling was the final death blow
for that mill. Early in 2009 we appealed to our
merchant customers for new programs that would
increase their purchase of Sappi coated paper and in
order to keep the paper mill at Muskegon open.

Regrettably, the Chinese and Indonesians
were selling cheap product to the merchant customers
or their competitors at extremely low price. At that
point it became clear we were not going to be able to
sell the Muskegon product at a sustainable margin, so
we had to make the very painful decision to close the
mill. We announced the closure of Muskegon on August
26, 2009. 190 workers, many of whom had worked for
the mill for decades, lost their jobs.

While we were able to work closely with the
union to ease the burden on these workers and their
families, including through obtaining certification
for trade adjustment assistance, the devastation the
closure has is undeniable. It is also important to
point out that the damage to Sappi from low priced
Chinese and Indonesian product goes well beyond
Muskegon. It disrupts our ability to make the kind of
investments that are needed to remain globally
competitive producer of coated paper.

Reinvestment pressures in this industry are
enormous. Paper machines require periodic rebuilds which cost tens of millions of dollars. Moreover, as noted in our questionnaire response, Sappi had given long and serious consideration to building a new paper machine for our mill in Cloquet, Minnesota. That machine would not have required any new pulping operations since we currently produce more pulp than our mill can consume. The new machine would have been supplied with our excess pulp, enabling us to produce product with much more value added than just the pulp.

We went even so far as to get the environmental assessments and permits for the project. However, the amount of capital needed for this investment could not be justified given the pricing conditions we were encountering in the market from dumped and subsidized Chinese and Indonesian coated paper. Simply put, the prices were so depressed by the imports that we had, it made little economic sense to invest even in the most advanced and efficient new paper machines.

Sappi's condition has improved since the Commerce Department imposed preliminary duties on the Chinese and Indonesian imports, leading to their retreat from the U.S. market. In May of this year we announced a price increase of $1.50 per hundred on our

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Flo folio sheets and sheeter rolls. Flo is our economy coated sheet. That increase went through and we announced another $1 increase per hundred weight earlier this week.

Our sales volume in the first half of 2010 have grown more than 30 percent higher compared to the same period in 2009, and what was an operating loss in the first half of 2009 is once again a positive operating profit with margin improvement by almost 14 percent. In closing there is no doubt in my mind that under the conditions of fair trade Sappi Paper North America will continue to compete successfully with any other producer of coated paper whether domestic or foreign.

Our customers know that we produce a high quality that fully meets the needs of the commercial sheet fed printer and businesses for which they produce annual reports, advertising brochures, direct mail and the like. Our customers also know that we manufacture our product with firm commitment to worker and consumer safety and with consistent, sound environmental practices. Ladies and gentlemen of the Commission, by making an affirmative determination in these investigations you can help ensure that we will continue to compete and flourish in a level playing

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field. Thank you.

CHAIRMAN OKUN: Thank you. And before we turn to your next industry witness we'll accommodate a Congressional witness. Madame Secretary, if you can please announce -- I believe she's going to use the podium, you don't need to move. thank you.

MS. ABBOTT: Our next speaker is the Honorable Debbie Stabenow, United States Senator from Michigan.

CHAIRMAN OKUN: Good morning and welcome to the Commission.

MS. STABENOW: Good morning. I appreciate having the opportunity to share my thoughts with you and also for your courtesy in allowing me since I will be leaving immediately to go back to a vote I appreciate the other witnesses allowing me to have an opportunity to speak as well. And, Madam Chairman I first a thank you to you for your years of service to the International Trade Commission, to all the Commissioners, appreciate the work that you do and the opportunity to be here to talk about the great state of Michigan and the fact that we have been injured by unfair trade practices as it relates to coated paper products.

Since 1901 there has been a paper mill in Heritage Reporting Corporation (202) 628-4888
the lake shore area of Muskegon, Michigan. It's a beautiful location right on the water, we welcome you to come and visit any time, connected by rail and by port to markets around the world. For over 100 years they've made paper at that plant and they did a great job. It was a bustling center of activity in west Michigan with thousands of workers producing hundreds of thousands of metric tons of paper every year.

But today the railroad is overgrown, there are no more ships coming to load up the paper. Sappi Paper Company which owned the plant was forced to close it in 2009, ending 109 years of paper making in Muskegon, Michigan. It wasn't because we couldn't keep up with the competition. According to company executives the plant achieved record productivity and safety performance in its last year of operations. But even record productivity can't keep up with unfair trade practices in countries like China and Indonesia.

Mark Evans was one of the employees who was injured by the closing of the Muskegon plant and he said, the Asian companies can sell the paper cheaply than we can make it. This is foreign competition killing the American worker again. But it's not just competition. In my judgment it's cheating. China and Indonesia are giving huge subsidies to their paper

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industries so they can dump their products in U.S. markets at artificially lower prices.

The truth is we in the United States have a significant competitive advantage over China in the production of coated paper. American paper producers have access to abundant raw materials such as virgin fiber that the Chinese don't have. In fact Chinese companies have to import their raw materials from as far away as Latin America. We have great workers. Again the plant in Muskegon was setting productivity and safety records. And our workers are highly skilled and experienced.

American paper mills pay lower shipping costs and get their products to customers faster than Chinese companies. There is no economic reason by imports of coated paper from China and Indonesia should be able to underprice American producers by such significant margins. The only explanation is the huge subsidies they receive from their government which allow them to dump into our market.

NewPage Corporation, I understand we have folks here from Escanaba, Michigan, today, another very important employer from Michigan, was also forced to close their factory in Niagara, Wisconsin, in 2008. The facility which lies right on the border between
Wisconsin and Michigan's upper peninsula employed nearly half of its workforce from Michigan. Without the mill the communities in Michigan and Wisconsin are wondering how many more losses they can take before the communities can no longer survive.

Another NewPage facility in Escanaba, Michigan, was forced to take significant downtime due to bad market conditions in 2009, affecting workforce of about 1,100 people, 1,100 families. There's always the fear that if the market conditions continue to worsen that these jobs may be lost as well. Workers in Michigan whether they're in Muskegon or Escanaba or anywhere else can compete with anyone in the world if the playing field is level.

But it's not free or fair trade when they have to compete against outright dumping of paper subsidized by the Chinese and Indonesian government. Communities in Michigan and across America are being devastated from the surge in low priced coated paper from these countries. Applying antidumping and countervailing duties is one way, important way, we can help deter this unfair and illegal behavior that is injuring Michigan workers and businesses.

I very much appreciate the opportunity to be here today. I urge you to investigate thoroughly the

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unfair trade practices that have led to the closures in Michigan and led to the Sappi facilities in Michigan being closed and NewPage being closed and so many other facilities across the country. Let me just stress again, Madam Chair, that we can compete with anybody in the world if it's fair, and that's all that we are asking for in America.

We're in a global economy where our companies now are competing with countries, and those countries better be held to fair practices and they'd better be required to follow the rules just like we do. We are in a global competition, we can meet and beat that competition but it matters what the rules are and it matters about the work that you're doing.

Thank you very much.

CHAIRMAN OKUN: Thank you for your testimony.

MS. ABBOTT: Our next speaker is the Honorable John D. Rockefeller IV, United States Senator, West Virginia.

CHAIRMAN OKUN: Good morning and welcome back, Senator.

MR. ROCKEFELLER: Thank you very very much.

It's a little, it's a tiny bit awkward because there are a number of Senators who want to speak and we have
a 12:00 vote, which I don't think presents a problem for me since I'll be speaking now but it could for later, so I should try to be brief, which I rarely am.

Madam Chairwoman and members of the Commission, I appreciate the opportunity to be here. A couple of years ago in 2009 I wrote you a letter on a similar, a very similar case, and I didn't come myself, this time I decided I had to come myself.

I think you know about my very strong feelings about the steel industry and about fair trade practices. To the members of the Commission, I think that that is not a secret, I hope it's not a secret. But I'm also deeply committed to preserving paper jobs, because paper jobs are jobs, and in our case they're a lot of jobs. In this case it's the Luke mill which employs lots and lots of people. Right across the border from, it's actually in Maryland but Maryland and West Virginia become one and the same state in an instant so a lot of our people work there.

I'm here to urge you to impose the requested antidumping and countervailing duties that orders on certain coated papers from China and Indonesia. The sustained increase in imports from these countries are as well as the price undercutting from these imports warrants I think in my judgment an affirmative

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finding. Most important this unlawful dumping has resulted in the loss of hundreds of American jobs and will result in more.

You've heard me many times before, and I apologize for that. I believe the United States International Trade Commission exists to enforce the United States's trade laws, and it seems to me that each time I testify before you I reassert this fundamental belief of mine. I mean it's not idle chit chat, I mean it's the way the government's meant to work, and certain people make the laws, other people carry out the laws if they choose to, and if they don't obviously it's a matter of concern.

I've been paying a lot of attention to international trade for a very long time, and I have to tell you that this is not just a question that's the subject at hand but it's a question I think of generally the American attitude towards trade. I've never seen it worse in Congress. Don't ever expect to get any trade agreement passed in Congress, it will not happen.

And it will not happen because Congress has suddenly changed, it's because the American people have a resolute fear that any arrangement that we make with a foreign country is going to end up costing us
jobs. They believe it deeply, they believe it at
every strata of life, and it's a daily topic of
discussion in living rooms and around dinner tables in
West Virginia and on a nationwide basis.

That has not always been true because trade
is a very obscure issue. It's a huge issue but it's
obscure issue. No longer. No longer. Now it's seen
as a threat. Too many families know too well the
rapid changes in the nature of our economy have had a
devastating impact on the manufacturing sector, which
is not to say that the changes in the economy are
responsible for what's happened here. The facts speak
for themselves here quite apart from the economy.

This fact along with China's unprecedented
economic development and its currency manipulation has
led to increased anxiety that is spreading throughout
our society, I cannot emphasize that enough. I feel
it myself. You know, can I trust trade agreements?
Can I trust -- I said in the Finance Committee, I'm
number two in the Finance Committee, we don't do that
anymore, we just don't do that, don't bring up a trade
agreement, it's not going to go anywhere. And we're
not reflecting just our own feelings but obviously
reflecting the views of our constituencies.

To me this is obviously an issue that is far
beyond the reach of the case that you are considering today, and I express that. But I raise this broader theme because part of the cure for this pervasive increase in the enforcement of effective trade laws that the American people and domestic industries can trust and count on for years to come, in other words it's only as we do, as we enforce what we have done in Congress that people begin perhaps to trust.

I don't see that happening, frankly, almost irrespective of what anybody does, because trade is now considered to be somehow a giveaway to other countries and the loss of American jobs. That's part of the psychology of when a country gets down on itself economically, but it's also backed up I think by very clear facts here. We in Congress do enact statutes from time to time regarding trade enforcement. And in my humble opinion it's up to you to give those trade laws meaning.

This case provides you with another opportunity to be part of the rebuilding of Americans faith in the fairness of the international trading system if indeed that is possible. But if it is not possible that does not change the nature of our responsibilities in Congress and your responsibilities here. The statement of where are we headed is really
irrelevant in this case. It's powerful but it's
irrelevant to the facts of this case in my judgment.

The Department of Commerce has already
preliminarily determined that dumped and subsidized
trade of certain coated paper has occurred in this
case. Now you have to ask yourselves whether or not
this unfair trade is likely to materially injure the
U.S. paper industry. Often history is our best guide.
In this case recent history has shown that unfair
trade practices for certain coated papers have had a
terrible impact on the U.S. paper industry and on
American jobs. That is fact.

In October of 2007 this Commission took up a
similar case with some of the same parties. In those
cases you determined that the U.S. paper industry
would neither be materially injured nor threatened
with material injury by imports of coated free sheet,
the fact that, that comes from China and Indonesia and
the Republic of Korea, despite the fact that the
Department of Commerce had determined that these
imports were subsidized and said so clearly and sold
at the United States at less than fair market value.

That decision plays a role in why we are
here today. And again last time I sent a letter, this
time I'm not going to do that. I wanted to be here

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myself because I feel so strongly about it.

Subsequent to that decision more paper mills have been closed and countless American jobs have been lost. I submitted testimony as I said the last time, today I have to be here because so many jobs and livelihoods are on the line.

West Virginia and the part of Maryland in which Luke is located are not wealthy, and we fight for every single job that we can. And we have to, that's our duty, it's our duty. People can't fight for themselves in this case, they have to have those in government who represent them, and that's all of us here, they have to look to us, that's their only place.

So NewPage Corporation, they have a mill as I said in Luke, Maryland, that provides over 900 jobs to citizens living in Mineral County, West Virginia. That's not Maryland, it's West Virginia, but it's all the same. We're surrounded by five different states, and so on the borders a lot of things are shared and jobs go back and forth. The region used to be home to a wide variety of manufacturing facilities because up there at least there's a lot of flat land, that's not typical of West Virginia.

But dumping has resulted in the loss of many
of the area's manufacturing companies and with that
the loss of a great many jobs, yet the Luke facility
remains for the moment a bright spot. But the unfair
trade that the Department of Commerce has found in
this case with subsidy margins of 20 percent for
China, 17 percent for Indonesia, 20, 17, and dumping
margins even larger, matter of fact, it's not
something one guesses about it's just, it's either
this or something else but it's that, pose a
tremendous threat to the long term viability of this
mill.

When I presented the testimony in 2007
NewPage had been forced to shut down one of its mills
resulting in the loss of 120 jobs. 120 jobs in West
Virginia is like 13,000 in California. I mean I have
to think that way and I hope that you will too. Just
recently NewPage announced it was eliminating 90 more
jobs at this mill. Unfortunately friends like this
with causes such as unlawful dumping are what West
Virginia people discuss around their dinner tables.

That was not the case, West Virginia is not
an international state. We have become one, but we
have become one negatively, and that's not good for
America's position in the world or in general but
that's the fact. Let me put it actually more actually

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bluntly, I think I'm the only West Virginia Senator who's ever voted for a foreign aid bill and there's never one that I've voted against. Well they say, well that's just Jay, you know, he was born in New York, what does he know?

But, you know, I believe that we have to be part of the world. People in our state don't necessarily because for the most part they accept it and they fight for their country in Afghanistan and Iraq, another subject, they don't have that requirement, they don't travel enormously, they don't have some of those instincts. So during the period of investigation of this case entire mills have been shuttered. American jobs have been lost and U.S. companies have seen their competitive edge plummet to unfair competitors overseas.

Commissioners, the end result is material injury to the U.S. paper industry and a deep sense of loss for workers, families, and the communities who are relying on these important jobs for their livelihoods. You may hear from Respondents that the problem for the U.S. producers is really the matter of the recession, not Chinese and Indonesian imports. I'm sure you'll hear that and you probably already have.

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While the recession has been a difficult time for sure for the paper sector and for all manufacturing, I believe you will see that the record before you supports the finding that imports from China and Indonesia are a determining factor in the material injury experienced by our producers and their workers and the effects on communities. In conclusion I would like to say the following. A strong country is competitive.

A strong country exports more than it imports. A strong country ensures that American jobs are not lost in cases specifically like this one. I urge you humbly to apply the laws in a manner consistent with your duties and responsibilities and as Congress intended. Congress isn't there just because it's at the top of the Hill, it does serious work.

People don't like Congress but we still do serious work. And, you know, I don't care if people don't like Congress, we do serious work. And you want to see that work culminate in a fair equitable manner for our people. I believe that if you do this you will find that providing the request of relief is what the law requires. I thank you for once again putting up with me for at least 20, 25 minutes.

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CHAIRMAN OKUN: Thank you for your testimony. Let me see if my colleagues have any questions for you. Commissioner Lane?

COMMISSIONER LANE: Senator Rockefeller, we always appreciate your coming, we always wish to see you and pay attention to what you say. And I would sort of like to note that I listened to you in 2007 and thought the industry was being injured then, and I appreciate your being here today. And I want to point out that we have a number of your constituents here in the audience, a group of students from the West Virginia University College of Law international trade class and their professor and I know it's a real treat for them to see you in action standing up for West Virginia and all of America. Thank you.

MR. ROCKEFELLER: Well thank you, ma'am, very much. And I look forward to meeting them and I thank you for the opportunity.

CHAIRMAN OKUN: Thank you. All right, we will resume our industry testimony at this point, no? I'm sorry, I'm looking at the Secretary.

MS. ABBOTT: Yes, we will resume our testimony now, thank you.

CHAIRMAN OKUN: Okay, thank you. Please proceed.

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MS. VAN ERT: Good morning, Chairman Okun and Commissioners and Commission staff. I'm Sandy Van Ert, President and CEO of Appleton Coated. I am joined here today by Greg Savage, Vice President of Commercial Sales. My predecessor as CEO John Cappy is also present. I've been with the company or its predecessor for 23 years, starting out as internal audit in 1987. I am from Wisconsin Rapids and was born into a paper making family.

Appleton Coated produces coated sheet in our mill in Combined Locks, Wisconsin. Our facility is state-of-the-art. All of our manufacturing equipment is either new or has been completely rebuilt in the past 15 years. Our mill houses three paper machines including the newest paper machine of its type in the United States. In addition we have two machine coaters and two sheeters. We have a capacity to produce 400,000 tons of coated paper per year and we have approximately 650 employees.

Over the past 15 to 20 years we've invested over $500 million in our mill. Although we are not the biggest producer in the United States ours is a very lean, flexible, and efficient operation with a focus on high quality paper and excellent customer service. Imports from China and Indonesia have had a
devastating effect on the coated paper market in the United States. Unless offsetting duties are imposed the health of our industry and Appleton Coated are in jeopardy.

Coated sheet historically has been produced and sold in different grades. The higher the brightness level of the sheet the higher the grade and the higher the price. The primary focus of our business is on the higher end number 1 and number 2 sheets, although we also produce an economy grade called Altima. Starting in the last half of 2008 we started to observe a big push of Indonesian and Chinese imports into the market that were being sold at prices that were 15 to 20 percent below our prevailing market prices.

Then in the first two quarters of 2009 imports from these countries really began to flood the market. The immediate effect was a downward pressure on pricing for the number 3 sheets, which fell about $200 per ton between the second quarter of 2008 and the second quarter of 2009. The deterioration in the price for the number 3 sheets resulted in a widening price spread between the number 3 sheet and the number 1 and number 2 sheet.

Within a calendar quarter or two we began to

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see price deterioration from the number 1 and number 2
grades as well, in the range of $150 to $200 per ton
for both text and cover product. Thus although the
imports were focused on an economy grade product, the
impact soon translated into lower prices for the
higher grades as customers began to demand a
realignment of pricing between the grades.

The impact of these price declines
negatively affected both our revenue and operating
results. Moreover, due to lower cash availability we
were forced to curtail our capital expenditures to a
level below our annual depreciation. This inability
to reinvest in critical assets jeopardizes our ability
to compete and to increase employment. In fact we
restructured our business in 2008, resulting in the
elimination of 69 employees, and we were also required
to lay off 73 employees in 2009.

Since the imposition of the duties this last
spring, however, we have seen a marked improvement in
the market. Pricing is up and so is our production.
The provisional relief has helped us expand sales
throughout the country, including our west coast where
we have a regional warehouse. But I am deeply
concerned that if the duties are not imposed to offset
the dumping and subsidies we will simply see

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Indonesian and Chinese product flood back into our market.

First there is a tremendous amount of new capacity that is coming online in China within the next year, two and a half million tons worth. And let me emphasize this new capacity is not in the planning stages. Two of the mills are already producing and the other two are under construction with production planned in the first half of next year. The Chinese market is not sufficiently developed to absorb all of the new capacity, and most of it will end up in our market, especially if the European Union imposes antidumping and countervailing duties as they are expected to.

Secondly, APP already has a warehouse and a distribution network in place in the form of their subsidiary Eagle Ridge that can quickly move increased volume into the U.S. market. I'm sure that APP will likely say that Eagle Ridge has not been all that successful up to now, but that lack of success most likely is a consequence of the case's being filed last September.

Eagle Ridge has also started a distribution network in Canada, and we understand from our Canadian contacts that APP has particularly successful in

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grabbing market share through this new organization by selling at ridiculously low prices. That's a blueprint for their efforts in the United States if the Petitioners are not afforded a relief sought for them in these cases. I have reviewed the staff report and I believe it paints an accurate picture of the injury to our industry as a result of the imports from China and Indonesia. And I urge you to make an affirmative determination in this case. Thank you.

MR. GERARD: Good morning, Chairman Okun and Commissioners. As many of you know from my many previous experience before this distinguished Commission, my name is Leo Gerard and I am the International President of the United Steel Workers Union. And today I'm accompanied by John Geenan, the union's International Vice President who overseas collective bargaining for over 130,000 of our members in the pulp, paper, and forest products sector in the United States.

We are here today on behalf of Steel Worker members, and in fact we are here on behalf of all workers who produce coated free sheet products subject to these investigations across the country. Like Congressman Kagen said in his testimony, it's about families and it's about people. Here today with us

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are also over 20 members whose families will be
affected and who work in the mills. And they're here
because they don't want to see their livelihoods
destroyed from dumped and subsidized imports which no
matter how hard they work or how hard they try they
cannot compete against.

These workers and who they represent and
their families need and want trade remedy laws to work
for them. We've had a parade of elected officials
today who have made eloquent comments, many of them
pointing out that this is about people. I would like
the people I hear from the mills, the men and women
who do the work every day, to stand and be recognized
by this Commission, because your decisions will affect
their lives, their families, and their communities. I
am tremendously proud of the fact that they've
traveled here and, Chairman Okun, I'd like if you
could ask them to stand.

CHAIRMAN OKUN: They're anticipating you,
they're already standing, and we want to say welcome
to all of you, we appreciate you being here to observe
the proceedings. Thank you, Mr. Gerard.

MR. GERARD: Thank you. These members came
from Escanaba, Michigan, Wisconsin Rapids, Wisconsin,
Combined Locks, Rumsford, and -- I'll never pronounce
this one -- Skowhegan, Maine Lake, Maryland, Cloquet, Minnesota, and Wickliffe, Kentucky. And these as I said are the people whose lives and families will be affected by the decisions of this Commission.

As the largest industrial union in North America we have unfortunately time and time again borne the terrible consequences of deliberate industrial policies and unfair trade practices like those of China and Indonesia that you're dealing with today that ensure export markets are expanding for them and employment for their population is growing no matter what the consequences are for U.S. companies, workers, and communities.

In the paper sector, one of the largest sectors for our union, the certain coated paper investigations before you are just the latest in a line of cases where some parts of the U.S. paper industry have come under relentless assault from dumped and subsidized imports, for example in lightweight thermal paper and line paper. Indeed the facts here reveal that imports of certain coated paper from both China and Indonesia have been dumped into our markets at margins as high as 135 percent.

I want to repeat that for everybody. Margins as high as 135 percent. These imports have
benefitted from massive subsidies received from their governments, including below market rate loans from state owned banks, targeted tax exemptions, and input subsidies that make major inputs like timber and electricity much cheaper than the markets. Our companies and workers simply cannot compete nor should they be asked to compete with foreign countries and foreign governments' largesse, and they should not have to.

The facts are chilling. Even in the midst of the greatest economic contraction since the Great Depression and while demand in the U.S. market literally collapsed in 2009 for the paper products at issue, subject imports increased by nearly 9 percent as our market was collapsing. So during the same period while we suffered decline in demand of over 15 percent Chinese and Indonesian imports increased, let me repeat again, increased by more than 9 percent.

The investigation showed that while they were able to do so by engaging in massive and widespread underselling which they could do due to the massive subsidies they received, in fact your public prehearing report shows that these imports undersold domestic producers more than 82 percent of the time by margins as high as 25 percent. The harm to workers

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from such unfair trade has been devastating.

The public prehearing report shows employment wages, paid hours, and workers all suffered serious declines. Two mills that employed about 1,000 workers in Muskegon, Michigan, and Kimberly, Wisconsin, also were shut down during the period at issue. The paper machines at mills in Luke, Maryland, and Rumford, Maine, were shut down while other mills also withdrew production volumes.

Most of these mills are in rural areas and they are the very lifeblood of their communities. When they are shuttered the entire community suffers. Businesses which depend on the mills and our workers for their livelihoods suffer as well. In fact the Commerce Department estimates that for every direct job in paper industry supports more than two jobs in additional jobs. This is even more devastating when the country faces a national unemployment rate officially of 9 and a half percent but unofficially much closer to 17.

Few jobs are out there, and USW members like the ones here today don't want to see their jobs erased due to deliberate unfair trade practices by China and Indonesia and due absolutely to no fault of their own. Indeed in 2007 our members have seen the

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loss of approximately 10,000 paper jobs, about half of
which are in the white paper operations, that is paper
other than newsprint. And since 2002 our members have
seen approximately 60,000 jobs lost in the entire pulp
and paper industry and forest products.

So again, the worker's fate, their
community's fate, and their family's fate rests with
the enforcement of our trade remedy laws. And in
these investigations we see that preliminarily the
laws are working as intended. After Commerce imposed
preliminary duties, Chinese and Indonesian producers
largely left the U.S. market, after which the
industry's fortunes started to turn around. Some of
our members who had been laid off have been recalled
back to work. That means that once again they can
afford to put food on their tables and support their
families.

There is some glimmer of hope. Clearly
affirmative final determination by this Commission in
these cases would keep us moving in the right
direction, the right track, and would allow our
members and show our members as Senator Rockefeller
said that trade laws can work. American paper
workers, American communities, and America in general
needs you to do the right thing. And on behalf of all

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of our members in the industry I urge you to make an affirmative finding which are supported by the evidence in these cases. And thank you for your time, I look forward to your questions.

MR. SAVAGE: Good morning. My name is Greg Savage and I am Appleton Coated's Vice President for Commercial Sales. Most of our sales of coated sheet are short term contracts, although that phrase includes agreements and understandings that are not always reduced to writing. A relatively significant share of our sales are on a spot basis. As Sandy has told you, Appleton Coated has been badly injured by the unfair imports from China and Indonesia.

As our company's Vice President for Commercial Sales I have personally been in the trenches, so to speak, doing battle in the coated sheet market with the Chinese and Indonesian product. Over the last several years we saw more and more merchants and printers who had previously bought Appleton Coated sheet fill more and more of their inventory with Chinese and Indonesian coated sheet, reducing the floor space and working capital available for our product. And it's not difficult to understand why.

Depending on the grade and the product we
saw imported sheets being marketed at as much as $200 to $240 a ton lower than our product. Appleton's experience thus mirrors that reported by purchasers and summarized in the prehearing staff report, page V-20, table V-7, that the vast majority of product from China and Indonesia undersold domestic mills throughout the period of the investigation.

While Appleton Coated has worked with its customers throughout the period to find ways to be competitive with the subject imports, including by reducing our prices, we simply could not cut our prices all the way down to Chinese and Indonesian levels. For much of the period raw material cost including pulp were increasing in price on the spot market, which put significant pressure on domestic mills to get higher prices on their product.

As demand started to slow in late 2008, pricing pressure on pulp became less, but the price aggression from producers in China and Indonesia intensified. Prices continued to decline in 2009. I see that the APP attorneys argue that the price declines in 2009 were due to the Black Liquor Tax Credit. I totally disagree. Let me give you just one reason why.

As one of the Petitioner customer witnesses

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testified at the preliminary staff conference, "We started to see prices from China falling precipitously at the end of last year, 2008, before this Black Liquor Tax Credit was in force. November December last year we were really seeing product pricing moving down." That quote appears on page 109 of the staff conference transcript.

That was also our experience as a domestic producer. We saw a ramp-up of deep discounting in the fourth quarter of 2008, before anyone got a Black Liquor Tax Credit, a widening of underselling and a surge of imports from the subject countries in the first half of 2009. Those events forced Appleton Coated to respond and we assume was true for the other domestic producers.

We saw no appreciable effects from the Black Liquor Tax Credit. We are a nonintegrated producer, so we of course were not eligible for the credit ourselves. Nor was the movement of pulp price inconsistent with the type of gyrations we have experienced with the changes in demand in the market in recent years. So I join Sandy and all the other witnesses here today in asking you to make affirmative determinations in these investigations. Under conditions of fair competition Appleton Coated

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believes that it has a bright future here in America.

Thank you.

MS. MILLER: Good morning. I am Jennifer Miller, Sappi Fine Paper North America's Executive Vice President for Strategic Marketing and Chief Sustainability Officer. I have been with Sappi since 1996. My responsibilities include managing the profit and loss of the coated paper business for North America, including marketing, product management, and pricing. I join Mark in thanking you for the opportunity to tell you about the devastating harm that dumped and subsidized imports of certain coated paper from China and Indonesia have caused Sappi.

As your staff's public prehearing report makes clear price is a very important factor in the coated sheet market. While most customers would rank quality as the most important factor in their purchasing decisions, the fact is that the quality of Chinese and Indonesian certain coated paper is very comparable to Sappi's coated sheet. Chinese and Indonesian sheet products are made on world class machines, perform consistently on press, and are made to world class specifications.

Consequently price is always an important determining factor in who gets the sale. Coated sheet
imports from China and Indonesia compete directly
against our sheets for shelf space in merchant
warehouses and in downstream printer markets. Since
inventory is one of the biggest costs faced by sheet
merchants, even a small difference in price and terms
can create a significant incentive to stock imported
sheet, particularly when credit is tight.

Importantly, once imported sheet is stocked
in the merchant's warehouse the product's lead times
are comparable to that of Sappi's and can and do serve
the needs of even small commercial printers. Because
of these dynamics, imports from China and Indonesia
have in recent years increased their share of the U.S.
market even as demand contracted. This wave of
imports has put intense price pressure on our
products.

Since 2006 sheet from China and Indonesia
sold in the economy segment has been priced well below
our comparable economy grade. By March of last year
they were undercutting prices for our comparable
product by 20 to 30 percent or more. In order to
respond to the Chinese and Indonesian prices Sappi
drastically reduced the prices for our Flo product in
February 2009, and we continue to reduce prices.

As our questionnaire responses shows,

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Sappi's prices for Flo fell by nearly $110 per ton between the fourth quarter of 2008 and the third quarter of 2009. Eventually the price differential between our economy sheet and our high end sheet lineup had widened so much that in September 2009 we were forced to reset the prices for our high end sheets to bring them back in line with our economy grade sheets.

If you take a look at our questionnaire response you will see that between the second and fourth quarters of 2009 the prices for our high end sheets fell by more than $200 a ton. In short, the harm caused to Sappi by imports of dumped and subsidized coated sheets from China and Indonesia was very real and very significant. Before closing I want to briefly address the issue of like product and APP's argument that coated web should also be included in addition to coated sheet.

As the Commission staff no doubt will recall this issue was discussed extensively during the preliminary investigation staff conference. For your convenience, attached to my statement are the relevant excerpts of Petitioner's witness testimony and answers to questions from the conference transcript. We at Sappi strongly believe that the Commission got it
right in its preliminary determination when it decided that web rolls are not part of the like product. Nothing in the record that I have reviewed including APP's arguments from its public prehearing brief warrants any change in that outcome. Thank you.

MR. NELSON: Good morning. I'm Barry Nelson, Senior Vice President of Sales for NewPage Corporation. I have worked in the paper industry for more than 20 years and I have been with NewPage since its creation. I'm responsible for sales of all NewPage paper products with the exception of some specialty paper items. Historically the domestic industry producing coated sheets has enjoyed certain competitive advantage vis-a-vis imports in terms of superior logistics and supply chain savings.

These advantages enabled us to earn small premiums of $40 to $60 per ton. However, those advantages have been overwhelmed by what can only be described as wholly irrational pricing of dumped and subsidized Chinese and Indonesian imports. We have seen subject imports undersell our products by as much as $150 to $160 per ton, and while most of the subject imports consisted of what is known as economy grade coated paper, the price pressure was not isolated to the economy segment of the market.

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As subject imports depressed prices for economy grades, the price margins between the grades broadened, creating pressure on higher grades. When the floor starts to drop it eventually brings the rest of the market down with it. Rising volumes of subject imports and a steep decline in demand due to the recession left NewPage facing a dilemma, either reduce prices to meet competition from dumped and subsidized imports or cede market share.

As you've heard from George, NewPage has been reducing its capabilities by closing paper machines and mills and taking enormous volume out of production. Rather than close more mills and throw more employees out of work, we decided instead to reduce our prices dramatically to maintain volume. As the pricing data in our questionnaire response shows, between the third quarter of 2008 and the fourth quarter of 2009 we've cut prices on some of our products by as much as 20 percent to compete with the subject imports. But such a strategy while stemming the loss of volume can only go so far.

In 2009 we had reduced prices to the point that we were selling our economy sheets at a loss. Not surprisingly our producer questionnaire response shows what had been positive operating returns in 2007.

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and 2008 had turned into substantial operating losses in 2009. Our company and industry have undeniably been injured by the Chinese and Indonesian imports and badly need the relief that orders would provide.

Finally I want to comment on the issue of web rolls versus coated sheet and a statement on page 20 in the Respondent's public prehearing brief. The sentence reads "It is common knowledge that NewPage ships large quantities of rolls to Pro Con Converting which sheets these web rolls for the sheet fed market or rewinds them to smaller width rolls for high speed web offset printing." That statement was made by Mr. Hanscom from Eagle Ridge Paper. Mr. Hanscom is mistaken. While Pro Con does convert some sheets for NewPage, these are sheeter rolls, not web rolls. NewPage does not sell web rolls to any customer that we would warrant for use in sheet fed presses. Thank you.

MR. MCGEHEE: Good afternoon. My name is David McGehee, President of Mac Papers. Our company's headquarters are located in Jacksonville, Florida, and we are the largest merchant distribution of fine papers, envelopes, and graphic supplies in the southeast United States. Since our company's founding in 1965 we have continued to institute programs that
allow us to offer the industry's finest products and
most responsive services first, fast, and accurate.

I personally have worked in the paper
business for over 35 years. Our sales total about
$425 million a year and we ship more than 100,000 tons
of paper annually. We currently have about 650
employees. Our company has 20 branch office warehouse
locations as well as 20 what we call Mini Macs, which
are paper stores for walk-in customers. Coated paper
is a very important part of our business, accounting
for approximately 45 percent of our annual shipments
by volume.

Most of the coated sheet that we sell is
shipped direct from our warehouses to our customers,
who consist primarily of commercial printers and tax
supported business in mailing houses. I am here today
in support of the Petitioners and the imposition of
antidumping and countervailing duties on Chinese and
Indonesian coated paper for one simple reason. The
imports of their products have completely disrupted
our business and our industry.

The APP Company's market strategy can be
summed up in six words. Use price to buy market
share. Almost ten years ago we took out an ad in
local papers announcing Mac Papers chooses not to do

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business with Communist China paper manufacturers. We did not want to support mills that paid their workers 61 cents an hour, that violated environmental guidelines, and whose government violated WTO rules and regulations and manipulated its currency.

Unfortunately, beginning in 2007 we had to eat crow because of these unfair imports that were underselling other sources by up to 15 to 18 percent, and their product quality was quite good. In order to remain competitive we started sourcing from Indonesia. Then we discovered we could get the product at even cheaper prices from China. We had to do this because all of our competitors were buying the same imports.

In a market where price is incredibly important these margins of underselling were simply too large to ignore.

I understand that APP has argued that Chinese and Indonesian imports are not the reason why domestic prices have declined. I could not disagree more. Things have gotten so bad that our customers who'd normally buy uncoated paper find they can buy coated paper for less. Simply put these unfair imports have turned our market upside down. Finally I note that APP claims imports are excluded from participating in paper directed by a program. Again I
disagree. Mac Papers participates in such programs and we have used APP coated sheets in them. Thank you.

MR. FREELAND: Good afternoon. I am Mike Freeland, President and owner of Field Paper Company. Our company was founded in 1916 and I have been with the company 24 years. Four years ago I became sole owner of this business. We are headquartered in Omaha, Nebraska, and have two warehouses, one in Omaha and the other in Des Moines, Iowa, with combined 100,000 square foot of storage space. We have 53 employees all together and we source from about 20 vendors of paper both domestic and foreign. Our company sales total about $30 million per year. More than 90 percent of our sales are to commercial printers in Nebraska and Iowa.

We first started to see Chinese and Indonesian coated paper in our market around 2004 and 2005. These imports were priced as much as 35 percent below the domestic paper. We finally started to buy Gold East in 2006 because we felt we had to in order to remain competitive. That's because price is very important to our customers. We compete against large national distributors so we need to take advantage of every competitive factor that we can.

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If we had not started to buy these imports we may not have been able to stay in business. Over the years we bought more and more Gold East paper and less domestic paper. Before we started buying Gold East in 2006 99 percent of our coated paper was bought from domestic producers. By 2009 that was down to about 50 percent with most of the rest coming from Gold East.

It's important to point out that our domestic suppliers work hard to find ways to make their paper more competitive with these imports. For example one of our -- instead of shipping three or four truckloads per week from the distribution center, one of our domestic suppliers was able to bring down their price by shipping these truckloads directly from the mill to us.

While that means more inventory carrying cost for us, the reduced cost made it worth it. But the problem is this, no domestic producer of coated paper can stay in business selling just economy grade sheets at heavily depressed prices. If you're a domestic producer selling a lot of number 3 coated paper at $52 a hundred-weight, you also need to be able to sell number 1 paper at $88 and number 2 paper at $77.

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But that's tough to do when imports under investigation are selling in the mid to upper 40s. The imported coated sheet is very good quality, so none of our printers, end user customers didn't see a meaningful difference in the printed product. If they can't tell the difference they have no reason to pay a higher price for a higher grade of paper. Field Paper's experience with the imports under investigation show that the industry can't survive, let alone thrive, with dumped and subsidized imports competition keeping prices depressed.

If these imports can get up to half of our business in the space of a few years, as they have, it is not difficult to imagine that the same is occurring at other merchants around the country. An operation like ours can't support domestic mills when large price differences exist as they have in recent years. Eliminate the dumping and the subsidies and you eliminate the artificial competitive advantage, and then my buying decisions are likely to improve a great deal more for domestic coated papers. Finally I understand that APP claims that their product does not compete with domestic coated sheets because they do not produce custom sized products. Field Paper has bought custom sized product from Gold East on a
regular basis. Thank you.

MR. SCHÖDINGER: Good afternoon, Madam Chairman and Commissioners. I am George Schödinger, Vice President for Business Development for Universal Printing Company in St. Louis, Missouri. Universal Printing has been in the business since 1939. We are ranked among the top 100 printing companies in the United States, with a staff of more than 200 dedicated professional graphic arts individuals. Our facilities include a state-of-the-art prepress department, one of the industry's newest sheet fed press rooms, and a bindery that includes saddle stitching, perfect binding, folding, and a multitude of other finishing services.

We serve the printing needs of customers nationwide from our sales offices in St. Louis, Missouri, New York, New York, and Dallas, Texas. I started in the printing business in 1989, first selling printing to customers for a commercial printing company. In 1997 I started my own print business called Pinnacle Press. I sold that business to another printing company in 2005 and started working for Universal Printing full time in 2006. My responsibilities cover purchasing and managing the company's sales force, so I know the

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market very well. The printing industry is under tremendous competitive pressures from alternative media such as electronic media. That means that we have to be able to produce the printed product at the lowest possible cost. Coated papers from China and Indonesia quickly became accepted by commercial printers such as Universal Printing because it was 20 to 30 percent cheaper than domestic coated paper. Major merchants such as xpedx, Shaughnessy, Unisource supplied us with the imported paper, and we found that it met our customers' needs. Because of the enormous difference between Chinese and Indonesian prices on one hand and the domestic prices on the other, the Chinese and Indonesian producers were setting the market and the domestic mills were desperately trying to keep up. Finally let me tell you what I believe will happen if the Petitioners should happen to lose this case. The Chinese and Indonesian producers will once again flood the market with low priced product as they have most of this past decade. The depressed prices will make it difficult for domestic mills to stay in the market long term, and we will see continued closure of domestic mills or the inability to reinvest in keeping the mills efficient. This is Heritage Reporting Corporation (202) 628-4888
the biggest downside of dumped Asian products, that the domestic mills will be stripped of their ability to manufacture and we will lose yet one more manufacturing industry here in America. As someone who happens to believe that buying from domestic companies is good for our economy, I ask you to help ensure that doesn't happen by providing relief from the unfair trade practices found by the Commerce Department. Thank you.

MR. MARCIAN: Good afternoon. My name is Mike Marcian, and I am President of Corporate Press, which is located in nearby Lanham, Maryland. We are a commercial printer that has been in business for nearly 60 years. I started working in the printing business in 1973. I'm also a former chairman of the board of the Printing Industries of America. Corporate Press has 175 employees and between $28 and $30 million in sales every year. About 50 percent of our business is in coated paper, specifically coated paper.

A lot of our customers are in the direct mail business. We also print monthly magazines, annual reports, covers for books, advertisement inserts, and even some coated newsletters. We buy our coated paper from merchant distributors, not direct
from the mills. The printing industry has always been very focused on price. It is a high volume low margin business where the barrier to entry by new competitors are low.

We're also an industry that is consolidating as larger printing companies buy up smaller ones that are struggling to get by. We belong to an organization called Independent Printers Worldwide, or IPW for short. IPW was organized in 1998 to help its members streamline their procurement process to achieve efficiencies and cost savings and purchasing equipment, supplies, and materials and services.

IPW makes it possible for a company like Corporate Press to remain independent while greatly boosting our bargaining leverage with our vendors. So whether you're a large printing outfit with numerous locations throughout one or more regions of the country or a smaller shop like ours, price matters a great deal. Corporate Press started buying imported coated paper from Asia about five or six years ago. We started with Korean paper and then shifted to Chinese.

We bought it because it was priced 20 percent below what the domestic coated paper was selling for. At the outset the quality of the paper...
was a little suspect, but it has improved significantly since then and today it is entirely comparable to domestic coated sheets. Initially I didn't particularly care whether we bought Chinese or domestic coated paper so long as the quality was acceptable.

My buying decisions were based entirely on price. Our major merchant distributor is Unisource, which has worked more broadly with IPW. When domestic producers, specifically NewPage, lowered their prices to become more competitive with imported product at Unisource last year, we were able to obtain more domestic product for our needs. With unemployment in this country over 9 percent I am personally pleased that I can source more domestic product.

However, in a low margin business our company like most other printers has to buy competitively priced product when quality is acceptable as all of the domestic and imported products from China and Indonesia is. Imposition of antidumping and countervailing duty orders will ensure that competition for our domestic mills is at a fair price and will make it easier for companies like Corporate Press and IPW other members to source more domestic coated sheets at a competitive price while

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MR. SETH KAPLAN: Good afternoon. I am Seth Kaplan, a principal of the Battle Group. I have been asked by counsel for Petitioners to examine the effects of subject imports, the recession, and other supply and demand drivers on domestic CCPP prices over the period of investigation. I approached this task in three ways. First I used statistical techniques to measure how subject imports, nonsubject imports, and the recession affected domestic coated paper prices adjusted by the price of pulp, coated paper's single largest material input.

The analysis is similar to looking at the factors that drive the metal margin in investigations involving steel products, and the Commission often has favored this approach because price trends can be deceptive when the underlying input prices are volatile as with both steel and paper. Second, I looked at what purchasers and other parties said about the role of subject imports and the recession on U.S. producer prices.

And finally I conducted a financial analysis to determine whether the industry has suffered a cost price squeeze. The results of my analysis show that subject imports caused material injury to the domestic
industry. The econometric analysis is attached at exhibit 5 of the Petitioner's prehearing brief. Using over eight years of quarterly data from widely relied upon sources, I found that subject imports had a statistically significant negative effect on U.S. producer price margin. To a less degree, nonsubject imports also negatively affected domestic producers price margins. And finally, demand was positively correlated with prices.

So all the results are what you expected. Thus both subject imports and the recession contributed to the decline in U.S. producer price margins over the period of investigation. In a companion analysis, I also found CCPP prices sell significantly more than web roll prices, a result that supports the earlier finding. Next I examined statements made by purchasers to Commission staff investigating lost sales and lost revenue allegations.

The great majority of purchasers stated that, and I quote, "U.S. producers have reduced their prices in order to compete with subject imports," and that's the end of the quote. Purchasers reported the price depressing effects of subject imports regardless of whether they confirmed or denied an individual lost sale or lost revenue allegation. This underselling
and its effect on domestic prices was ubiquitous in the market and affected many sales.

Note that they did not say that domestic and subject coated paper prices both fell due to the recession. Rather, they said that subject prices caused domestic prices to fall. This is consistent with the purchaser's perception that domestic and subject imports are highly substitutable. It is further supported by purchasers identifying price as the second most important factor after quality, where domestic and subject coated sheet are comparable, in purchasing decisions, and the fact that 29 of the 32 purchasers surveyed listed price as a very important factor in choosing their coated paper supplier.

Finally, I examined whether the domestic industry was suffering from a cost price squeeze. The Commission has found the existence of a cost price squeeze is powerful evidence of price suppression. In this investigation, average unit values fell while per unit costs increased. The resulting decline in gross profits is further evidence of the negative effect of dumping and subsidization on domestic producer prices and the consequent harm evidenced by the industry's financial condition. The financial analysis is attached as exhibit 2 to Petitioner's prehearing

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So in conclusion, I examined the effects of subject import volumes on domestic prices and margins using three complementary techniques, econometric and statistical analysis being the first, the second to see if that was consistent with statements made on the record to your investigators calling customers and in responses by purchasers sent out by the Commission, and finally a financial analysis that's separate than the econometric analysis. Each of these methods has led me to conclude that subject imports caused material injury to the domestic industry by depressing prices, suppressing sales, and causing financial distress. I'd be happy to answer any questions.

Thank you for your attention.

MR. STEWART: That concludes our direct testimony, Madam Chairman.

CHAIRMAN OKUN: Thank you very much to all of you for your testimony, and also would say welcome to those workers who have traveled to be with us and the students who are out there. Having consulted with my colleagues on what they consider as the best use of our time and your time we are going to go ahead and break for lunch now. We'll resume at 1:30, and we'll start our questions then, and that way, and we have I
think two members of Congress who should be here this afternoon. Mr. Stewart?

MR. STEWART: Madam Chairman, President Gerard has indicated that he has to leave by 1:30 -- 2:30, excuse me. So he'll be here for the first hour.

CHAIRMAN OKUN: Okay. We appreciate that, Mr. Gerard, and I will remind colleagues in case they have questions for you. And with that I want to remind everyone that this room is not secure so please don't leave any confidential information. Again we will resume this hearing at 1:30, we'll stand in recess.

(Whereupon, at 12:49 p.m., the hearing in the above-entitled matter was recessed, to reconvene at 1:30 p.m., the same day.)
CHAIRMAN OKUN: This hearing will now resume. Welcome back to this morning's panel, and good afternoon. We will begin our questioning this afternoon with Commissioner Lane.

COMMISSIONER LANE: Thank you. And thank you all for coming to participate in this investigation. And we really appreciate all of you being here, and especially all of those folks who have traveled a long distance to be here to see what is going on.

I'm going to start with a general question. And I know that it has been answered in the opening statement, I know it's been answered in the brief. And it was probably answered in Dr. Kaplan's testimony, but my booklet doesn't have it, so I can only rely upon my memory.

But the question is, could you specifically and succinctly tell me what evidence in the record most clearly supports an argument that the price that you received for coated free sheet paper has been either suppressed or depressed, or both, during the period of investigation?

And if the prices were suppressed or depressed, what evidence supports an argument that...
such suppression or depression of prices was caused
either in whole or in part by the subject imports?

MR. STEWART: Thank you, Commissioner Lane.

This is Terence Stewart. I'll start with the, with
the answer.

First, if you look at our prehearing brief,
and you look at pages 31 and 32, those pages are, have
confidential information, so I'll just ask you to take
a look at those two.

What those pages attempt to do is to take
the information that the staff gathered in the
questionnaire responses that look at the prices of the
products where there was direct competition. And your
staff report indicated that products one and four,
which basically equate to the economy grades, were the
bulk of the imports from both China and from
Indonesia.

And what that table attempts to do is to
take a look at what amount, if any, underselling there
was between the products, whether that underselling
increased or decreased quarter to quarter. And the
testimony that you heard today from the domestic
industry -- and obviously they don't have access to
the confidential staff report -- was as follows: that
in the fourth quarter of 2008 you started to see
tremendous downward movement in prices from China and Indonesia. And you can look at those two pages, which reflect what's in your staff report, to see whether or not your staff report would confirm that or not.

As the -- and I believe that you heard from Barry Nelson earlier that at some point the margin of underselling became as much as $150, in a market in which the competitive advantage the domestics have from shorter lead times, et cetera, is measured more in the $40 to $60 range. And that domestics then responded.

If you take a look at pages 31 and 32, you will see whether or not you would think the record supports the conclusion that domestic producers lowered prices quarter by quarter as margins widened to be able to compete.

Then on pages 521 to 527 of your staff report, you have the staff reviewing its review of lost sales allegations and lost revenue allegations. Now, the public staff report does not obviously indicate who the customer is who was contacted, but does include whether or not the customer indicated that the domestic producers lowered their prices to compete with the subject imports.

And what you find in those six pages is that
virtually every customer, whether they agreed that there were lost sales or not, agreed that domestic producers lowered prices to compete with the imports. And that's entirely consistent with what you have heard, both from the domestic producers and their customers here.

It's also the case at the preliminary conference there were four other customer who were present -- two merchant/distributors and two printers -- and their testimony was to the same effect.

One of those customers, who is a very large, a large customer in the United States, had indicated that in fact the pricing pressure started in the fourth quarter, consistent with what witnesses here today have said, of 2008; and that it was the Chinese leading the price down. And you can see whether or not that is confirmed by what's on page 31, 32.

So you have, you have your staff report review of purchasers' observations that domestics lowered their prices to compete. You have the pricing information quarter by quarter, which will let you make your own judgment as to whether or not domestics were chasing foreign prices down, whether foreigners were chasing domestic prices down, or what have you.
You have your under-selling analysis by the staff on a product-by-product basis, which shows that you have 82 percent of quarters, or 84 percent of sales, listed in the public report, where you have under-selling and the margins are 10, on average 10.6 up to 25 percent.

And all you have to do is look at that on a quarter-by-quarter basis to see whether it is stagnant, whether it grows, or whether when it grows there then is subsequent declines in domestic prices to be able to see whether or not you agree with the position that has been taken by this group of witnesses: that it clearly was pricing pressure from the imports from China and Indonesia that led, led the price series on the downside. That domestics responded, and that the response in the economy grades led to a later decline in the top grades. And the top grades are basically what are reflected in your pricing series product no. 2 and product no. 5.

Those are also reflected in our prehearing brief, where we've done the same type of analysis. But you would have heard our witnesses say that there was typically a two-quarter delay between price declines on the economy grades. And when the gap got too big between economy and the others, their prices
on the other grades collapsed, as well. And you can
check your staff report numbers for product 2 and 5 to
see if you believe that they have accurately portrayed
what happened to them in the market or not.

But that would be, I would say, the core,
the core basis. Every one of the major players in the
industry have told you that they were chasing price
down. They were chasing price down to maintain volume
in a declining market.

The domestic industry declined in 2009, but
they didn't decline as severely as they might
otherwise have done. And they didn't decline as much
as they had in the first half, before a lot of their
efforts to meet prices or get closer to meeting prices
took place.

You have uncontradicted evidence in the
staff report that there is, that there is almost
universal under-selling, what those margins are. And
you have the statements from all of the customers, or
nearly all of the customers, who were contacted by the
staff, that domestics were chasing the subject import
prices down.

You also have the data from the, in the
staff report, from the purchasers, A, that they ran
quality first and price second; and that the quality
between the Chinese, Indonesian, and domestic product
is basically comparable. Which means that while
quality may be the top issue, it doesn't distinguish,
as in many of the cases you had before you, product is
comparable product. And so price becomes a much more
important factor. And that was the testimony of the
customers here today, that price is a very important
factor in their market, sure.

There is some advantage to having shorter,
shorter delivery time, and you get a reduction in
inventory carrying costs and those sorts of things
from buying domestic. But that fits into that kind of
small differential.

So that would be, that would be a lengthy
answer to your question, Commissioner.

COMMISSIONER LANE: Thank you, Mr. Stewart,
that is quite helpful, because it is a voluminous
record. And those were the points that you made in
your opening statement. And it helps to focus on
exactly where the numbers are in the record. So I
appreciate that. And I have more questions, but I'll
wait until the next round.

CHAIRMAN OKUN: Commissioner Pearson.

COMMISSIONER PEARSON: Thank you, Madame
Chairman. Welcome to all members of the panel. It's
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good to see so many familiar faces.

To those who don't normally attend these sessions, let me just explain that one of the issues we have to deal with at the Commission is what we call non-attribution, to make sure that we don't attribute to subject imports some effect from something else happening in the economy. That will undergird my question, just for background.

On this record we see that apparent consumption declined until the 2010 interim, domestic industry production and shipments declined, and employment declined. Aren't all of these consistent with the effects of the recession? Why should we read more into it than that? Mr. Kaplan.

MR. KAPLAN: Yes. Well, first I'd like to add another fact in that period, which is that through the first three years, the absolute volume of imports increased, which is subject imports. Which is surprising, given the recession. So the subject imports picked up market share, but rose absolutely.

Well, your question is an interesting question, and it overlaps I think somewhat with Commissioner Lane's question. It's that you have two things going on at once. You had the imports, and you had the recession. So the question is how to...
disentangle them.

COMMISSIONER PEARSON: Yes, absolutely.

MR. KAPLAN: And I think on the first point, were things getting worse, I think clearly there was under-selling, and there was falling price. So you had price depression.

Now, how do you figure out whether it's the imports or the recession? I looked at it three ways. The first way I looked at it is statistically, and I looked to see if price margins of the domestic producers were affected by subject imports and by demand, and by non-subject imports.

And I found that, in fact, subject imports significantly had a negative effect on domestic prices. The recession negatively affected domestic prices, too. So both events were occurring.

The second thing I looked at is a comparison between coated paper and web rolls. Because web rolls would be also subject to many of the same supply-and-demand drivers. Not all of them, different products, but some of the same drivers.

And what I found was, is that coated sheet prices were more negatively affected than web prices. So this is consistent with the first regression, which showed that imports, subject imports did negatively
affect prices. This is a confirmation.

Then I looked at what customers said. And customers said, in the lost sales and lost revenue section, explicitly identified the subject imports as causing the domestic producers to drop prices.

Now, the economists sometimes like regression analysts say lawyers like, you know, evidence directly from customers. Here you get them both; they are completely consistent.

I would look at the number of customers that said that, and you will find it's overwhelming. Each of them identified the subject imports as a reason domestic producers lowered prices. Even though the recession was going on and they noted that there was distress from the recession, as well.

Finally, there was a cost-price squeeze. And traditionally, the Commission has looked at the cost-price squeeze as evidence of price suppression and price depression. Here there is a recession going on simultaneously, but the regression analysis, the evidence from the staff report, and today the evidence you've heard directly from purchasers, all confirm that a significant part of the decline, a material part of the decline, was due necessarily to the subject imports under-selling the product, increasing
under-selling margins, being aggressive, and picking up share and volume during the period of investigation.

So you had the information to separate the effect of the imports from the effect of the recession, and it's plain from three separate complementary analyses and testimony you've heard today, that imports themselves caused a significant part of this problem. And that you are not attributing that decline to the recession. In fact, you could isolate it, and that it's material and it's caused injury.

COMMISSIONER PEARSON: Okay. I confess that I have not had an opportunity to review your analysis, and I will do that with the Commission economists prior to the vote, I can assure you.

But I hear what you're saying. There are ways to explain all of this that might have some good bases behind them.

But you know, despite the conditions that you outlined, the domestic industry saw a steady increase in its market share over the POI. You know, both subject and non-subject imports saw their market shares decline over the full POI, although the subject imports not until the end.
So is this fundamentally a price case, rather than a volume case?

MR. KAPLAN: Well, you'd expect in a recession typically that the share of the domestic industry would increase, and the share of imports would fall. All kinds of economic models look at, you know, kind of a home court advantage; that people supply their own market, and then export.

And given the available capacity in the United States and the recession going on, you'd expect overall demand and overall shipments to decline; but that the player that would do the best would be the one with the home court advantage, as it were, due to transportation costs and other issues.

What you saw is non-subject imports declined, which is expected in this recession. Domestic shipments' share increased. But actually domestic shipments fell, while subject imports increased both in volume and in share. And you would expect neither of those, typically.

And it's evidence consistent with them picking up share and lowering prices due to their ability to sell at prices that they could only sell in the U.S. with dumping and with subsidization.

COMMISSIONER PEARSON: Right. But
consistent with what you've just said, fundamentally, for the first three years of the POI, we seem to see the subject imports taking market share from non-subject imports, and with the domestic industry improving its market share position overall.

So, you know, I hear what you're saying; I just don't think that it explains everything that we're seeing on this record. Mr. Stewart.

MR. STEWART: You do, of course, have as well the preliminary record, in which you would see, from the preliminary record, is that in the first half of 2009 there was some significant erosion of market share for domestics. Which is consistent with the domestics' statement to you today that there was both a surge in imports of very aggressive pricing, and they were then faced with the situation do they respond or do they not.

And they opted to respond in the context of that first half. And they, by lowering prices, were able to reduce the extent of loss of volume that they otherwise had been experiencing. And that is reflected in the full year and the full year data.

You will also find in the, in the staff report, a confidential statement that comes from a major purchaser that identifies what was going on in

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late 2008, in terms of what the Respondents were
looking to do in terms of their market presence in the
United States. And I would encourage you to look at
that. Because in a downward-spiraling market, which a
recession would naturally do, domestic producers in a
high-fixed-cost industry are faced with the issue do
they try to maintain the operation of their
facilities. And if a price aggression makes that far
more difficult, and they in fact become much more
aggressive themselves in responding to that price
aggression, the fact that they obtained some volume in
that would, would create the kind of trim lines that
you see.

COMMISSIONER PEARSON: Okay. In short, in
shorthand, do you see this as more of a price case
than a volume case?

MR. STEWART: Well, price is certainly a key
part of the case, since the industry chose to respond.
But there's also the volume case. And the concept
that in a market that declines by 25 percent, imports
are allowed to grow, subject imports are allowed to
grow, and that that's not displacing, it seems to me
is not, is not a valid argument.

COMMISSIONER PEARSON: Okay. Thank you,
Madame Chairman, my time is done.

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CHAIRMAN OKUN: Thank you. And before I turn to Commissioner Aranoff just two reminders, I was going to do this before Commissioners Lane and Pearson went, but for my colleagues, a reminder that Mr. Gerard has indicated to me he needs to leave at 2:30. So if you could direct any questions you have to him in your first round of questioning.

And then also just to ask witnesses to repeat your name when you answer, just so the court reporter will know who's speaking. Thank you very much. And, Commissioner Aranoff.

COMMISSIONER ARANOFF: Thank you, Madame Chairman. Welcome to all of the witnesses, and we appreciate your endurance.

Let me start by actually directing a question to the two printers on the panel who testified. Mr. Nelson addressed this point a little bit today, but in the preliminary investigation there was some discussion of whether it's possible to use web rolls in sheet presses. And Respondents had, I think one witness who, at the preliminary conference, said it could happen, but it was rare. And then in their prehearing brief here, they had a statement suggesting that perhaps it was more widespread. I'm a little confused about that, and I'll ask them later.

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today.

But I did want to ask Mr. Schoedinger and Mr. Marcian, have you ever used a web roll in a sheet press?

MR. MARCIAN: No, it will not run through our equipment.

COMMISSIONER ARANOFF: Okay. Have you ever been offered by a supplier that they could sheet a web roll for you, and that that would create a price advantage for you?

MR. MARCIAN: No.

MR. SCHOEDINGER: George Schoedinger. No, we never have.

COMMISSIONER ARANOFF: Okay. If someone were to offer that product to you and the price were attractive, would you use it? And if not, why not?

MR. MARCIAN: It wouldn't run. We couldn't do it. So at any price, we couldn't do it.

MR. SCHOEDINGER: The equipment wouldn't tolerate it.

COMMISSIONER ARANOFF: Can you describe what it is about the product that's sheeted out of a web roll that wouldn't allow the equipment to tolerate it?

MR. SCHOEDINGER: The moisture content in the paper is one of the big components that won't
allow us to run that through a press that's made for
sheet-fed paper. The equipment just doesn't tolerate
the two different types of papers. They're made
differently, and so they don't, it won't run.

COMMISSIONER ARANOFF: Okay. I think there
was some discussion in the Respondent's brief about
the fact that that might have been true for old
presses, but that the presses aren't sensitive to the
moisture content any more. Are you running old
presses?

MR. SCHOEDINGER: George Schoedinger again.
We have state-of-the-art equipment. And the problems
may be different, but it won't work. And moisture is
affected. The moisture content of the paper has a
significant bearing on which press it will run on.

So in brand-new equipment, you still can't
run the different grades back and forth between the
two types of, you know, two types of equipment.

COMMISSIONER ARANOFF: Okay. Mr. Marcian?

MR. MARCIAN: We have never been offered to
buy that, and we don't run it because it won't run
through the presses.

COMMISSIONER ARANOFF: And that's because of
the moisture content being wrong? Or are there other
factors?
MR. MARCIAN: I don't know specifically why; I just know it won't run.

COMMISSIONER ARANOFF: Okay. All right, thank you.

MR. STEWART: Commissioner Aranoff, the two presidents of NewPage and Sappi are both, have long manufacturing backgrounds. If you'd like an explanation of the physical differences, I'm sure either one of them would be happy to add to that, and what makes the paper not work in one press or another.

COMMISSIONER ARANOFF: Well, I appreciate that. And I'd be happy to hear that. I actually think we have a very adequate record on the technical points. And the point that I'm trying to clear up on the record is the assertion that despite those technical differences that we're aware of, there are people who are still sheeting web rolls and using them on sheet presses.

MR. STEWART: And you heard Mr. Nelson earlier go after the specific reference --

COMMISSIONER ARANOFF: Yes.

MR. STEWART: -- that was in the prehearing brief of the other side.

COMMISSIONER ARANOFF: Okay. So that's, this is the piece of the record that I'm trying to

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make sure that we clean up in the final phase, which is we heard about the technical differences. And then Respondents have indicated that they don't think they matter any more, for various reasons. And then they gave specific examples.

And what I'm trying to establish is, you know, is this a few random cases where someone has done this, or is this a significant market practice. So that's the point that I'm trying to go to.

Mr. Salonen, you're raising your hand.

MR. SALONEN: Yes, thank you, Commissioner Aranoff. Eric Salonen. The other point I think that also needs to be kept in mind is that whether a printer might try to use paper that has come from a web roll, has been sheeted, once that's done, none of these companies will warrant that paper for that use. So that if the printer runs into problems with it, you know, he's on his own.

COMMISSIONER ARANOFF: I remember we had an extensive conversation on that issue in the last, in the last go-round.

Okay, well, let me ask the gentlemen in the front, then. Do you want to address this issue? I feel like it's the one area where we need to clean up our record a little bit on the like product issue.
MR. GARDNER: Mark Gardner with Sappi Fine Paper. When we manufacture a sheet-fed grade, it is a different furnish. Our base stock is a different coating, designed for the high-tech ink that we'll see in a sheet-fed press that has higher moisture for stability. And it's designed for being multiple passes through a sheet-fed press.

Whereas on web, it tends to be designed for porosity, because we're using high heat to set the ink. We need to make sure the paper will breathe in order not to blister. And it also is designed with different binders and coatings because the tack or the stickiness on the ink on a web press is much lower than on a sheet-fed press. Totally different products.

COMMISSIONER ARANOFF: Okay. And you don't think there is a lot of printers out there in the market who, you know, just don't care, and will do it anyway?

MR. GARDNER: If there are, they're taking large gamble chances at it, and any high-quality printing would be very difficult.

COMMISSIONER ARANOFF: And the consequence is that the printing wouldn't turn out very well, and you'd end up wasting a lot of paper. Not so much that Heritage Reporting Corporation
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you would damage the machinery.

   MR. GARDNER: Well, you can, if you have
poor running paper, you can wrap the blanks and damage
the printing press.

   COMMISSIONER ARANOFF: Okay. All right. So
there's one specific statement in Respondent's
prehearing brief, I think it's from, a declaration
from Mr. Hanscom, which contains some of these facts.
So if you could take a look at it post-hearing, if
there's anything else in there that you'd like to
rebut, I would welcome that.

   MR. STEWART: We'll be pleased to, thank
you.

   COMMISSIONER ARANOFF: Okay.

   MR. KAPLAN: Commissioner Aranoff, just one
point on that. I found that statement to be really
troubling in a couple of senses. In one circumstance
he says everybody knows that NewPage is taking certain
action with respect to sales. And that's already been
refuted.

   And then on porosity, I think it's a really
remarkable statement. And he says I do not have
porosity levels of different papers handy. I mean, it
was really a kind of off-the-cuff statement, I think,
and not a thorough -- it's not even a statement, it's

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a sort of letter. It's not anything in the nature of real evidence or a real affidavit.

COMMISSIONER ARANOFF: Okay. So like I said, I'm trying to make sure that we have a real careful record on this issue that's been batted back and forth about whether there really is interchangeability. But let me move on.

Gosh, this is a big question. I don't know if I have enough time left to ask it. Let me try a smaller one.

One of the things that is mentioned in Petitioner's prehearing brief is this idea that there has been a proliferation of private label products in the market, and that somehow the proliferation of private label products contributes to the vulnerability of the domestic industry.

And I wanted to ask you to spell that out a little bit, because I wasn't entirely clear on what the connection was.

MR. STEWART: If you don't mind, maybe we'll deal with that in the post-hearing. Private label, as a general matter, tends to be, as opposed to the company's own labels, tend to be product that's offered at a slightly lower price. And so proliferation of private labels means that you're not,
you're not moving as much of your own company label, which is the one that has all the promotion and background on it. That I think is the basic message that with that. But let me check with my colleagues, and we'll flesh it out in the post-hearing.

COMMISSIONER ARANOFF: Okay. I'm not sure that our record even establishes that there's been a proliferation of private label product, that's like the premise factually. I read the staff report; I don't see that in there. It may be that the staff didn't think that was important, I don't know. So I think we have to start with that, why is that happening, and then go to the second point.

MR. STEWART: Sure.

COMMISSIONER ARANOFF: Okay. With that, I think my time is almost up. So thank you, Madame Chairman.

CHAIRMAN OKUN: Commissioner Williamson.

COMMISSIONER WILLIAMSON: Thank you, Madame Chairman. I, too, want to express my appreciation to the witnesses for their testimony and spending your time here today.

I would like to start with Mr. Gerard. There's been a lot of talk about the number of plants closing and impact on communities. I was just

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wondering what the union is doing or what kind of assistance the workers have been getting to adjust, to deal with this.

MR. GERARD: Well, I'll give a comment, then I'll ask my colleague, John Geenen, to make some factual points on it, because he coordinates the bargaining.

We've been, I think, fairly cooperative in working with the industry. And we've worked very hard on behalf of our members to get them trade adjustment assistance, and in many cases been successful.

We've done unpleasant negotiation. And by that I don't mean we didn't reach agreement, but we reached agreement by going backwards. And John can make a comment. Just in some areas of pension cost we've assisted to the tune of $100 million or more, in some segments of making sure that the industry was viable, and working with some that have been through bankruptcy.

And I'll ask John if he wants to make some factual points, because he does the collective bargaining with the industry. John?

MR. GEENEN: Thank you. I can say that in every negotiation that we've approached in this industry, there has been some demand to try to improve
the cost structure of our labor agreements, and also
improve the ability of our workers to work more
efficiently.

And President Gerard had made reference to
the retiree medical costs, and that cut the costs of
every one of these companies, where we made deep,
deep, deep concessions in excess of $100 million. And
in every one of these work sites we've entered into
practices that created a leaner work force, and raised
productivity by reducing the number of people in and
around every job in the industry, in the work place.

COMMISSIONER WILLIAMSON: Thank you. That
question of productivity leads to my next question. I
know in some cases we've had, it's very clear that the
injury has really been to the workers. I mean, that's
where you've seen the most dramatic impact.

I'm not quite sure I see this here. I was
just wondering about this industry. It doesn't seem,
when you go into a factory, there are not that many
workers, given the amount of stuff that's going on.

And so I was wondering, what does that say
about the nature of the Chinese competition? We've
talked about the subsidies and all that, but is that
question of worker cost a factor in this case at all?

MR. GERARD: Look, I feel very strongly.
I've been, all week all I've been doing is running up and down the streets of Washington, talking about the Chinese and what they do. And American workers are now put up against Chinese country, the country of China. And we filed a 301 petition a week ago today on certain products. And I was saying to Terry we could do that in any product.

I'm not sure I understood the premise of your comment, but I can tell you this. Had the decision of the Commission been different a few years ago on the injury issue, we'd probably have 10,000 more members now. Our members have taken a hit that is unconscionable because of Chinese misbehavior in this sector. And I can do this with a bunch of other sectors.

Keep in mind that these communities where most of these paper mills are, the most valuable asset that worker has next to their job and their benefits is their house. If I lived in a house that was worth $100,000 and you shut the paper mill, there's a good chance I can't give that house away. If I find another job, I might be able to keep up my mortgage.

So our members have taken it on the chin, or lower. And the reality is that unless we get remedy from the Commission when we make the case of illegal
and unfair behavior by another country through its companies, there is no way that our members will survive in this kind of environment. And every one of these people won't be here a few years from now. And I don't know how to make that any stronger. And today we're here with coated paper; we could be here tomorrow with another case, because this is what they do everywhere. And we see this argument all the time.

And so that it's, the future of this industry is in your hands now. We've done everything we can do. These managements have done everything they can do. Their salespeople have done everything they can do. We've put in the best technologies. I was yesterday at, on a boiler mat. This is an industry that produces 70 percent of its own energy through biomass, and doesn't have to take that energy off the grid. When this energy goes down, that energy is going to go back to the grid. So that I don't think, and I have all the respect for the people here and the people on the Commission, but I don't think you understand the inhumanity of what's going on in the industrial workplace in America as we try to compete with Communist China. You know?

And if they decide, as they've said in a

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number of sectors, we're going to dominate the coated
free sheet paper industry, then that government is
going to do what it thinks it's going to do to
dominate that, and you're the only thing standing
between us and destruction.

And I assume, Mr. Commissioner, that you
wanted to know how the workers have taken it? They've
taken it on the chin. But they're standing back
there, and they're wanting to fight. They're not
wanting to fight in an unfair way. They want to work
with their employer, so that they can have good jobs
in those communities. And we're counting on you to do
it.

MR. GEENEN: Mr. Commissioner, a direct
answer to your question regarding should labor be a
big factor in the overall cost, given that the
machines that our employees and our members and the
companies' employees are working on are really state-
of-the-art machines. I think the answer is, it
shouldn't be a big factor.

But when there are so many other advantages
to the Chinese paper industry in terms of the value of
the currency and illegal logging, then it does become
a real factor for us. And it becomes a real issue at
a bargaining table when it shouldn't be, because we
are operating on state-of-the-art equipment that, you know, has increased its productivity twofold over a period of 20 years. So that shouldn't be the factor. But nonetheless, our members find themselves stepping backwards in terms of their standards of living in order to try to compete against an economy that cheats.

MR. GERARD: When Congressman Oberstar was here talking about the steel industry, I was reliving my past. It's the same thing in the paper sector. This is the most productive paper sector in the world. It can compete with anybody. But we can't compete against a country that is not going to play by the rules. And the issue before you is one of the issues they cheat on. They cheat on every issue.

COMMISSIONER WILLIAMSON: Okay. That you for those answers. I'm just trying to get the picture clear, because sometimes the numbers, just looking at the numbers strictly in our C table don't always make the point. And so I wanted to mate those real-world experiences with the data. So thank you for that additional, shall we say clarification.

Turning to a little more technical question for the lawyer. Table C-1 and C-2 set out alternative figures for subject imports. And I want to say what
are the best sources of statistics for us? Which one should we be looking at? Is there an advantage of looking at one versus the other?

MR. STEWART: This is Terry Stewart. Thank you, Commissioner. I think at the moment we believe that the statistics that are based on the import statistics are the better. The other is dependent upon importer questionnaires, and the importer questionnaires are partial. Not due to any lack of effort on the part of the staff, but just the nature of getting responses. So we think you have a less complete response in terms of the import data that is premised on that.

It doesn't make a big difference in terms of the numbers, as I recall C-1 and C-2. But C-1 is based off of an estimate of likely imports from the, from the government statistics. And we think that that's probably a more solid basis for the final.

COMMISSIONER WILLIAMSON: Good, thank you. And I have no further questions at this time.

CHAIRMAN OKUN: And before I turn to Commissioner Pinkert, I understand we have, I believe it's our last Congressional witness.

MS. ABBOTT: That is correct, Madame Chairman. Our next speaker is the Honorable Amy

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Klobuchar, United States Senator from Minnesota.

CHAIRMAN OKUN: Welcome to the Commission, and good afternoon, Senator.

MS. KLOBUCHAR: Well, thank you very much. Thank you, Commissioner, Chairwoman Okun, and all the Commissioners. I know that Commissioner Pearson is from Minnesota, so I'm glad to see you here. I do bring you greetings from our home state, where in the words of our poet laureate, Garrison Keillor -- our unofficial poet laureate -- the women are strong, the men are good-looking, and all the paper mills are above average.

So it is truly good to be here. And I am also glad you've given me the opportunity to take a 10-minute break from the Senate impeachment hearing of a Louisiana Judge. It has some very interesting pieces of evidence, but I won't go into them here.

I am honored to be here today on behalf of the workers of Sappi Fine and NewPage Corporation, represented by their union, the United Steelworkers. Along with so many of my colleagues who were talking out there, that I understand have testified before you today or have submitted written testimony, I'm here to voice my support of their petition filed against subsidized and dumped imports of coated paper products.

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from China and Indonesia. Minnesota, as I'm sure Congressman Oberstar told you with great flourish, has a proud history of involvement in the American paper industry. The abundant wood and water supplies in my state have fed the paper industry for more than 100 years.

In fact, in the late 1800s Minneapolis made its name as a mill town. Situated right on St. Anthony Falls, which is literally only about less than a mile from my house, the so-called "Mill City" became a thriving hub for paper mills, sawmills, and flour mills as early as 1871.

Many years ago my grandpa worked as a logger in northern Minnesota, and he and other loggers in the state helped transform our country into the global power that it is today. And they helped build Minnesota's paper industry, which now represents more than 11,000 jobs in our state.

Unfortunately, Minnesota's name in paper is being undercut today by the unfair trade policies of foreign paper producers. Both Sappi Fine and NewPage Corporation have important mills in Minnesota. Sappi's pulp and paper mill in Cloquet, Minnesota has been in existence since 1898. It is located on the banks of the St. Louis River, and employs over 750
NewPage's pulp and paper mill is in Duluth, based right on the northern shore of Lake Superior. The Duluth mill employs over 250 workers, and includes a recycled pulp mill that recycles nearly one million pounds of recovered paper every day.

Unfortunately, coated paper operations at both of these mills are suffering as a result of unfair imports from China and Indonesia. A study put out recently by the Economic Policy Institute has documented the boom effect of China's subsidies on its paper industry.

According to petitions filed, Chinese and Indonesian imports have increased by 40 percent in 2009, accounting for 30 percent of the U.S. market. The unnatural growth in foreign paper production has driven U.S. producers' shipments down to 38 percent of the U.S. market. And between 2002 and 2009, we've lost more than 150,000 workers in the paper products industry.

Prices continue to plummet in the face of a flood of imports. Perhaps even worse than these immediate losses, unfair competition from foreign producers has also forced Sappi Fine to suspend planned investments in new technologies and in new

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operations, which is exactly the opposite of where we
want our country to be going.

At a time when innovation is desperately
needed to help bring our country out of recession,
unfair foreign trade practices are forcing our
companies to cut down on new development. I know how
important the paper industry is to Minnesota workers
and families. Local communities in our state and
across the country are dependent on the future success
of paper mills and continued livelihood of their
workers.

I believe we have an obligation to address
this unfair competition that would further worsen our
state's economic situation. Therefore, I urge the
International Trade Commission to address the unfair
competition that is evidenced in these investigations.
China and Indonesia cannot be allowed to continue to
flood us with dumped and subsidized coated paper to
the detriment of our companies and workers.

American workers and businesses deserve to
operate on an even, level playing field with our
foreign competitors. And this requires proper
enforcement of anti-dumping and countervailing duty
laws.

I ask that when you have fully examined the
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negative impact of these imports from China and
Indonesia that they have had on our paper producers,
you make an affirmative determination in the final
phase of these investigations.

Everywhere in our country workers are
suffering, families are suffering. And we know that
we have a lot to do in our own country in terms of
moving forward with competitiveness and innovation,
and changes that we need to make. But we can only
truly make them if we are playing on a level playing
field.

Thank you very much for having me here
today.

CHAIRMAN OKUN: Thank you for your
testimony. Let me see if my -- wait a minute, my
colleagues have questions. Yes, Commissioner Pearson.

COMMISSIONER PEARSON: Welcome, Senator
Klobuchar.

MS. KLOBUCHAR: Thank you, Commissioner.

COMMISSIONER PEARSON: It's a pleasure to
have you here. In my tenure, this is the first time
we've had two Members of the Minnesota delegation come
to the same hearing. So this obviously is very
important.

MS. KLOBUCHAR: Was the other one wearing
bright pink, too?

(Laughter.)

MS. KLOBUCHAR: Did he speak in French?

COMMISSIONER PEARSON: No.

MS. KLOBUCHAR: He does that.

COMMISSIONER PEARSON: He made a fine presentation.

MS. KLOBUCHAR: Okay, very good.

COMMISSIONER PEARSON: I would just say that although I don't think I ever heard of him referred to as a potential poet laureate of Minnesota, your father did a phenomenal job with his columns for years, and I very much enjoyed them in my younger days. So I just wanted to make that comment. There's a journalistic streak in your family.

MS. KLOBUCHAR: Well, thank you very much.

And my background, as the Commissioner knows, my grandpa was a logger, but before that he was a miner up in Ely. And he worked 1500 feet underground in the mines in Ely, Minnesota; never graduated from college. But he saved enough money, literally in a coffee can, to send my dad to college. And my dad went on to become a, first an AP writer, and then a sportswriter, and then a columnist for the Minneapolis paper. And he has now returned as a blogger covering Brett Favre
and the Vikings, so going back to his roots.

So we are very hopeful of the next game.

All right, thank you very much. I appreciate it.

CHAIRMAN OKUN: Thank you very much, Senator.

MS. KLOBUCHAR: Thank you.

CHAIRMAN OKUN: Commissioner Pinkert.

COMMISSIONER PINKERT: Thank you, Madame Chairman. And I, too, thank all of you for being here today to help us understand conditions in this industry.

I want to begin with a question for Mr. Gerard, or perhaps his colleague. I know that the Steelworkers is an international union, and I'm wondering if you can tell us anything about the condition of the coated paper industry in Canada.

MR. GERARD: I'll get John to do that because he's been working with them on some issues. John?

MR. GEENEN: The paper industry in Canada is really sensitive to the value of a dollar in Canada, versus the value of a dollar here. And there's really only a few remnants left of the coated paper industry in Canada, and Canada has become the principal newsprint producer in North America. But there is not
a robust coated paper industry there any more.

COMMISSIONER PINKERT: Thank you. Mr.

MR. GERARD: I've been talking with my colleagues in Canada, and maybe a tribute to people like Jay Rockefeller and the American lawmakers, the law in Canada about bringing a case is slightly different than here.

But I've been urging them to bring a case, as well. And they are now in the process. And they don't have the degree of flexibility we do. They've got to get the approval of the Commission to do the case. So they're promoting it now, and we hope they will get a case there shortly, as well.

COMMISSIONER PINKERT: Thank you. Now, turning to Mr. Nelson. I note that you testified about a price premium for the domestic product over imported products.

And I'm wondering whether you think that there's still a natural price premium. And if so, is there a consensus on the panel as to what that premium might be?

MR. NELSON: Yes. Mr. Barry Nelson with NewPage. I think one of the merchant distributors probably is a better determiner of how big that
premium could be.

The way that we look at that premium and how it's been explained to us by our merchant partners is that because of the faster supply chain, the level of working capital, the less working capital is needed to cover the same service levels to their, in turn, their customers is lower.

And because of that lower working capital investment, they're willing to pay somewhat of a small premium. I think that premium has been eroded over the last three to five years, mainly because of the quality aspect; that what was once a premiere quality advantage that we had on our economy sheets versus what was available from the CCP from the Indonesian and Chinese industry, has become more interchangeable.

So I think it's probably Mr. McGehee or the folks from Field.

MR. DeVOE: This is Steve DeVoe from NewPage. The only thing I would add to Barry's comments is, another thing that has eroded that price premium is, as we have lowered our pricing to match the dumped, dumped import pricing, we have pieces of our business that no longer reflect that premium.

COMMISSIONER PINKERT: Any other comments from the panel on this issue?

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MR. McGEHEE: David McGehee, Mac Papers.

It's been our history, we needed pricing greater than $1.50 or two dollars a hundredweight from off-shore manufacturers to make their programs work financially.

MR. NELSON: This is Barry Nelson. That would be 30 to 40 dollars per ton.

COMMISSIONER PINKERT: Thank you. Now, I have a series of questions about the second half of 2008. I may not get to all of them this round, but it's my understanding that the volume, not necessarily the market share, but the volume of the subject imports peaked in the second half of 2008.

And I'm wondering whether that was correlated with a decline in operating income or operating margins for the domestic industry.

MR. STEWART: If you wouldn't mind, Commissioner Pinkert, maybe we could take that in the post-hearing. Because I haven't looked at the, at 2008 broken up that way. And so we'd have to go back and look at the preliminary record to kind of pull that data out. I don't have an answer off the top of my head.

COMMISSIONER PINKERT: That will be helpful. And I'd also ask that if you can, try to estimate what the cost of goods sold to sales ratio would have been
during that second half of 2008.

MR. STEWART: We'll be pleased to do that.

COMMISSIONER PINKERT: Thank you. Now, this one is not so much about the second half of 2008, but 2008 as a whole. And it's really more for your economist.

What explains the drop in apparent consumption in 2008? And in light of that drop, is apparent consumption a good measure for demand in this industry?

MR. KAPLAN: Well, the recession did start towards the end of, in really the end of 2007, as the economy started to decline throughout 2008. And then it really accelerated toward the end of the year with the collapse of Lehman and the stock market crash.

But I'd like to turn it over actually to the industry to discuss what they saw in demand in 2008. Obviously the decline continued into 2009, as well.

But with respect to it being, consumption being an indicator of demand, I mean, consumption, well, the price and a quantity going on at the same time. It's the equilibrium of both supply and demand. But at least with respect to inventories that we see in other cases where there's a massive buildup, that really didn't occur until more into, into 2009, as
demand fell and some of the customers had it in hand.

So anyway, the first part of your question, I'd like to hand it to the industry witnesses to describe what their demand was in 2008, and the timing of it.

COMMISSIONER PINKERT: Before we get to that, I just want to add one more question that perhaps you can address from the post-hearing, Mr. Kaplan. But you talked about overall conditions in the economy. It's my understanding that the trend with respect to GDP in 2008 was somewhat different from the trend with respect to apparent consumption in 2008.

And so if you could help us understand that, perhaps in the post-hearing, that would be useful.

MR. KAPLAN: Sure. And both Respondents and Petitioners use the same demand drivers, and it wasn't GDP, it was magazine pages. So it's slightly different than GDP. I'll be happy to address it in the post-hearing brief.

COMMISSIONER PINKERT: That would be helpful, very helpful. Any other comments on the demand conditions in the market in 2008?

MR. DeVOE: This is Steve DeVoe from NewPage. It's tough for me to make a comment about Heritage Reporting Corporation (202) 628-4888
the industry as a whole, but I could give you a perspective from our business concerning coated papers.

In 2008 we were seeing increased pressure and losing share to low-priced imported paper, a lot of it on private-label programs. There was an earlier question about that.

We made a decision, we had not yet made a decision in 2008 that we were going to match up with the pricing that we were seeing in the marketplace. We made that decision later in 2009.

Most notably, we secured a large private-label program with Unisource, that I think was mentioned in the preliminary hearing several months ago. So as a result of that, we saw our business and our share pick up in the second half of 2009.

But certainly for 2008, the specific period you're asking about, we were holding the line on pricing as much as we could, and we were, we were losing business.

CHAIRMAN OKUN: If you could put your microphone on, please.

MS. MILLER: Yes, this is Jennifer Miller with Sappi Fine Paper North America. And let me just speak sort of generally, and then maybe I can also
address a question from Commissioner Pearson, from
Sappi's point of view, about the difference between
the impacts of the recession and the price under-
selling that we were facing. Because I think it's
bound up, in at least Sappi's experience, from 2008 to
2009.

Certainly for the bulk of 2008 we enjoyed
nice demand and nice operating margins. We did start
to see the impact of the recession on our business
towards the end of 2008. But also, that was when we
first started to notice quite dramatic under-selling
of our product by the Chinese and Indonesian imports.

What stands out in my mind in particular was
in early 2009, when we were certainly already battling
the early impacts of the recession on our business,
that we were sitting down with merchants to discuss
possible economy sheet program switchouts with them.
And maybe without -- trying to keep my answer
efficient -- paper isn't sold on every order that
comes through the door. Merchants and printers have
to make choices on which suppliers they will stock
inventory in their warehouses. And that's because
paper comes in lots of different sizes and finishes,
and they just simply don't have the working capital to
have, you know, two or three different suppliers.
So it's very important for a company like Sappi, when they sit down with the merchants, to understand what that price point is going to be, to get that merchant to stock our inventory.

So certainly in the early part of 2009, we would have been expecting to hear things like please help us lower our costs by changing your supply chain, or please help us lower our costs by having your technical service rep help us improve, you know, the productivity of our operation.

What I was unprepared for, and what I know my sales callers were unprepared for, was indications from our merchants and printers at the time that in order for us to switch out programs, we would have to meet prices 20 to 30 percent below what we were selling then. And I can tell you the margins weren't high.

Why is that important to us, is that if we didn't match those lower prices by 20 to 30 percent, we would lose the shelf space in those merchant warehouses and printers' warehouses. Which meant that even if we had a designer or a customer saying I want to buy Sappi paper, the answer would be we can't get it for you because it's not in the warehouse.

So we were forced, and in my testimony

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earlier I said we were forced in February of 2009 to
go to each and every one of our merchants and do a
dramatic price reset. I can tell you that felt
different. I'm not as erudite as Mr. Kaplan here, but
I can tell you it was a different kind of price move
than one I would make, and enjoin my healthy
competition from my colleagues Greg and Barry here.
It was a matter of degree difference.

COMMISSIONER PINKERT: Thank you. I'm going
to have to stop you right there, as my red light is
on. But I would note for the record that you were
answering Commissioner Pearson's, as well as my own,
question. So thank you.

MR. GERARD: If I can, Madame Chairman, I've
got to excuse myself. But I want to thank you all
very much for the opportunity to be here. And I'm off
to a meeting on dumped silicon metal.

CHAIRMAN OKUN: Okay. Thank you, Mr.
Gerard. I will start my questioning.

Mr. Kaplan, Dr. Kaplan, I will start with
you. But then I would like industry that produces to
chime in if they can, as well. Which is, if you had
the opportunity to respond to several questions about
pricing, and also about how we sort out what is going
on in '09 to determine the impact of subject imports.

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And so I don't need you to repeat any of that, I heard that.

But the Respondents had raised at least two other issues with respect to what was going on in 2009. So I want you to address those, and how you take them into account in your analysis. And then also how producers respond, as well.

One of those arguments was with respect to what was going on with raw material prices, along with the argument on the tax credits for the black liquor subsidies and what impact that might have had. So I'd like a response on that.

MR. KAPLAN: Yes. On the first point, on the raw materials, I tried to address that directly in my empirical work by looking at the price of the product minus the raw material cost. And I know all the Commission is familiar with many of the steel cases that you've done, where sometimes you use the metal margin, which is the price of the steel minus the price of the scrap. And that way, and the reason in both these industries you might want to do that is because the underlying input price can be quite volatile.

And so I tried to adjust for the issues regarding raw material by, by looking at the margin,
rather than just the price. And that eliminates, should eliminate their concern, as they think it through.

The second issue is the black liquor issue. And there's several points on that.

The first is that the Commission's financial data reflects the black liquor tax credit as it was reported by each company. And the Commission's financial analyst has verified it; they looked at where they've been; they've asked many questions, then they blessed it.

And the Commission typically looks at operating income. I know in the first investigation, I think Petitioners suggested that they look at net income. And they said no, we look at operating income. Well, the operating income has declined. The black liquor tax credit is incorporated in there. And I want to note that the industry would be doing much, much worse. If anything, the distortion from the credit improves the performance of the industry from what it otherwise would have been. This was a one-time event. Prices declined before people started using the credit. People knew the credit was going to disappear. So if anything, the financial condition reflects an artificial improvement due to the credit.

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The second point regarding the black liquor tax credit is that the credit was given for a wide variety, it was given for the making of chemical pulp, not for the making of coated paper. And much of the credit was distributed to other products during that period.

Finally, in statements made by the industry, the credit was used for paying down debt and other issues for surviving at a very, very severe time, and did not, was not passed through to prices until it was forced. And it really wasn't like the credit was passed through; they were just forced to lower prices.

So in essence, the credit that they hoped to receive to be able to use to lower debt, and be able to use to raise profits for capital investment, instead was dissipated by the dumped and subsidized imports, which forced a lowering of prices and a squandering of whatever benefit they might have received.

CHAIRMAN OKUN: Okay. Mr. Martin, you look like you're ready to go.

MR. MARTIN: Yes, I'm ready to go, Commissioner, thank you. I'd like to address the black liquor tax credit, at least with respect to NewPage since the Respondents seem to want to point
out some comments from our former CEO.

I think first of all, the quote that they used that, you know, on face value that's somewhat damning, is a partial quote. And they leave out the word "unfortunately."

I can tell you from NewPage's perspective, first of all, in 2009 we did not begin to receive the black liquor credit until April. And in July we thought Congress was going to take it away. In September we thought Congress was going to take it away. And we knew without, we knew as a matter of fact it would be gone at the end of the year. So it was, you know, it was a tax credit that we received, that we treated below the line; and in no way did we allow that to affect what we were doing on an operational basis.

In 2009, we did enter into a contract with Unisource to displace some of the imported product. And in order to do that, we had to meet the pricing levels of that imported product, and we had to agree to a contract that didn't just deal with 2009. You know, when merchants enter into contracts, they're not looking for you to be their partner for a month; they're looking for a long-term relationship.

So in no way could we enter into an

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arrangement, or use the black liquor credit as a subsidy to lower price to get into that business. Because we knew that it was not going to be there. So you know, I'm glad we had it for the period of time we had it. It had no impact on our day-to-day operating decisions, on our day-to-day decisions on how we priced product. So I think it's kind of a red herring with respect to this case. It has no bearing on this case.

But we did not -- and the phrase of passing it through, the net effect was, if you looked year over year, if it wasn't for the black liquor credit, our results would have been substantially worse. And the operating results were substantially worse year over year. That happened to allow us to keep the lights on during that period of time.

MS. AYER: This is Anne Ayer from Sappi. I also just wanted to confirm that we reported it below the line, and we did not consider it in making pricing decisions. And it kicked in well after we had had to take pricing decisions, and instead viewed it as something to help the balance sheet.

CHAIRMAN OKUN: Okay.

MR. SAVAGE: Greg Savage with Appleton Coated. Just to clarify, I mentioned it a little bit...
in our statement, but Appleton Coated is a non-integrated mill, so we did not benefit from the tax credit. And as we moved our prices, it was in direct response to the Chinese and Indonesian increase in imports in the first half of 2009.


MS. VAN ERT: I was going to just say what Ray did in relation to the black liquor tax credit, but also to address the import class prices. Because we're non-integrated, we purchase pulp, and it flows with the market prices. And I can assure you that when pulp is way down or pulp is way high, I don't get to pass that on just through prices. It's what the price is going to be what the market will bear, and it has little or no impact as to what the state of the pulp market is during that particular year, whether it be low or high.

So that really is not reflective of what you have to do on pricing, when you have to go to match the Chinese imports.

CHAIRMAN OKUN: Okay. I appreciate those comments. Then another issue raised with respect to, in particular '09. And I'll start with you, Dr. Kaplan, and ask producers.

If you'll talk about the role of inventories
during this period and its impact on prices, and how
we should take that into consideration. And I think
they're already moving the inventory drawdown, but
just, did you take that into account in your analysis,
as well?

MR. KAPLAN: I'd like to discuss the details
on a firm basis in a post-hearing.

CHAIRMAN OKUN: Okay.

MR. KAPLAN: But I'd like to pass off the
effects of any inventory in 2009 to the industry
people that could speak to it.

CHAIRMAN OKUN: Okay. And I should say, you
can obviously comment broader than '09. I'm just
using, with respect to this particular argument, that
there's something that I should understand about the
period as a whole in inventories. Please respond to
that, as well. Who'd like to start? Mr. Gardner.

MR. GARDNER: Yes. Mark Gardner, Sappi Fine
Paper. I can only speak about our inventories, and
our inventory situation going out of '08 into '09 was
already quite low. We didn't build any inventory
during the year of '08 and '09, so it really didn't
influence into our ability to hold back or move
product one way or the other. We were pretty much
running during that whole period of time at our

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CHAIRMAN OKUN: Okay. Are there other producers?

MS. VAN ERT: Our inventory levels didn't change that much, either, so it really had no effect on our placing.

CHAIRMAN OKUN: Okay. Yes.

MR. NELSON: Barry Nelson with NewPage. Was the question about the overall impact of inventory and how this would draw on prices?

CHAIRMAN OKUN: Yes.

MR. NELSON: I think one of the things that maybe our merchant customers that are here can discuss a little bit more in detail is, as these programs get moved from one supplier to another, there's an eventual lag effect on price in the marketplace as they purge that inventory. I think that's one of the things, as we look at price recovery since the duties have been put in place, we have started to see stabilization and improvement in pricing.

I think the lag of that improvement in pricing is in large part due to the fact that a lot of that inventory that was transitioned to different products manufactured by domestic manufacturers had to be brought through the system. So I think that's one
of the other impacts that's felt when those merchants change programs.

CHAIRMAN OKUN: Okay. My red light's come on, but I will make a note to myself to come back and ask your purchasers about that, as well. I thank you for bringing it up. Commissioner Lane.

COMMISSIONER LANE: Thank you. Let's start with the issue of whether or not the imports from Indonesia are negligible. Could you indicate whether you think that the imports are negligible? And what the applicable percentage of imports from Indonesia, as you calculate the percentages and explain the detail of your calculations. And of course, this relates to the other issue as to the scope of the investigation, and whether or not to include multi-ply paper or product or something or other.

MR. STEWART: Let me start on -- this is Terry Stewart. Let me start on the negligibility issue.

The prehearing staff report presents two alternative views based on the data that's before the Commission at the moment. One is based on the import statistics, and does not include what APP, in later submissions, indicated were categories that they may have included some of their imports of the product.
that we believe are covered by the case.

And that, I believe, shows a market share of between six and seven percent for the 12-month time period of total imports by Indonesia. The second approach, which is an APO approach, looks at the importer questionnaires, and comes up with its own figure there.

With regard to coverage, the Commerce Department of course will be ruling next week. And we believe that their preliminary determination will likely be affirmed. And that's because the scope of the petition dealt with brightness, dealt with weight, dealt with suitable for high-quality graphics, and dealt with product that was sold in sheets. And you will note in those four elements that there is nothing that says that it's a distinguishing characteristic, whether it's a single ply or it's a multiple ply.

And so we believe that the, that the total imports will include multi-ply from a scope point of view, when Commerce comes out with that decision. Assuming that that's the case, for purposes of my discussion.

The other HDS category that will be identified by Commerce as being covered if they do that are being covered simply because APP has

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indicated that they have entered product under those HTS numbers, not because the HTS numbers are, in our view -- in our view, or we believe in Customs' view -- the correct HTS numbers for this product to be entered.

So we think that what the staff has put together for the prehearing staff report on Customs, on Commerce Department import statistics, is in fact the correct calculation, and was an effort to estimate the full volume. The full volume may be higher than that, because of misclassification or different classification by the importers.

So we believe that that approach is the correct approach. We think the alternative approach that the staff took to look at importer questionnaires has the problem that I raised with, I believe it was Commissioner Pinkert; namely, that you don't have a complete set of importers, so it's only partial data. But to the extent it comes up with a consistent approach, you have alternative approaches that would say negligibility is not an issue in the case.

COMMISSIONER LANE: Okay, thank you. Thank you for that explanation.

I would ask anybody who feels that they want to answer this question, to answer it. I'd like to
address the indicators of profit, and what targets you would set as being reasonable.

In other words, let's look at operating income as a percentage of revenue. What do you consider to be a reasonable or necessary percentage when considering the success or failure of your business activities?

Also, if you tend to look at other measures, such as return on investment or cash flow payback. What level of return on investment or cash flow do you consider to be a minimum reasonable level?

MR. GARDNER: Mark Gardner with Sappi Fine Paper. We look at a range that's typically 10, minimum 10- to 12-percent return of our operating margin. In order to sustain the business, when we look at reinvestment, we look at a -- I think an easier way to think about it, we tend to look at a two-year to four-year horizon for payback on that investment.

COMMISSIONER LANE: Anybody else want to answer that? Do you all agree that that's about what you would expect? Mr. Martin?

MR. MARTIN: From our perspective, trying to put it in the right terms, I was thinking in terms of operating margins. And what our industry has enjoyed
historically has been 15- to 20-percent operating
margins.

You know, in the 27 years that I've been in
the business, that would be the range. And so to me,
15 percent, you know, in the lean years, and 20
percent in the good years. But in that range is what
it needs, what this business needs to sustain itself
and reinvest capital at a level to keep us
competitive. We clearly aren't, haven't operated in
that range in the last few years, but that would be
the target for NewPage in this business.

COMMISSIONER LANE: In times of recession,
do you alter your expectations so that a lower number
would make you feel good?

MR. MARTIN: It doesn't make my owners feel
good, so the answer would be no. I mean, clearly, you
know, you can't -- in a recession you have to deal
with the cards that are dealt you. That doesn't mean
you think that is a good number.

COMMISSIONER LANE: A 15- to 20-percent
range, you say that that allows you to reinvest. Does
it also allow you to hire more employees?

MR. MARTIN: Oh, absolutely. It absolutely
would.

COMMISSIONER LANE: And the reverse is true,
that the lower the number, the expectation is that you have to lay off workers?

MR. MARTIN: That's correct, ma'am. And that's the case. You know, in our case just this summer, you know, we had a restructuring of 10 percent of our salaried work force. The Luke mill, which Senator Rockefeller talked about, we had --

COMMISSIONER LANE: And a number of us visited that mill in 2007, I believe.

MR. MARTIN: Yes, I was there with you, actually.

COMMISSIONER LANE: Right, okay.

MR. MARTIN: I met you all at that time. We had to do a restructuring in that mill due to just the lack of operating profit that we have. And we reduced the manpower in that mill by 10 percent.

MS. VAN ERT: This is Sandy Van Ert from Appleton Coated. I would agree with my colleagues, or with the other Petitioners here. If you don't have that type of an investment, at least that average over time, you're never going to generate the cash flows you need with capital intensity that our industry has in order to generate any kind of new capital spend. And it's usually that new capital spend that allows you to potentially hire new workers, as you gain, you
know, output through whatever capital you're putting in your machines, or additional machines to increase your production.

MR. KAPLAN: Commissioner, if I could just add, one reason for that, looking at it in terms of the competition, is the Chinese are putting up approximately two million tons of new capacity. Their financing is coming in large part from the government. So when you look at these companies here, there has got to be a reasonable rate of return to meet the level of investment, to match the foreign competition.

COMMISSIONER LANE: Okay, thank you. What effect on your business has the shift to digital readers and people doing a lot of their advertising through computers and alternative forms of advertising, other than catalogs and using paper?

MR. NELSON: This is Barry Nelson with NewPage. Different segments of our market seem to be impacted at different rates.

For example, anything that has to do with reference material, like think back to World Book Encyclopedia, that was pretty much erased by electronic means.

There are some, however, opportunities for printers to use digital information, in things like Heritage Reporting Corporation (202) 628-4888
direct mail and more customized brochures, where
digital information can actually grow printing at the
same time.

So depending on the segment, it can have
different impacts on our business.

COMMISSIONER LANE: Okay, thank you. I'll
come back to the rest of you that wanted to answer
that question at my next round.

CHAIRMAN OKUN: Commissioner Pearson.

COMMISSIONER PEARSON: Thank you, Madame
Chairman. Mr. Martin, a question for you. This is to
be answered really in post-hearing. And I don't do
this because I think you need more things to do, but
it's to be responsive to an issue that's been raised
by Respondents.

And that is, could you please provide us
with quarterly product-specific pricing data for sales
to Unisource? And then clarify when the sales to
Unisource began.

MR. MARTIN: Yes, we can do that, post-
hearing.

COMMISSIONER PEARSON: Post-hearing, yes.

MR. MARTIN: Absolutely.

COMMISSIONER PEARSON: Okay, thank you.

That would be helpful. It would just fill out the
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record in a way that would be useful.

MR. MARTIN: No problem.

COMMISSIONER PEARSON: Okay. Now for the panel as a whole. There's quite an unusual fact pattern in this investigation relating to the five pricing products. The subset of those products that actually experienced competition with subject imports during the POI all showed slight increases in price; not huge, but slight.

The subset of products for which there was no competition with subject imports experienced rather noticeable declines in price. Is there some explanation for this? I find it counterintuitive.

MR. STEWART: If you wouldn't mind, Commissioner, we'll answer that in the post-hearing. Because, first of all, they haven't seen the pricing series since their APO, so they only know what they filled out in their own questionnaire. And I believe that if you look at the price series, what you will see is that the reason that it shows "price increases" is what happens in 2010, as imports exited the market. But we will address it in more detail.

COMMISSIONER PEARSON: That may be correct. However, that does nothing to explain the pricing pattern that we see in the subset of products for
which there was not competition with the imports.

MR. STEWART: We did try to address that in
the, in the initial answer to Commissioner Lane, but
we will spell it out in the post-conference brief.

COMMISSIONER PEARSON: Yes, if you could.

Because I'm not sure whether I've ever seen this type
of fact pattern among the pricing products before. I
may have, but I've just forgotten it at this moment.

In fact, and perhaps counsel could clarify
in the post-hearing whether there are any previous
investigations with this fact pattern, in which the
Commission made an affirmative determination.

MR. STEWART: Well, since we won't have
access to the confidential records of the previous
cases, that will probably not be a doable request.

COMMISSIONER PEARSON: Point well taken.

MR. STEWART: But the basic answer with
regard to products 2 and 5, which I had described at
some length earlier, was that the claim of the
Petitioners here was that -- and the claim from
customers -- was that imports in the economy, where
there is obviously direct competition, had an effect
across the board.

What the witnesses here testified to was
that the effect on the premium grades, which are what
is covered in 2 and 5, occurred with a lag of about six months. And my statement earlier had been that if you take a look at our pages 31 and 32 of our prehearing brief, where we tracked the data from those series, you can see whether or not the data that your staff collected correspond with that or not.

But that was the explanation, that you have a delay in the reduction in prices, but that there are significant downward pressures on prices for the grade 1s and 2s; and that tends to show up in the third or fourth quarter of 2009, which is later than the, where the major price effects are felt for the economy grades. And the confidential data will either support that or not, and we try to lay it out in the brief as to whether it did.

COMMISSIONER PEARSON: Okay. Well, I hear what you're saying.

MR. STEWART: We will respond specifically to your question. But I'm just trying to point to this stuff that is in front of you at the moment.

COMMISSIONER PEARSON: Would it be correct to assume that the domestic industry did have input into the selection of pricing products? Yes. And so we just ended up with a couple in which, with a subset in which there was no competition.

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MR. STEWART: Well, that suggests that the data accurately portrays where the competition occurs. I believe that you can ask any of the salespeople, and they will tell you that the major products coming in from China, while they may be classified as product 1, in fact have price effects and directly compete. Because of their brightness, they are in fact somewhere between a product 3 and a product 2. And in fact, can compete against both of those in the marketplace.

So the way your data is structured, it is all in product 1, because it's done by brightness. But in fact, the product competes against both.

COMMISSIONER PEARSON: Could people who are involved in sales of the product comment on that? Is there some overlap across the categories that we've established here, in terms of how the Chinese product might compete?

MR. NELSON: This is Barry Nelson with NewPage. Like I said earlier, when the Chinese originally came into the market back a number of years ago, the quality was not equal to what we had. And so they priced it below where we were. That pricing stayed at that level, and their quality level has, over time, improved. To the point
now where, on a specification basis, they're competing in some cases with our no. 2 products. But the pricing is still below our no. 3 economy price levels.

So they've ramped up their quality levels; at the same time, not moved up the price level.

COMMISSIONER PEARSON: Okay. Is part of the quality improvement an increase in brightness within the ranges that we've established for our pricing products?

MR. NELSON: That's a component of it, as well as the surface characteristics, and subsequently the print characteristics of an end print job.

COMMISSIONER PEARSON: Okay. Mr. Kaplan.

MR. KAPLAN: There's really two effects going on. And the first is, is that there's three grades that have a historical relationship with each other.

And what happened is, when the product came in, it forced down the price of the economy grade, and distorted the historical relationships between the three grades. And what you're seeing is, is the return to the historical relationship with a lag.

So that explains your question about the timing, is that historically these three things moved along with a certain relationship. But the bottom
one, the economy one, was forced down by the imports. The domestic producers -- and I don't want to get into something that's confidential.

But anyway, they did things with their pricing such that the historical relationship didn't remain the same, and then it's now returning to it. So that lag is one thing.

So my point is that any imports that affect the economy grade affects everything; moves all prices, sometimes directly, sometimes with a little bit of a lag.

The second point being made is that the quality and brightness changes means that product that's imported that's categorized as one product, it actually has characteristics that are between that product and a higher-grade product. So there is actually some direct competition going on with the no. 2s that's not really captured the way the pricing was reported.

So what we conclude is, is that the competition has become more direct, and it's dragged prices down through that. And second, because of the relationship between the grades, any under-selling or price depression from the economy level will eventually drag all prices down of the product,
because of the relationship between, historical
relationships between the three grades.

And if an industry person can explains how
that happens, I'd be, that would be great. But that's
my understanding.

MR. DeVOE: This is Steve DeVoe from
NewPage. I guess one thing I would say is I don't
think it's true that there's products that were listed
out where competition does not occur. The competition
absolutely occurs. And you can ask any one of the
printers or merchants here on the panel, and they will
say, especially in that economy segment, I believe the
cutoff on the products was 90 brightness, between the
dividing line.

In the domestic mills, our economy sheets
are 88 brightness. And what the imports did is they
came in at a product that was at or above, kind of in
our mid-tier, our no. 2, and priced it below our
economy. So the merchants look at that and say where
does the import product compete with? For NewPage, it
competes directly head to head with Anthem and
Fortune, because that's our low-priced entry-point
economy sheet. That's our brands for that.

And so it first hit us there. And then, as
it highlighted, eventually brought down the pricing of
everything as that gap got too big. So what you're seeing there is that 90-brightness dividing line between -- we had a good, better, best; they came in with a better and undercut our economy, our economy product.

COMMISSIONER PEARSON: Okay. Well, thank you for that explanation. What we see on the record is just a little bit confusing at the moment, so I appreciate those explanations.

Madame Chairman, my time has expired.

CHAIRMAN OKUN: Commissioner Aranoff.

COMMISSIONER ARANOFF: Commissioner Lane was asking about additional products that may or may not be in the scope when Commerce gets done. But Respondents also raised a claim that there may be several large U.S. producers of a product that would meet the definition of certain coated paper that were not mentioned in the original petition, but that you produce products in the United States that would fall within this product description. Specifically regarding paper board for packaging applications I guess is the product that's being discussed.

Can you tell us a little about why those firms weren't included in the U.S. industry, in the petition? And whether or not you intended to include...
that product.

MR. STEWART: Well, when the case was put together, the attention was then, and continues to be, to deal with products that are in sheet, that are suitable for high-quality graphics. And it turns out that there are indeed some companies who produce what is called SBS board, where some of the applications are for high-quality graphics.

And so we have stated, since that was flagged, yes, of course those companies should be included, just as that product should be included. If you look at how the petition was worded, our concern had been that in the original case, which had been a coated free sheet case, that coated free sheet had a technical definition in the tariff schedules. And it proved easy to evade the limitations of that for a product that actually competed.

So we wanted to be sure that we covered any product that actually competed in the market, that our clients cared about. And what our clients care about is the high-quality graphic-market sheet market. And that's defined by brightness, it's defined by weight, and it's defined by whether the product is in sheets, and whether it's suitable for high-quality graphics.

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We're not looking, and have never looked, to include materials which is not being used for high-quality graphics. And so the vast majority of packaging material is not covered, and so we were not looking at packaging companies. But in fact, there are products in the SBS board area that meet the definition of what we had in the scope. And hence, we've always intended to have it included, whether or not we listed them.

MR. KAPLAN: I would just add one thing, that there is the misstatement, there's certainly lack of clarity in some of what the Respondent says about this. They seem to suggest that some of the multi-ply product, for example, is not suitable for high-quality print graphic, or is not used for printing purposes.

In fact, we put extensive evidence in to the Department of Commerce showing that even on the web site for this actual product coming in from Indonesia, they advertise it as printing paper. So you know, the multi-ply paper is not some other kind of packaging paper; that's right in the kind of paper we're looking at here.

COMMISSIONER ARANOFF: I know I've certainly seen packages that have very high quality graphics on them. But let me ask you, then, my impression from
our staff is that if we include these companies that make this product in the domestic industry, it could account for a very decent share of domestic production, and might change the data significantly from what we have in the prehearing report.

How do you think that including this other product and these other producers will affect what we see when we look at the overall health of the U.S. industry?

MR. STEWART: We obviously must have different information than your staff has. The only information we have is what's in the staff report. And you have, you have responses from eight companies, four of which we believe, or we understand, are companies that are supplying information about that part of their product line.

And if you look at the share of the domestic industry that are accounted for by NewPage and Sappi and Appleton Coated and SMART, who are the four that we would have, that we had originally identified, I think you will find that, while there may be other data that we're unaware of, the data that you have at the moment is not, would not suggest that that's an accurate statement.

There may be other data that comes in that

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we haven't seen, but I'm not in a position to comment
on that which we haven't seen.

COMMISSIONER ARANOFF: Okay. I'm a little
worried that nobody is in a position to comment, and
they may not be in a position to comment until after
post-hearing briefs come in, depending on the timing.
I'll have to ask staff about that.

One of the things that Respondents spend a
lot of time on in their prehearing brief is this issue
of customers who are interested in Forest Stewardship
Council certification for product. And is there, I
know there's some discussion about the extent to which
that's important to customers. Is there any way that
we have on the record, that we could have on the
record of quantifying the size of the segment of the
market that demands this kind of environmental
certification?

MR. STEWART: Perhaps we could start,
Commissioner, by simply asking the customers here
their own experience. That would give you some data,
data set. And perhaps our producers could comment, as
well.

COMMISSIONER ARANOFF: Okay. Well, let's
start maybe with the distributors, since you talk to
quite a range of customers.
MR. FREELAND: I'm Mike Freeland with Field Paper in Omaha, Nebraska and Des Moines, Iowa. We are FSC-certified as a distributor. We felt it was necessary. We've been certified for about two and a half years.

In our marketplace, we have probably, between the two states, about 20 FSC-certified printers, FSC-certified printers. We thought it was going to be a big issue. We have to verify the certification on our invoices and our picking tickets and our delivery slips. And I'd say our requests for that would have to be considerably below one percent.

COMMISSIONER ARANOFF: Okay. So to be an FSC-certified distributor, do you have to promise to only distribute FSC-certified paper? Is that the criterion?

MR. FREELAND: Only on request. We --

COMMISSIONER ARANOFF: So you can carry other products.

MR. FREELAND: Oh, absolutely, yes.

COMMISSIONER ARANOFF: Okay.

MR. FREELAND: We have to verify that that product is certified. We keep it in a code number that says it's certified. We receive confirmation from the mill that it's FSC-certified. It's a whole
chain of custody.

COMMISSIONER ARANOFF: Okay, okay.

MR. McGEHEE: David McGehee, Mac Papers. We also are FSC-certified. I concur with Mr. Freeland here that the value is there, the interest is there; but over the last several years, price has been much more important than environmental. I would say less than two percent of what we sell, we have to certify chain of custody.

COMMISSIONER ARANOFF: Okay. Let me ask the printers, then, are you certified?

MR. SCHOEDINGER: George Schoedinger with Universal Printing. We are FSC-certified. And for clarity purposes, the FSC certification, for those who may not know, is a chain-of-custody certification. So it's about chain in and out, no percentage requirements in any way there.

We have found -- I looked back through our data over the last several years -- that the number of jobs that we must sell as FSC-certified fall somewhere between one and two percent of the total number of jobs that we sell to our customers.

MR. MARCIAN: Mike Marcian, Corporate Press. We're FSC-certified. I would say in sales dollars, it's five percent of my sales; and in paper purchases,
two percent.

COMMISSIONER ARANOFF: Okay. So it sounds like there was a widespread effort or belief that people needed to get certified, but that it doesn't seem to serve but a relatively small part of the market, in your experience.

Let me ask the manufacturers if there's anything you want to add to that.

MR. MARTIN: NewPage. And all of our competitors offer some products that have different types of certification. I think the important point to this case is the product that we displaced APP with is not FSC-certified, and is not a requirement from that distributor. So there's no stumbling block in that particular case.

COMMISSIONER ARANOFF: Can you see, I mean, as a longer-term trend, do you see a growing demand for, you know, paper that comes from sustainably harvest trees, and that sort of environmental concern? Do you think it's maybe just that the recession has kind of put the brakes on people's ability to kind of afford the luxury of being as environmental as they might want to be? Or do you think that the trend kind of has fizzled already?

MR. MARTIN: Speaking for NewPage, I don't
think the trend's fizzled. I think it's something that will grow with time. I also am not sure why that's an issue in this case, as the Respondents purchase a lot of their pulp from FSC-certified forests in South America. So, I mean, it's just a process that you have to go through. I'm not quite sure why that's a barrier. It's something that is open to them to do if they wish to compete. But it hasn't fizzled because of the economy. It's just there's a small segment that that matters. And until we have product for that small segment, we're continually trying to expand the amount of certified wood that we supply.

Unfortunately, in America there's two certification processes. One is called SFI, one is called SFC. And so that complicates the issue, I think, in North America. But I think the imports, many of the import products that come in are SFC-certified, or at least have been in the past. And it's just a matter of going through the process to become certified.

MR. SAVAGE: Greg Savage with Appleton Coated. I think it's relevant, too, on our end. We are not integrated, as we've talked about, which most of the Chinese, and some of the Chinese/Indonesian
mills, as well. And there is that small segment that values the SFC or environmental attributes, and it's fairly small.

But we have made the choice, as a non-integrated mill, to go through and just buy, and use SFC, and buy our pulp from certified places. And it's a choice that a non-integrated mill can make, and we chose to service that small, small portion of the market.

COMMISSIONER ARANOFF: Okay. I think Respondents had at least one person who has indicated that in his opinion, about 15 to 25 percent of the market demands that SFC certification. Sounds like there's nobody here who would agree with that number. No, okay. I've gone over my time. Thank you, Madame Chairman.

CHAIRMAN OKUN: Commissioner Williamson.

COMMISSIONER WILLIAMSON: Thank you, Madame Chairman. This is a question about plant closures. And you've cited the closures by NewPage and Sappi as evidence of negative effects of subject imports.

However, the capacity of the industry as a whole has held steady between 2007 and 2009, even as the market has shrunk substantially, by 25 percent. And so I'm wondering, couldn't someone argue that the
data shows that the industry has performed quite well
in keeping capacity on line in light of the economic
environment?

MR. DeVOE: This is Steve DeVoe from
NewPage. I can't comment on the capacity numbers for
the industry as a whole; I'm not sure what the rest of
the industry, you know, did on their response.

What I can tell you is, during 2009, as we
lowered our price, as we already said, to match the
import pricing, we did, in fact, begin to gain some
share back in the marketplace in the second half of
2009. So when we prepared our questionnaire and
allocated capacity based on that, that showed an
increase in capacity in our numbers that we submitted
in our report. So there may be some effect of that;
certainly, there's a rather large shift in the second
half of 2009 in terms of once the domestic industry
started matching up with pricing, you know, which we
were forced to do, we started to get some business
back.

MR. STEWART: Stated differently,
Commissioner Williamson, this is Terry Stewart, the
way your questionnaire is drafted for plants that have
multiple products, you can have movements in capacity
that are unrelated to whether or not plants have been
added or closed simply by the relative share of what
gets produced within the plant. And the full extent
of the capacity contraction that is reflected in the
two major plants closing is not reflected by that
methodology. That's your usual methodology, and in
this case it just ends up with some unusual, unusual
numbers.

COMMISSIONER WILLIAMSON: Okay. So you
would --

MS. AYER: And this is Anne Ayer from Sappi.
And I can confirm that the way we filled out, we
allocated capacity based on production. So it is not
to the full effect as shutting down Muskegon and all
the sheeters, as it got reported in our data. You
know, as opposed to -- we could allocate that
differently.

COMMISSIONER WILLIAMSON: Okay. That might
be helpful, so we can understand the real impact.

MR. STEWART: Would you like us to address
that in the post-hearing narrative?

COMMISSIONER WILLIAMSON: Yes, please.

Thank you. There has already been some discussion
about the prices between the fourth quarter in 2009
and the second quarter in 2010. And I think Mr.
Nelson mentioned something about a lag effect on an
inventory draw-down.

I'm trying to get at the question of why, why haven't prices rebounded more in 2010 than the decline in imports would seem to indicate?

MR. NELSON: Barry Nelson with NewPage. I think what I said earlier was in fact true. We have seen a stabilization and a starting rise in the economy sheet market. The lag effect was really a factor of prior to the duties going in, there was a significant amount of inventory that was put in in trying to beat those duties.

That inventory had to be drawn down over the course of the last six to nine months. And so you see a relative drag effect on pricing.

But what has happened in the marketplace since the duties have gone in is a stabilization and a return in improvement in pricing. At least we've seen that at NewPage.

COMMISSIONER WILLIAMSON: Okay, thank you. Does anyone have anything to add to that?

MS. MILLER: Jennifer Miller with Sappi. I would just confirm what Barry has said. We have announced two sheet price increases, one in May and one just last week. And we did battle, in terms of improved price realization, with very long and very
heavy inventory investments in those import programs
in merchant and printer warehouses.

COMMISSIONER WILLIAMSON: Thank you.

MR. SAVAGE: Greg Savage, Appleton Coated.
I can confirm all three. We're seeing the same thing,
and have also had a commodity price increase, one this
year.

COMMISSIONER WILLIAMSON: Okay, thank you.

Mr. McGehee, did you have something?

MR. McGEHEE: Yes, sir, thank you. I'd just
say with a 12-week backlog, getting product from
China, we had a lot of tons in process already. When
we concluded doing business with Asia Pulp and Paper,
we did ramp up our inventory, so there was a lot of
tons on our floor, a lot of tons on the water coming
in in late '09.

COMMISSIONER WILLIAMSON: Okay. Thank you
for those answers. I know the question of black
liquor subsidies has already been raised, but post-
hearing, I wonder if you could take a look at the
Respondents' claim that when the subsidy for black
liquor included domestic prices, AUVs and profits did
not decline from 2008 to 2009. This is in their brief
on pages 52 and 53, and 93 and 94.

So I was wondering if in responding, you can

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MR. STEWART: We'd be happy to. Are we allowed to respond with regard to other extraordinary items, or just that one extraordinary item?

COMMISSIONER WILLIAMSON: You have license.

MR. STEWART: Thank you.

COMMISSIONER WILLIAMSON: Okay. Let's see. I was wondering, you talked a lot about the impact of prices in the fourth quarter, 2008, and beyond. But what you haven't talked much about is, since there's been under-selling throughout the period, what's been the impact of that under-selling in '07 and '08?

MR. STEWART: Well, you will recall that there was an earlier case that picked up through 2006. And you heard earlier what the operating income for the industry historically has been, and what it has been in recent years.

What you see in terms of the pricing patterns in earlier time periods is you see under-selling that's fairly consistent, and you see depressed profit margins versus what the industry needs, but not changes in profit margins from the time period that you're looking at.

So from the way you would have looked at the matter in 2006, 2007, 2008, it looked like there was...
no margin compression; whereas the domestic producers would say they had been under extreme margin compression. Operating and operating incomes of six or seven percent, versus the 15 or 20 percent they need to be able to reinvest.

So, but they had not, they had not fully reacted to the prices as they did in 2009.

COMMISSIONER WILLIAMSON: Were there any other impacts, say impacts on workers or anything like that, that was seen in this earlier period?

MR. MARTIN: You're talking 2007, 2008?

COMMISSIONER WILLIAMSON: Yes, correct.

MR. MARTIN: Well, I mean, I think it we look at -- this is George Martin with NewPage. And if we look at 2008, we took out the Kimberly mill in, I believe we announced that in early August of 2008. That was over 500 employees that were affected at that mill, whose, almost the entire product line was directed toward coated sheets.

So in NewPage's case, that took place within that earlier timeframe.

COMMISSIONER WILLIAMSON: Okay. Mr. Kaplan?

MR. KAPLAN: There are really two effects. Given the margins, both dumping and subsidy, the import prices would have had to be much higher. And
that means that the domestic industry would have increased their share in sales, pre-recession. And had they increased their share in sales, they would have needed more employees. So at the margin, if they had then faced fair competition, and if prices were right in the market, they would have had a larger share, hired more employees, and had greater output in profit.

But the second effect is not marginal, but it's kind of this gross discreet effect of closing down whole facilities. So they had to close down whole facilities, and of the facilities that were remaining, they had less people employed and made less profit than they otherwise would have.

So the Commission is told to look at the performance of the industry throughout the business cycle, and the conditions of competition that are peculiar to the industry. Here you had a situation, pre-recession, with significantly high demand; and yet you still had shutterings and loss of share, and the inability to increase shipments and employment to levels that would have justified the booming economy.

So what Respondents want you to do is to look at an okay performance in the salad days, when the economy is booming, and say see, they're doing
fine; and then make up excuses when the recession is happening.

What was really occurring is that prices and profits were depressed continuously throughout the whole POI, and the recession just, you know, just made it so apparent that imports had an effect. That, I think the tone of this hearing and the questions asked, you know, reflect the change from the, reflect the seeing of the recession playing out. Reflect the difference from the original case, where times were so good it maybe masked the depressing effect, because the performance was okay, when it should have been great.

COMMISSIONER WILLIAMSON: Okay. Thank you for those answers. My time has expired.

CHAIRMAN OKUN: Commissioner Pinkert.

COMMISSIONER PINKERT: Thank you, Madame Chairman. I want to stay with that line of thinking, Dr. Kaplan. And in particular, I'm interested in what happened with the operating margins in the first six months of 2010.

Now, at that time you didn't have the kind of pressure from the subject imports that you had had earlier, and the economy wasn't as bad, the overall economy wasn't as bad as it had been in 2009, at least
in the first six months of 2009.

So my question is, as an economist, why do you think that we didn't see more improvement in the margins in the first six months of 2010?

MR. KAPLAN: Well, I think the reason is, well, first you're starting to see quantity changes, which is what you'd expect as the imports exited.

The second part is, why aren't we seeing the price changes. And there's two reasons. The first was, is that the three grades are getting back into realignment again. So while you're starting to have the ability to push up prices at the bottom, you have to align the other two grades, which is preventing the average prices from rising as quickly as they could.

The second point is there's a little bit of inventories and a little bit of lag. And you are seeing price increases going through, and starting to stick now.

So while your point is well taken that there hasn't been an immediate response, the testimony we've heard today suggests that it's starting to rise. We've seen the quantity change. And a part of the lack of an increase in profit is due to the higher grades realigning with the economy grade, with the lag that's been discussed.

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I would expect, if demand stays constant, that profits would increase as price increases go through. I think the industry witnesses could speak to this in their plans, get some more theoretical perspective.

COMMISSIONER PINKERT: I want to add a question to that theoretical treatment. And that is, for the post-hearing, could you compare the operating income margins for the domestic industry in the second half of 2009, with the first half of 2010? And then add whatever analysis you wish to try to explain what's going on there.

MR. KAPLAN: I will do that.

COMMISSIONER PINKERT: Okay, thank you.

Now, does anybody else on the panel have comments about the outlook in terms of performance for the domestic industry, under the assumption that the current conditions pertain going forward?

MR. KAPLAN: The industry remains vulnerable, given that the economy is -- a sluggish recovery by the economy. So the industry is clearly vulnerable. It has been vulnerable over the cycle. Nonetheless, it's better today than at the time when we thought, you know, this might be Great Recession 2. But I'd let them speak to their own forecast, unless
that is all confidential.

COMMISSIONER PINKERT: Whatever they can add
would be helpful. And if they can't add it here in
the public hearing, then in the post-hearing
submission.

MR. MARTIN: I know NewPage -- George Martin
with NewPage. We'd be happy to do that in the post-
hearing.

MR. GARDNER: Mark Gardner with Sappi. We'd
do it in the post-hearing, too.

COMMISSIONER PINKERT: Thank you very much.
Now, I want to go to another one of these questions
that Dr. Kaplan would refer to as posing a
counterfactual, and that is if you look at the non-
subject imports during the period of investigation, if
the subject imports had exited the market, would there
have been a one-to-one replacement of the subjects
with the non-subject imports?

MR. DeVOE: This is Steve DeVoe from
NewPage. I think -- I'm not sure I understand the
question. If the subject imports leave the market,
what --

COMMISSIONER PINKERT: If they had left the
market during the period of investigation, would there
have been a one-to-one response of increasing non-

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subject imports to offset the decreasing subject imports.

MR. DeVOE: I think you would have seen a combination of domestic production that would have filled that demand need, and potentially some non-subject imports, depending on what the market would have beared.

MR. NELSON: This is Barry Nelson with NewPage. I think you're starting to see that now, right? When you look at the subject matter -- or subject imports going away, that vacuum has been filled by a combination of both domestic as well as non-subject imports.

COMMISSIONER PINKERT: Maybe I could flip the question around. Do the witnesses on the panel have any view about what drove the market share of the non-subject imports down during 2009?

MR. STEWART: This is Terry Stewart, Commissioner. Seth Kaplan earlier talked about economic theory would suggest would happen when you head to a recessionary period, which is that you would get a contraction in import market share because of purchasers' concern over the cash flow and extended payment terms and monies being tied up, et cetera. And I think that you had at least three things going
on. You had that phenomenon going on. You had the phenomena of some of the major suppliers being from Europe, and in that period of 2009 having a very high valuation of the euro. And I believe that your staff reflects that non-subject imports, at least from a customer's perspective, are not price leaders, but price followers. And three, you had really depressed prices in the U.S., which made the U.S. a less attractive market.

So all three of those things led to a fairly sharp contraction in supply from non-subject imports, as you see in the 2009 data.

COMMISSIONER PINKERT: Dr. Kaplan?

MR. KAPLAN: In addressing your previous question to if the subject imports left, how would they have been replaced --

COMMISSIONER PINKERT: That's what we call lag time, right, Dr. Kaplan?

MR. KAPLAN: That's correct. It's less than seven months, but it is a lag, absolutely. The Commission's own models and economists' kind of neutral assumption is that the volume of the exiting imports would be split proportionately to the current shares. So if the U.S. had, you know, three-quarters, and the subject -- non-subject one-quarter of the...
remaining, then you'd say it would be about three to one.

Now, if there were capacity constraints somewhere, you would do it differently. But I think in this case, where there was a lot of excess capacity, there was the ability of domestic producers to supply, there was a recession going on, that you'd probably guess that a more than proportional share of the subject import loss would be picked up by the domestic producers, based on, you know, the proportion held by what is left. So the U.S. would have picked up, you know, well in excess of half, you know, or three-quarters of the subject import volume, had the subject been fairly priced and had exited the market, like you've seen since the preliminary duty.

COMMISSIONER PINKERT: And I don't want to put words into Mr. Stewart's mouth, but I take it that what you're saying is that the non-subjects during 2009 behaved the more the way one would predict imports in general would behave given the overall market conditions at that time.

MR. KAPLAN: After -- the collapse of the global economy cause the largest decrease in trade since the Great Depression. It was staggering in overall context. And I want you to compare that to
the decline in world trade to what happened to the subject imports, which didn't blink. So if you want to set up a benchmark for what happened to trade, look at world trade statistics after 2000 -- the collapse at the end of 2008. And now it's coming back. You know, everyone is talking about -- you can see it in the statistics.

But the decline was staggering. It was -- you know, for macro-economist types, it was a scary moment, you know. For us, we're looking around at each other, kind of knowing what is happening, and we're right on the cliff. And you look at trade statistics, and it was one measure of how south everything could have gone compared to even what has happened.

MR. STEWART: And it's the case, Commissioner, that the imports during the recession in 2009 increased 9 percent versus the collapse in domestic demand that one year of 15 percent, which is consistent with what Seth just said. You know, you had a 15-20 percent decline in world trade, I believe, is what the WTO put out for 2009.

COMMISSIONER PINKERT: Thank you. Thank you, Madame Chairman.

CHAIRMAN OKUN: Thank you. For post-
hearing, I think in listening to responses with respect to the potential scope issue, the scope issue at Commerce, I just want to make a number of just post-hearing requests to make sure that we're very clear that we get the responses that we would need to do any additional calculations.

So just first for post-hearing, would you make sure that you provide your methodology for how the Commission would make adjustments to calculate to total subject imports, depending on the outcome of the scope.

MR. STEWART: We would of course be pleased to do that.

CHAIRMAN OKUN: And then would you also discuss any adjustments that the Commission should make to calculate its negligibility level.

MR. STEWART: We would be pleased to.

CHAIRMAN OKUN: And then with respect to -- and I believe Commissioner Aranoff -- you'd had a discussion with her about whether there is additional -- how it might change our record. Obviously, we would want you to expand on that.

MR. STEWART: We will address all three of those in the post-hearing brief.

CHAIRMAN OKUN: Okay. And we have spoken
with staff, so we believe, based on the schedule, that there will be adequate time in the briefs to address these issues, and we will look forward to seeing those at that time.

All right. I wanted to ask some direct questions. I think for my purposes -- I mean, this is -- it's always good, in my view, when we have a record like this, where you have a lot of participation from both sides. We haven't seen it enough at the Commission, I would say, that we have questionnaire responses on both sides.

So I wanted to I guess first direct this to counsel in terms of your arguments with respect to threat. And you focused on the capacity expansions, and you've had a chance to highlight those today. Is there anything else with respect to the record, either in what has been gathered in our chapter 7 or in the Respondents with respect to just what is on the record that you would want to take issue with? Because I want to make sure, you know, again we have a very complete record, and I want to see where there are disagreements with respect to the threat factors.

MS. BYERS: Yes. Bonnie Byers.

CHAIRMAN OKUN: Okay. Thank you, Ms. Byers.

MS. BYERS: I think there are a number of
things. As you said, there are four new facilities coming online in China. That is going to happen within the next year. Two of them are already up and running, and are about to begin commercial production within the next quarter. The other two are supposed to be completely built out by the end of the year, and will enter commercial production within the first two quarters of next year.

So these 2.6 million metric tons worth of new capacity are actually quite imminent. They will be with us within the next few years. I think the dispute that we have with Respondents is about where all that capacity and that new production is going to go. They seem to think that it can all be absorbed either in the Chinese market or some combination of the Chinese market and other Asian markets. I think the numbers that are in your record do not support that finding.

The RISI data indicates that consumption in China over the next year is only going to increase by about 163,000 tons. Consumption in Asia overall is only going to increase by about 600,000 tons. So you've got another 2 million metric tons that has got to find a place to go. And where it is going to go is in the export market.

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This is a very export-oriented industry. They do export, according to your staff report, almost 40 percent of what they produce already. I think the data that is in the staff report also indicates that they're not actually increasing their shipments to the home market. If anything, they're flat to trending down. So the whole notion that they're somehow going to be able to stick all this new production into their domestic market is really not supported by the record.

CHAIRMAN OKUN: One question about that. And again, I don't mean to compare it against cases, but I think one of the arguments from Respondents that I think looking at that data that I would want you to respond to is that, you know, you talk about export orientation. But again, you know, you see cases where a lot more of it is directed to the U.S. market, right, the numbers are a lot bigger that you're dealing with just in terms of what percentage of their export is going to the U.S. market.

Give me some perspective in this case of how we should look at that in evaluating how much emphasis I should put on that particular factor, Mr. Stewart.

MR. STEWART: Well, one gets to a very large increase in exports to the United States simply by allocating an historical share of exports to the U.S.
of the total production. They basically say that their numbers run between 9 and 10 percent. If you're adding 2-1/2 million tons, that suggests additional potential exports of up to 250,000 tons. We don't need it all to come here; 250,000 tons additional would be huge, just like their claim that their exports in 2011 if there is not an order would be -- would disappear is inconsistent with what their past track record is, just as their claim that their consumption in the home market is going to go up 30 percent in 2011, you know, is fanciful.

It's in their questionnaire responses, and so your staff has dutifully put it in the staff report. But that doesn't make it a credible number. So all the things that Ms. Byers was going through are absolutely true. And one could easily simply say if there is this capacity coming onboard, and historically they've shipped between 9 and 10 percent to the United States, that it is reasonable to assume that but for the order, one would see 9 to 10 percent of their total production coming here. And that 9 to 10 percent is a lot bigger number than what they have down here.

CHAIRMAN OKUN: Okay. And then I wanted to make sure I understood your position with respect to Heritage Reporting Corporation (202) 628-4888
any potential EU order, whether the Commission can
place any weight on the possibility or the fact that
that case is out there.

MR. STEWART: Well, you could certainly
place some weight that the case is out there. We will
in the post-hearing -- we're going to go through
whether we think there is a legal impediment to
viewing it affirmatively before there is an actual
order. But it certainly is a potential threat to
where they can export it, hence how much additional
volume may need to find a home.

CHAIRMAN OKUN: Okay. I appreciate those
responses on the threat factors in particular. I
wanted to go back -- I think one -- one past question,
Dr. Kaplan, I'm going to just put it to you first,
which is you had a couple of times referenced the idea
of this -- you know, think about the metal margins
that we see in other cases. And I guess I was trying
to figure out if I thought that really worked in this
product. And maybe I should really be asking the
producers if they think that way in terms of the
pricing of the product.

But first, Dr. Kaplan, I just want to make
sure that I understood how you were asking the
Commission to take that into account here.
MR. KAPLAN: Well, my point was that when input prices are volatile, and inputs are a significant share into the final product, that just looking at prices could be deceiving compared to a case where input prices are constant and the price is moving around.

Now, the metal margin is particular nice because the share of scrap and the cost of steel is so large. Here, the share of pulp into certain coated paper is a smaller share than metal is -- than scrap is into final steel. But I try to make that similar adjustment because pulp prices can be somewhat volatile, and I didn't want the Commission to look at price trends out of the context of the underlying cost movement.

So while it's not as good as the metal margin, it tries to get at the same notion for purposes of your examination of prices.

CHAIRMAN OKUN: Okay. All right. Okay. Then I don't think we need to turn to the producers on that one then. One other question for you, Dr. Kaplan, which is -- and you might have said this in response to an earlier question, but I just wanted to be sure that I understood it. In terms of your economic analysis, do you think -- in going through
the different factors that you like and what I think is the most important factors affecting price, do you think your analysis gives you -- or would give one some estimate of what prices would have been if subject imports were not in the market?

I think you've been asked this several different ways, but I'm just trying to make sure that I understood the response.

MR. KAPLAN: You know, first the factors I identified as the key drivers of price were the same factors that were identified by Respondents. So I think there is some agreement that these are the key supply and demand drivers. I think the statistical work gives you confidence that the effects of the subject imports were statistically significant and negative.

I have not conducted the usual type of simulation analysis where we try to get at the amount of price suppression and depression. It's significant. It's material. It has had a large effect. But I don't want to look at, you know, eight years of quarterly data and give you an exact number.

CHAIRMAN OKUN: Okay. I appreciate that clarification. I just wanted to make sure I understood what we were looking at there. And with
that, I will turn to Commissioner Lane.

COMMISSIONER LANE: Would the producers of
the product describe the components of your cost of
goods sold and the percentage of total cost of goods
sold for each major component? And maybe if you want
to do that in the post-hearing, that would be fine.

MR. STEWART: We'll be happy to do it post-
hearing.

COMMISSIONER LANE: Okay. And do you
include labor and depreciation as the cost of goods
sold or in other production costs?

MS. VAN ERT: Sandy Van Ert from Appleton
Coated. We would include it in cost of goods sold.

COMMISSIONER LANE: I'm sorry, what?

MS. VAN ERT: We would include it in the
cost of goods sold.

COMMISSIONER LANE: Okay. And does anybody
else have an answer for that?

MR. GARDNER: Mark Gardner of Sappi Fine
Paper. Yes, we would include it in the cost of goods
sold.

COMMISSIONER LANE: Okay. Thank you. Could
each of the producers tell me what your source of
energy is? Some of you use hydro, some of you use
electricity, and some of you use natural gas. Is that
correct?

MR. MARTIN: Each of our mills has basically a unique power system. Many of the mills generate their own electricity, all or a portion of it. You know, all of our mills generate our own steam. And the source of that -- you know, the fuel source varies from mill to mill, boiler to boiler. But we use natural gas, coal, biomass, power drive fuel. If it can burn, we probably do.

COMMISSIONER LANE: Okay. Which of your costs tend to vary with quantities produced, and which components of your costs tend to be fixed? And could you provide an estimate of the percentage of your production costs that are largely variable? And you can do that in your post-hearing brief. Okay.

And so you can do this, too. Do you consider your SG&A costs to be generally fixed, variable, or somewhere in between?

MR. MARTIN: George Martin for NewPage. We would consider that a fixed cost.

COMMISSIONER LANE: Okay.

MR. GARDNER: Mark Gardner from Sappi. We would consider it a fixed cost.

MS. VAN ERT: The same would be true for Appleton Coated, fixed cost.
COMMISSIONER LANE: Okay. One more question. Dr. Kaplan, we heard testimony that in order for the industry to be doing at least minimally well, it should be earning 15 to 20 percent. That would allow it to hire new employees and reinvest in its plant. Could you give me an estimate -- and this can be done post-hearing -- of what kind of prices during the period of investigation the domestic industry would have been able to charge had the subject imports been fairly traded.

MR. KAPLAN: Yes. I'll provide that in the post-hearing.

COMMISSIONER LANE: Okay. With that, I appreciate everyone's answers. And stay tuned, because we still have lots more fun to go.

CHAIRMAN OKUN: Commissioner Pearson?

COMMISSIONER PEARSON: Thank you, Madame Chairman. I have just one question, and it follows up on a question that was raised by Commissioner Williamson. If the industry has reallocated plant capacity to allow for the production of more coated paper than was lost when the two mills were closed, doesn't that suggest that coated paper was a relatively profitable product within the product mix, and that subject imports must not have been having
much of an injurious effect? Mr. Gardner?

MR. GARDNER: In the case of Sappi, we only produce coated paper. So when we closed the Muskegon mill, we reallocated some of that tonnage -- now, at the time we closed it, the business had already shrunk almost by the capacity of that mill. So we reallocated the mix between web and sheet on our other machines, which were able to do that. So we can control on any given market condition how much web to a certain degree we make, and how much sheath do we make.

COMMISSIONER PEARSON: So just to understand it, you're now producing somewhat less web and somewhat more sheet?

MR. GARDNER: Yes, yes, correct, with the remaining assets.

COMMISSIONER PEARSON: Right.

MR. GARDNER: Correct.

COMMISSIONER PEARSON: No new assets.

MR. GARDNER: Correct.

MR. MARTIN: I think perhaps we can respond more in the post-hearing comments, but I also think that 2009 numbers, at least for NewPage, are somewhat distorted by the amount of market down time we took across our entire system. So I'd like to maybe take a
crack at that later. We showed a considerable market
down time across all of our equipment. And I think
the way the allocation process works, that might be
having an impact there.

COMMISSIONER PEARSON: Right, okay. And
that would be helpful, just -- you know, but in the
public version of table C1, we are showing a 15
percent increase in production capacity in interim
2010 relative to interim 2009. So something was going
on to give a larger number.

MR. MARTIN: Right. And again, I believe it
has to do with the way the allocations were done, and
also I believe in our case specifically the amount of
down time we took changed those percentages.

COMMISSIONER PEARSON: Okay.

MR. MARTIN: So we'll take a crack at that.

COMMISSIONER PEARSON: And I'll look forward
to reading that. And, Madame Chairman, with that, I
have no further questions. So I would like to thank
the morning panel for its enthusiastic participation.

CHAIRMAN OKUN: Commissioner Aranoff.

COMMISSIONER ARANOFF: Thank you, Madame
Chairman. Two questions left. We talked about the
black liquor tax credit, but in the staff report, it
mentions that there is a potential other tax credit

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out there arising out of the Food Conservation and
Energy Act. Is this familiar to anyone, and can
anyone describe what this credit is and whether or not
it actually applies to this product?

MR. MARTIN: Yeah. I believe you're
referring to something called BCAP. And it's actually
not -- and it has to do with biomass collection, and
it's really not a credit for the paper industry. It's
for the folks who generate biomass. I believe that's
what you're referring.

COMMISSIONER ARANOFF: So your understanding
is that there would be no benefit to this product, or
as in the case of the black liquor one to a precursor
of the product.

MR. MARTIN: I think that was suspended back
in April, and there is some question as to whether or
not that is going to be returning at all. But it
actually benefitted the loggers and the folks who
collected biomass, not the folks who used it. So we
don't see that as a potential benefit to us.

COMMISSIONER ARANOFF: Okay. Well, if you
could elaborate a little bit on that post-hearing,
just because I guess with the black liquor one, the
benefit was to pulp, which is a precursor product,
while a log is also a precursor product. So, you
know, if you can explain why there is no benefit that
passes down, that would be helpful.

MR. MARTIN: Could your staff clarify just
for counsel was it BCAP that they were referring to?

COMMISSIONER ARANOFF: I'll ask them to do
that with you before the end of the hearing because I
only know what I read in the staff report, and it
referred to that particular statute. Okay. Thank you
very much.

My last question goes to the Lacey Act.
There is extensive discussion in Respondent's brief
about the current effect and the potential future
effects of the Lacey Act on imports of the product
from China and Indonesia. Can anyone comment on what
they believe the current or future potential effects
of the Lacey Act are on trade in this product?

MS. MILLER: Jennifer Miller, with Sappi
America does import product that is made by our sister
company in Europe, and the Lacey Act is really -- I
don't want to call it mere paperwork, but it really is
just a matter of conforming to Custom requirements to
ensure that the paper that you're bringing in or the
wood products that you're bringing into the country
were not the subject of endangered species or
illegally logged or harvested. So we do not see that as being any significant issue going forward, certainly not for Sappi Europe or the other importers that we talk to.

COMMISSIONER ARANOFF: Okay. But what about for the APP companies? They seem to imply that they might be in trouble.

MS. MILLER: I can't really --

MR. STEWART: We'd be pleased to see if there is an admission that they're engaged in illegal logging.

MS. MILLER: Commissioner, I can just speak for the fact that I and my marketing colleagues have worked with our marketing colleagues and logistics people in Europe to ensure that we're Lacey Act-compliant. It's a matter of just good internal controls and making sure that if you did have a Customs agent come into your plant or facility, that you have files in place that would indicate that what you were doing, you know, was consistent with law.

COMMISSIONER ARANOFF: And that means you have to be able to identify the origin of the wood, right?

MS. MILLER: Yes, that's right.

COMMISSIONER ARANOFF: Okay. So you don't
see the Lacey Act as having any effect on the flow of trade from the subject countries?

MS. MILLER: That's correct. And again, with the important observation, assuming that the paper is made pursuant to logging practices that are legal in the country in which they are done.

COMMISSIONER ARANOFF: Okay. With that, I don't believe I have further questions, but I do want to thank all of the witnesses on the panel, especially those of you who have traveled distances to be with us today and taken this time away from your businesses. Thank you, Madame Chairman.

CHAIRMAN OKUN: Commissioner Williamson.

COMMISSIONER WILLIAMSON: I have no further questions, and I do want to thank the panel for their participation today.

CHAIRMAN OKUN: Commissioner Pinkert.

COMMISSIONER PINKERT: I too thank the panel, and I look forward to the post-hearing submission.

CHAIRMAN OKUN: I think I just have one question left. I did not have a chance to go back to the distributors to ask a question from hours ago now, which had to do with the impact of inventory over the period -- inventories on prices during the period of
Mr. McGehee: David McGehee. I think we responded to Mr. Williamson's questioning earlier, but there was an inventory lag, especially sourcing paper from China. Traditionally, 12-week backlog. We had orders in process. We had tons on the water, literally. And when we decided to no longer source from China, we did order a slug of tons. It was good paper at a very good price. So we had an inventory to build in mid, late 2009.

Chairman Okun: Okay. If you did have a chance -- I may have stepped out and didn't hear it. But if it's in the record -- did you all have a chance to respond on the inventory, all the distributors?

Mr. Freeland: Yeah. Mike Freeland with Field Paper. We had a similar experience. Our last order with Gold East was December of '09. We anticipated a problem. We began to order paper from another mill, and we probably during that period increased our inventory pretty close to a million dollars. But it took us into the first quarter of '10.

Chairman Okun: Any other responses. All right, Mr. Stewart.

Mr. Stewart: The other two are printers and Heritage Reporting Corporation (202) 628-4888
would not maintain large inventories, as the merchants would.

CHAIRMAN OKUN: Okay. So with that, I thank you for completing the record on that. And I don't have any further questions. I believe there are no further questions for my colleagues. Let me turn to staff to see if staff has questions.

MS. BRYAN: Hello. I'm Nancy Bryan, Office of Economics. I just have two really brief points rather than questions. First of all, to the two printers here today, at least Universal Printing Company and Corporate Press, that we don't have purchaser questionnaires from, it would be great if you could fill one out for us. Let me know if you need a copy.

At the very least, I think one of you mentioned that you do participate in paper-directed buy programs. So it would be great to get the answer to those questions from the questionnaire from you.

Also, this would be directed to Dr. Kaplan. Just regarding the historical relationship between the pricing of the different grades, it would be great to really have a quantified really some type of historically what you think it was, and if you could maybe give us more of a time line, because I wasn't

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sure if I followed if you were saying that there was an historical relationship and that converged between the higher and the lower grades over time, and then that has been still converging or widening again. I'm not sure. If you could just go through that time line, maybe -- a post-hearing brief would be fine. And also see if that correlates to our pricing data because I'm not sure if it does or not.

MR. KAPLAN: I'll address that in the post-hearing.

MS. BRYAN: Okay, great. Thank you. That's all I have.

MR. CASSISE: Chris Cassise, Office of Investigations. Madame Chairman, staff has no further questions.

CHAIRMAN OKUN: Thank you. Let me turn to counsel for Respondents to see if they have questions for this panel.

MR. PORTER: No questions.

CHAIRMAN OKUN: Okay. Thank you. Well, before letting this panel go, I do want to again thank all of your for your participation today, for your willingness to be here and to answer our questions, and to supply information post-hearing, and also to the workgroup in the back who have stayed throughout

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So we're going to take five minutes just to clean off these tables and be able to set up the next panel. And while I am doing that, we had talked about a dinner break. I do want to just talk to people to see. We seem to have gone quite efficiently through congressionals. We have one left. So let me just see during the recess if people want to again have a short break or not. And I will announce that when we come back in. So this hearing stands in recess until 4:10.

(Whereupon, a recess was taken from 4:05 p.m. to 4:12 p.m.)

CHAIRMAN OKUN: Madame Secretary, I see that our second panel is seated. Have witnesses been sworn?

MS. ABBOTT: All the witnesses have been sworn.

CHAIRMAN OKUN: Mr. Porter, you may proceed.

MR. PORTER: Thank you. We're going to dive right in, and I'm going to ask Andrew to begin.

MR. HANSCOM: Good afternoon. My name is Andrew Hanscom. I'm vice president of sales for Eagle Ridge Paper. I've been selling coated paper for more than 20 years. I started my career in 1987 with SD Warren, the largest coated free-sheet paper producer.
in the United States at the time.

SD Warren was sold to Sappi in 1994. In '93, before the sale, I left SD Warren to join one of the largest coated merchants in the United States, owned by International Paper, that became xpedx. In total, I worked for xpedx or its predecessors for 12 years. I joined Eagle Ridge Paper in 2009.

Today, I want to discuss some real-world demand and supply dynamics that I believe were missing from the Petitioner's panel. The Petitioner's panel repeatedly discussed the fact that total demand for coated paper sheets fell sharply for 2007 through 2009, while we didn't decline at that same amount.

While this collection of facts is certainly true, it masks some important differences for different market segments. First you need to know that over this period of time, there was a sharp decline in consumption for web rolls than for sheets. Essentially, while consumption for sheet demand declined, consumption for web rolls fell off the proverbial cliff.

One primary difference for this is that ironically, a major drop-off in consumption of web rolls actually caused an increase in consumption for sheets. To see this, it is important
to understand the economics of printing. Generally, web offset presses are beneficial in long-run printing jobs. Typically, press runs exceed 20,000 impressions. Sheet-fed presses can print from 9,000 to 16,000 impressions per hour. Web presses can print up to five times faster, or 45,000 impressions per hour.

So you can imagine when the volume is reduced below certain levels, the economic benefits cease to exist for web printing, and the job changes to become a sheet-fed printer.

Let me give you a real-world example. Not too many years ago, hundreds of publicly traded companies sent their high-quality printed annual reports to all of their shareholders. Needless to say, this meant printing hundreds of thousands of copies every year. There is no question that these customers chose to print these annual reports using web offset printing. However, recently, most of the same publicly traded companies have decided to limit the printing of their annual reports and simply post them as PDFs on their corporate web sites. Therefore, their need for actual printed copies was significantly reduced, and the now limited job has switched to being printed on sheet-fed presses.

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A prime example to this reduction in paper demand is The Gap Clothing Store. Several years ago, The Gap printed over 1 million copies of their annual report using high-quality coated paper on web offset presses. Recently, The Gap only printed 15,000 copies on sheet-fed presses. Consequently, this situation, web rolls, offset rolls lost tremendous volume, while sheets actually gained limited new business.

Mr. Nelson's from NewPage testimony challenged a statement I made in my earlier submission. I'd like to state for the record, I'm not mistaken. Pro Con told me directly that they in fact sheet web rolls for use on sheet-fed presses. Quite honestly, NewPage simply may not know what their converters actually do to service their downstream market. And I noted in my statement, Pro Con is not alone.

I know firsthand that there are many converters and printers that frequently purchase web rolls for the purpose of sheeting for sheet-fed presses. Finally, I note that this practice is so prevalent, that there are actually equipment vendors that sell roll sheeters, with specific claims of features like web moistening units that make it easy for web roll sheeted for sheet-fed presses.

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In fact, I have in my hand, which I am holding up right now, a brochure from one of the manufacturers whose web site brags about having many installations of this equipment across the United States, and 300 real sheeters worldwide.

I'm sorry, but I need to respond to the attack on my character by Petitioner's counsel. Because my company does not have a notary public, I was not able to put my comments about web rolls in an affidavit. However, if this -- however so that this form of my comments is not on issue, I hereby under oath that I affirm every single one of my statements in my message to Dan Porter.

The next consumption point I want to make concerns the big difference among grade categorization of products. As I believe you know, coated paper is typically offered in different grades. Grade No. 1 refers to premium products, the paper that end users want when appearance needs to be the sharpest. Grade No. 2 is a step down in brightness and appearance, and grade No. 3 is a step below No. 2.

We do not sell No. 1 coated paper in the U.S. market. Grade No. 1 is almost exclusively offered by the domestic producers and several European mills. Our market niche is primary grade No. 3.

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one who understands coated paper would mistake us for a premium sheet.

It is important for you to also understand that over the past years, consumption of grade No. 1 has decreased at a much faster rate than grade No. 3. American Forest and Paper Association tracks U.S. producer shipments by grade. While the data from AF and PA indicate the total shipment fell 24 percent, grade No. 1 fell by 42 percent, whereas grade No. 3 and grade No. 4 actually increased by 4 percent. Again, this is important because we do not offer a grade No. 1 coated paper. And so it's not right for the Petitioners to blame us for the depressed sale of grade No. 1 paper. Thank you for listening.

MR. HARRIS: Good afternoon. My name is Ken Harris. I'm currently the vice president of operations and sales for Eagle Ridge Paper. I have been involved in the coated paper market for more than 34 years, and for all 34 years, I have worked for merchant distributors in one capacity or another. I have operated as marketing manager, sales manager, as well as running my own merchant operation. Today, I want to talk about the role of merchants and coated paper distribution, and
specifically how merchant economics affects our ability to make coated paper sales. The paper merchant buys from certain manufacturers for distribution to the paper purchaser and printer. Merchants stock many different qualities and grades in close proximity to the buyer and printer for quick order fulfillment and delivery.

The paper merchant provides a service to the paper manufacturers by buying and marketing mill and private label brands to the print market. Merchants will buy in volume from the paper mills and resell in smaller quantities to the market.

However, it is important to note that merchants do not carry products from all mills. Indeed, most often a merchant will carry just one major domestic supplier and one import supplier. The reason for this is both merchant economics and restrictions by the mills. Because merchants are the ones that hold the inventory in order to provide just-in-time delivery to the printers, and because holding inventory is expensive, there is a limit to how many suppliers a merchant can practically carry.

In addition, the mills do not like to share merchants. Mills choose their merchant distribution partners based on size and strength within their

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specific market. Accordingly, one merchant will very rarely distribute both Sappi and NewPage product lines within the same market. Rather, the mills prefer to have dedicated merchant partners who focus specifically on marketing their brands to build market share. And this is precisely why the Koreans and the Chinese replaced each other over the past few years.

In 2008 and 2009, the Koreans decided to dramatically scale back their U.S. business. It was natural for the Chinese to pick up this volume at those merchants that carried the Korean paper, whereas it would have been very difficult for a domestic mill to do so. It's all about balance. Those merchants that carried Korean coated paper also likely carried one major domestic supplier.

When the Koreans decided to pull back from the U.S. market, it would not have made any sense for the merchant to replace the volume with more domestic. Doing so would have either disrupted the balance that the merchant had with two domestic suppliers, or if the merchant had only one domestic supplier, it would have meant the merchant was relying far too heavily on just one source.

And the same is true when APP had to exit the market in 2010 because of the trade case. As we
demonstrated in our questionnaire response with a chart of each of our major customers, for 70 percent of the APP volume, the merchant replaced APP with a Korean supplier. In short, actual merchant economics results in Korean and Chinese being substitutes for each other. It is hard for an import supplier to completely displace a U.S. supplier at a major merchant, and it can be hard for a U.S. supplier to completely displace all import suppliers at a major merchant.

Another key aspect of the merchant mill relationship is other product availability, and the critical other product is web roll. Although much of the web roll business is handled directly by the mills themselves, there is good quantity that is still sold for merchants. And merchants love this business because it is quite profitable for them.

Most often, the merchant does not need to carry web roll inventory, as the mill will ship direct to the customer. All the merchant needs to do is to make the sale. And for this reason, merchants constantly crave web roll business. And because the mills know this, the merchant's desire for web roll business actually affects the purchase and sale of sheets. Very simply, it is common for merchants to
limit their distribution of sheets of other suppliers in order to maintain a domestic supplier's web roll business. I have seen this firsthand in my many years working with merchants. What this means is that those suppliers that do not offer web roll business like APP and most other Chinese and Indonesian mills can find themselves at a real disadvantage in trying to increase sales to merchants. The inability to provide web rolls is a real constraint on APP's ability to completely displace a domestic supplier's business or position at a merchant.

In addition, even when APP can get into a merchant, the ability to increase sales to the merchant is very much affected by the merchant relationship with domestic suppliers. Indeed, this is the primary reason why APP has had substantial difficulty in getting the top 10 merchants to carry APP paper. We have to settle for the smaller merchants. Thank you.

MR. HUNLEY: Good afternoon. My name is Terry Hunley. I'm an advisor and acting president for Asia Pulp and Paper in the Americas, with my primary responsibilities being the marketing and sales of APP products in this region. But I have been working in
the paper industry for almost 15 years, first as a partner with Strategic Services Group and Natural Resources, then as chief operating officer for Asia Pulp and Paper, and now as an advisor and acting president for Asia Pulp and Paper in the Americas.

I would like to discuss two major events that occurred during the period of investigation that had a significant impact on our business. First, our pricing decisions at the beginning of the economic downturn, and second, the loss of our largest customer, Unisource, in mid 2009.

During the first half of 2008, we were rapidly increasing our prices due to the global economic conditions at the time. At the end of the third quarter of 2008, however, it became very apparent that the U.S. recession was drastically impacting the market and that printing volumes were declining rapidly. We were receiving reports from our merchant customers at the time that the market was quickly falling apart, and that they needed pricing relief in order to try and maintain their business levels.

One of my responsibilities is to collect data on and make market-based decisions on pricing, and then try to get our mills to take appropriate
action. Due to the markets dropping so dramatically, we took an ordinary business decision to lower our prices in support of our customers. Our decision was quickly confirmed by the actions of other suppliers.

The second major business event is the loss of Unisource as a customer. As mentioned during the preliminary ITC hearing in November 2009, the loss of Unisource represented approximately 50 percent of our monthly coated paper sales, and their loss had a dramatic impact on our business and our subsequent actions in the marketplace.

Let me give you some history on this major event. We have always required some type of credit insurance for all of our paper customers. Typically, we would obtain this through a third party financing arrangement, or through a customer-specific credit insurance arrangement. Our situation with Unisource was that we were never able to secure credit insurance for them. As a result of not obtaining credit insurance, Unisource was required to keep a standby letter of credit in place as collateral for their account receivables to us.

In early 2009, the standby letter of credit, while relatively large, only covered 30 to 35 percent of the maximum outstanding accounts receivable in a
given month, and therefore we considered a significant portion of the accounts receivable unsecured at any point in time.

Also, in late 2008, we were told by our Shanghai group that there was a market intelligence report circulating in China regarding portions of the U.S. paper industry. One conclusion of this report was that any U.S. paper merchant that was not directly affiliated with a paper producer had significant business risk, and that Unisource was mentioned by name.

Considering that a significant portion of the Unisource accounts receivables to us were unsecured, we made a decision to ask Unisource to double the amount of the standby letter of credit. During this same general period of time, Unisource replaced their chief financial officer. The new CFO took the position that Unisource had a stellar payment history with us, and that their financial stability was strong enough that the standby letter of credit requirement should be reduced to zero.

Unfortunately, the decision by APP to require an increase in standby letter of credit and by Unisource to eliminate the standby letter of credit created a very difficult negotiating environment.

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Over the course of approximately four months, we negotiated with Unisource to try and resolve the situation. During the negotiations, unfortunately, we took some actions to hold or delay some orders. This action obviously upset Unisource.

In addition, we thought we had come to an agreement on a particular solution, only to have it rejected by somebody in China. While our relationship with Unisource was never completely smooth, and we had seen similar situations occur in the past, we would usually come to some type of mutually agreeable arrangement on how to proceed.

So it was somewhat of a surprise when we received word that Unisource had made a decision to move their business to NewPage. We have since learned that NewPage applied both a carrot and a stick approach to win this business. During the period we were trying to negotiate a settlement, NewPage was suffering from a major recessionary decline in the publications printing market, causing its primary heat-set web and coated ground wood businesses to decrease dramatically.

In order to replace the volume lost in its primary market segments, NewPage opened negotiations with Unisource to replace Asian Pulp and Paper as the Heritage Reporting Corporation
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supplier for Unisource's U-gloss brand, coated sheet-fed value paper grade. NewPage had begun receiving its U.S. government checks from the black liquor subsidy during this time, and used the proceeds to subsidize the pricing for the Unisource deal. This was the carrot. And the stick was the trade case.

We were informed that NewPage told Unisource that NewPage was going to file another trade case against APP that would drive APP from the market, and therefore Unisource would have to find a new supplier. As a result, Unisource made a public announcement on May 11th, 2009, that they were switching to NewPage.

Based on the resale values we have seen in the market since then, we believe that NewPage was able to offer Unisource a lower net price than we were charging NewPage at that time, and that they remain one of the primary drivers of market pricing the printers at this point.

MR. ZHENG: Good afternoon, and thank you for having me. My name is Rui Zheng. I'm presently senior director, recently the chairman, of SMPI. SMPI is the parent company of APP China Operations. I have over seven years of experience in the paper industry working for APP.

Prior to this, I was a manager and
consultant at Ernst and Young, where I built clients in the paper industry, including APP and UPN. I was deeply involved in the discussions which led to APP's decisions to invest in China, and most recently the deliberations that led to APP's investment in new capacity in Hainan. For these reasons, I am appearing here today to address the misconceptions being put forth about capacity in China.

Because of my investment in APP's decisions to increase capacity, I'm in a very good position to discuss the market dynamics for coated paper in China. First, let me tell you the key consideration that went into APP's decision to install new capacity in China. It was directly -- meant growth in Asia. I know Petitioners have argued that capacity increases in China will target the U.S. market in light of recent consumption projections. Their analogy, however, is flawed, and it is based in part on their misunderstanding of the true practical capacity of Hainan's ability.

More importantly, Petitioners have not taken into account demand growth in the regional Asian markets. If you look at Asia's data, you can see why regional markets are so important. Countries like Thailand, Malaysia, Singapore, the Philippines, South
Korea, Taiwan, India, Vietnam, Laos, Cambodia, and Pakistan have no coated mechanical capacity. In each of these countries, we see year over year growth in consumption that will need to be served by imports. Many of the same countries I just mentioned have also no coated wood-free capacity. Again, each one of these markets are expected to grow, and will need to be served by imports. At the rate of economic development expanse in this market, we expect growth in the coated paper demand to expand at an even greater rate. Recently it is projected that Asian demand growth in 2011 and 2012 will average a substantial 5.4 percent per year.

These regional markets are natural targets for Chinese producers, and the reason why Chinese producers are unlikely to expend the extra effort shipping to North America and western Europe. Long transportation times and the high wage rates are a major disincentive to ship to these markets. On the other hand, the proximity of the Asian regional markets gives the Chinese producer an advantage over non-Asian competitors.

This is an important point because Asia will be a source of higher demand in the future. Asia also is a large importer of coated wood-free paper from

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outside Asia in 2009, with no Asian imports accounting for about 20 percent of total Asian coated wood-free imports. That's like a strong incentive for Chinese producers to leverage their regional advantage and displace the non-Asian imports. This was a major consideration when APP considered its capacity expansion.

Let me emphasize that over 40 percent of the increase in Chinese export over the period of 2004 to 2009 was to other markets in Asia. The United States ranked last of non-regional markets in terms of the increase in Chinese exports. The U.S. market has consistently represented less than 10 percent of APP's total shipments. There are real constraints on our ability to serve the U.S. market. Lead times, freight costs, and environmental concerns all makes our U.S. opportunities limited.

Additionally, the U.S. opportunities are simply not as lucrative. APP actually makes more profit per count on shares in the Chinese market than in the U.S. market. We will always look to market opportunities in Asia market before considering other export markets. APP is simply not focused on the U.S. market. More impact on the Chinese market is going to grow and grow quite significantly. Even Petitioners

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do not dispute that fact. There may be differences of opinion on just how much growth there will be, but all agree it will be big and will continue to expand. The main growth in China has essentially no ceiling that is because Chinese consumption of paper products is just 60 kilogram per capital, whereas U.S. consumption is 300 kilograms per capital and we expect growth to significantly outpace region capacity projections.

As you may know, since 2007, the Chinese central government has worked to eliminate inefficient, high-polluting paper capacity in China. The government plans is to put 6.5 million tons of paper capacity out of existence by the end of 2010. We believe this plan, combined with provincial governments initiatives, made about eight to 10 million tons no longer operational as of the end of 2009. Although most of this capacity was attributed to small producers of no wood fiber product, the elimination of this capacity promotes two important structural changes in the market.

First, it forced certain consumers to move to fiber product. Second, as no wood fiber product declines and price rises, the decreased price between no wood and wood fiber products attracts higher value product from producers like APP, to dedicate more mill
time to non-subject products to meet demand formerly served by the eliminated capacity. This will serve as a real constraint on actual coated paper capacity that will continue into the future.

Additionally, in June 2008, China issued new mandatory standards for water discharge pollutant that was. It is expected that this new standard will force out most small paper producers with annual capacity under 50,000 metric tons. These small producers make up more than half of total excess in Chinese paper capacity.

Finally, let me dispel any notion that the amount of new coated paper capacity is not by APP's facility in Hainan as 1.4 million tons or even 900,000 tons. I understand this misrepresentation is featured in Petitioners' argument. This figure is grossly inaccurate. We discuss this in some detail in our questionnaire response. The 1.4 million ton figure is the design capacity of Hainan equipment if dedicated to the production of the highest rate coated paper product running at the highest possible speed. It is a commercial fiction. No paper mill dedicates capacity in this fashion.

There are too many different market segments to serve. If you look at our questionnaire response,
you will see that the practical capacity of the
equipment in Hainan is substantially lower than 1.4
million tons. Taking into account expected product
mix, a more reasonable estimation of Hainan capacity
is in line with the demand growth we expect in both
China and the regional markets. That is why we
decided to build a new factory.

This concludes my remarks. I want to thank
the Commission for its time and prepare to answer any
question you may have to the extent I am able. Thank
you.

MR. LIFSHITZ: Good afternoon,

Commissioners. Thank you for having me and thank you
for your time this afternoon. My name is Ian
Lifshitz. I am the North American Sustainability and
Public Outreach Manager for Asia Pulp & Paper. What
you've heard today from Petitioners is that we at APP
are going to flood the U.S. marketplace in the near
future. Frankly, I just don't see how this is
possible.

At APP, we face two unique sets of obstacles
when selling to the U.S. market. We can't offer FSC-
certified paper and environmental NGOs are constantly
attacking us. Essentially, we start every sales
engagement with one hand tied behind my back -- our

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back. To my knowledge, no other company faces these challenges when trying to sell coated paper in the United States.

My job at APP lets me hear firsthand the concerns from customers requiring greenness and their concerns are on greenness of paper. Customers are increasingly demanding certified products, primarily FSC-certified products, which has become the gold standard in the United States. As a matter of fact, in the 2009 sustainability report, Sappi describes certification, including FSC, as a key competitive advantage. We have also seen many large national retailers, such as WalMart and Staples, specify FSC products within their procurement policies.

It is correct -- as I mentioned earlier, it's correct that we at APP can purchase FSC pulp, but we cannot purchase -- we cannot manufacture FSC-certified paper. Unfortunately, for us at APP, FSC-certified products are something that our company simply cannot offer. We lost our FSC-certification December 2007 and due to FSC bylaws, we won't be getting it back. What this means for APP is that our competitors can offer customers a product that we cannot. And as more and more customers are asking for FSC-certified products, more and more of our

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competitors are offering it. For example, in 2007, xpedx sold just 48 tons of FSC-certified paper. By 2008, that number had jumped to 55,000 tons and in 2009, it jumped to well over 300,000 tons. In contrast, APP sold zero tons of FSC-certified paper in 2009. Ultimately, when customers want FSC-certified paper, they have to go elsewhere.

I want to stress that this is not a theoretical problem. I filed a declaration on the record in this case. As an attachment, I provided a list of customers and accounts that flat out will not buy from us because we don't offer FSC-certified paper. This list was for regional markets, but this situation exists all across the United States. In speaking with our sales representatives, it's clear that we are losing new business because we cannot offer products our competitors can. Our sales representatives reported that in the Denver market, shares for FSC paper is approximately 15 to 20 percent. In Dallas, it's about 20 percent. And in Detroit, the FSC market share is approximately 30 percent. This is a substantial portion of the market to be locked out of and it's only growing.

What's more, certification is not the only challenge that we face. APP is under constant attack
by environmental NGOs, whose ultimate goal is to put APP out of business. We are regular victims of campaigns, which urge our customers and potential customers to stop buying our products due to the alleged environmental issues. These attacks effect and will continue to effect our ability to sell in the United States. For example, NGOs have e-mailed printers across the United States warning them to avoid controversies and risks that come from buying APP and Eagle Ridge Paper. The Rain Forest Action Network put a take action link on its website, which let’s people e-mail all Eagle Ridge sales representatives and criticize APP's environmental record. These employees receive so many e-mails, many of them are forced to change their e-mail addresses. These campaigns are ongoing. Greenpeace issued a massive report in July urging all companies to stop doing business with APP. This resulted in significant negative press that stirred away even more customers. In short, I have been told many times by customers that we like APP, we like your paper, but are afraid to buy from us. For many customers, APP is simply not worth the risk.

In conclusion, I just don't see how Petitioners can claim that APP will somehow be able to
significantly increase our sales in the United States. It just doesn't make sense. We face obstacles that none of our competitors face, lack of FSC-certification and constant environmental NGO attacks. These are facts. And the combination of these facts have a severe effect on APP's ability to sell to the United States. Thank you.

MR. DURLING: Good evening. My name is James Durling with the law firm Winston & Strawn and appearing today on behalf of the Respondents. Even if the Commission continues to define the like product as including only certain coated paper sheets and sheeter rolls, the record demonstrates that subject imports have not caused any material injury to the domestic industry.

At the outset, note that the volume of subject imports have been stable. Subject imports increased less than 3,000 tons from 2007 to 2009, about one percent, and then fell in 2010. This volume of subject imports was fully consistent with strong domestic industry operating performance in 2007 and 2008. The volume of subject imports did not change materially in 2009; other factors changed.

Indeed, the domestic industry consistently gained market share, adding market share in 2008 and

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then adding more market share in 2009. It is hard to see how a domestic industry gaining more than five percentage points of market share has suffered any adverse volume effects. Note the domestic industry had particularly strong market share gains in the second half of 2009, increasing to 61 percent of the market. They achieved this gain before any petition effects and maintained their share even when subject imports lost market share in the first half of 2010. The record also confirms that subject imports and non-subject imports have essentially replaced each other as they entered and exited the market. From the second half of 2009 to the first half of 2010, subject imports lost about 12 points of market share and non-subject imports completely replaced that loss with about a 12 point gain of market share.

We can also see this extreme import substitution in total volume. Non-subject imports decreased by much, much more than subject imports increased, which is why the domestic industry gained market share. None of the subject import gain came from the domestic firms. Both domestic firms and subject imports gained from non-subject imports. This direct import substitution continued into 2010, but reversed. In 2010, as subject imports fell by about

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110,000 tons, non-subject imports rose by the same amount, a direct one-for-one replacement. Overall these facts, flat subject imports, growing domestic market share, and complete import substitution confirmed the absence of any adverse volume effects.

Let us now turn to the price trends over the period. This slide presents indexed domestic prices for both sheets and web rolls to show trends over time. Domestic prices rose through 2008. Price levels declined in 2009. Petitioners believe that this fact, combined with the mere presence of lower-priced subject imports, is all they need to prevail. That's really the heart of their case. But the law requires evidence that the subject imports actually caused the market price decline and the record shows that they did not.

At the outset, we note a fundamental inconsistency in Petitioners' theory. If lower-priced subject imports caused domestic price declines, then why did domestic prices increase over the 2007 to 2008 period? Moreover, why did domestic prices remain flat at lower levels in interim 2010, when subject imports have largely exited the market? Petitioners try to ignore these other periods and focus on 2009 because their simplistic theory cannot explain these other
periods of time. Prices rose earlier in the period and then fell in 2009 for other reasons.

Note that the price trends for coated sheets and coated web rolls are almost identical. Subject import sheets do not compete with domestic web rolls. After all, sheets cannot be reassembled to be used on an offset web printer. So why did web roll prices follow the exact same trend? Other economic factors, not subject imports, drove down all domestic prices in 2009 and kept them low in 2010. Consider the following: demand for all coated paper, included coated sheets, dropped sharply in 2009. Although demand had been weakening somewhat during 2007 and 2008, demand for commercial print activity, the leading user of coated sheets, collapsed in early 2009. As this graph shows, the underlying demand for sheets dropped by 9 percent in the first quarter of 2009, a single quarter decline more than four times the rate of gradual erosion seen over the prior two years.

Demand drivers for web rolls, magazine ads, and catalogues also feel sharply in the first quarter of 2009. Thus, this case is like others the Commission has seen in the aftermath of the late 2008 recession. Demand has been falling and fell

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precipitously in early 2009. Inventory adjustments
exacerbated this drop in demand, as purchasers drew
down inventory rather than place new orders. The
issue is not producer inventories, but inventories
held at the merchants. We estimate using the data on
merchant inventories that this inventory de-stocking
alone explains more than 40 percent of the drop in
domestic shipments in 2009 and puts a veered downward
pressure on prices.

The sharp decline in underlying demand and
the inventory adjustments are both key factors. Nor
is this our theory. This is the reality documented
vividly and concretely in Petitioners' pre-hearing
brief. Exhibit 12 of that brief provides some
contemporaneous e-mail exchanges between Sun Paper, a
major Chinese exporter, and xpedx, a large national
distributor of paper products that had been using Sun
to supply its endurance program of paper. A March 13,
2009 e-mail from xpedx notes that no one expected the
market to turn down so sharply, with exclamation
points. The e-mail also notes the inventory problem
in January and caused xpedx not to place any orders at
all in February and speculates that there may not be
any orders at all in March either. The e-mail
concludes, "it's unfortunate for both of us that the

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inventory bubble exists. We just need to adjust and react to the new market realities." Thus, this decline in demand and consumption made it impossible for domestic producers to maintain their prices. Purchases, such as xpedx, simply had less need for coated paper and were less willing to pay the old higher prices.

Given this weak demand, domestic shipments for coated web rolls dropped even more sharply in early 2009 than demand for coated sheets, leading to a significant decline in coated web roll prices. Since web rolls are 80 percent of the total coated paper market and web roll prices are a common benchmark for the industry, these falling web roll prices put further downward pressure on sheet prices. Sheet prices simply could not be sustained in the face of plunging web roll prices. Otherwise, the incentive to buy rolls and cut them into sheets becomes too great.

Besides these major shifts in demand, raw material costs also fell sharply in 2009, dropping more than 20 percent in the early part of 2009, putting further downward pressure on domestic prices. Weak demand and lower costs will inevitably lead to lower prices.

Another huge shift in 2009 relates to the Heritage Reporting Corporation (202) 628-4888
black liquor tax credits. Black liquor tax credits in 2009 led directly to lower prices. NewPage has repeatedly stated that it passed through this tax credit in the form of lower prices to customers and that is the way NewPage has thought about these credits, as an adjustment to price. Indeed, as this NewPage slide shows, the $304 million tax credit received by NewPage in 2009 almost exactly matched the $300 million total negative price variance reported. For NewPage, this evidence of pass through during 2009 is quite compelling.

We can now pull together these different factors. This graph presents a weighted average index of domestic and subject import prices for products number one and number four, the two specific products facing subject import competition. We use an index to protect the proprietary information, but will present the same analysis using actual pricing in our post-hearing brief. These economic forces, particularly the demand factors in pulp cost trends, are affecting all prices in the market. As expected, both domestic prices and import prices fell during 2009, reacting to the same economic forces.

But the Commission should look more carefully at the trends before 2009 and during 2009.

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Note that subject imports were underselling domestic prices throughout 2007 and 2008, but domestic prices still increased. Subject import prices changed during 2008, both up and down, but domestic prices still consistently increased. Subject imports dropped their prices in the fourth quarter of 2008, but domestic prices still increased. GPS, the largest importer of subject merchandise, saw the writing on the wall, realized the effects of the economic collapse, and adjusted its prices more quickly. Domestic prices began to fall in early 2009 because of the broader economic forces driving down all prices.

Now consider these other economic factors. During 2007 and 2008, end-use demand weakened somewhat, but shipments had not yet collapsed as merchant inventories increased somewhat and at least initially were insulating producers from weakening demand. Also, unit pulp cost and overall cost of production were increasing during this period, supporting higher prices. These dynamics changed in 2009. Demand drops more sharply. Over the first seven quarters, the demand index dropped 13 points. Over the next two quarters, the demand index dropped another 10 points, a sharper decline over a shorter period. Basically, the recession hit in late 2008 and
Demand collapsed. Merchants stopped buying, as they began to work down their inventory level. That is why the drop in apparent domestic consumption in the first-half of 2009 was so sharp, purchasers were buying at sharply reduced levels. Moreover, the cost trends reversed. Pulp costs that had been increasing in 2007 and 2008 began to decline, in no small part due to the black liquor tax credits.

So to recap, what changed in 2009? Demand changed, falling sharply in 2009. Merchant inventories that had built up during 2008 began to drop in 2009, as merchants worked through their inventory and further reduced purchases. Pulp costs reversed course and began to decline. Black liquor tax credits further offset costs, included an enormous incentive for domestic integrated producers, the only ones eligible for the tax credits, to cut their prices, and they did. Indeed, these other factors explain why web roll prices followed almost exactly the same trend. Even without any material effect from subject imports of sheets, which can't be reassembled into web rolls, web roll prices also fell in 2009 at the same time and by the same magnitude.

Petitioners blame it on the imports theory cannot explain this decline in web roll prices, nor
does it make any sense even to try. Small volumes of subject imports of sheets could not and did not effect the much, much larger volumes of domestic web rolls. These dynamics fell even though not much was changing with subject imports.

And the strategy worked. The domestic mills increased their shipments more than 150,000 short tons and gained more than 10 percentage points of market share in the second half of 2009. That added volume allowed them to earn enough black liquor credits as an industry to completely offset operating losses. The incentive to maximize volume at the expense of price grew enormously and domestic producers lowered their prices to buy volume. Thus these demand in cost changes in 2009 combined to put downward pressure on all prices.

Rarely does the Commission have a record that so thoroughly documents and quantifies the existence of other non-import factors that have so significantly effected prices. Even if domestic and imported paper is substitutable and price is one of several important factors, that just underscores the logical disconnect in Petitioners' theory. These other factors can explain why domestic prices initially increased, fell in 2009, and then remained

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weak through 2010, even as subject imports left the
market. Petitioners' theory cannot.

The Petitioners have made much of the
adverse trends in 2009 and 2010 and seek to blame
subject imports, but Petitioners' argument is a little
more than an effort to blame the existence of subject
imports for their difficulties. The record
demonstrates that subject imports had no material
effect on the domestic industry. Domestic industry
production and shipment trends tracked apparent
domestic consumption. It actually fell less sharply
than the decline in overall consumption. In fact, the
domestic industry consistently expanded its market
share regardless of the trends in subject imports.
This overall trend is key because most of the
performance indicators that the Petitioners stress are
volume metrics that reflect decrease in consumption.

The reverse was true at the end of the
period. After the market adjusted to the demand shock
in the first half of 2009 and the inventories had been
drawn down so much that shipments began to recover,
consumption began to grow. And the domestic industry
fully participated in that growth, adding 10
percentage points of market share in the second half
of 2009. Moreover, subject imports did not affect
domestic shipments. The non-subject import decline of 364,000 tons was more than the entire volume of subject imports. In interim 2010, subject imports lost 110,000 tons, while non-subject imports gained the same amount, a one-for-one switch. These two facts, growing domestic market share and non-subject import substitution, are fatal for Petitioners' theory of causation.

The domestic industry did more than hold its own. It gained share by lowering its prices to compete more effectively for a shrinking market. They, in fact, captured significant volume and market share from all imports over this period. They had an incentive to lower prices and they did.

Once again, the xpedx e-mail traffic provides contemporaneous confirmation. As xpedx describes in this April 14th e-mail, domestic mills were taking down time and must be convinced that their large volume web business will remain weak, apparently trying to gain economy sheet business to fill machine time. The domestic mills lowered their prices to buy much needed volume during the period of weak demand and few orders.

The domestic industry restructured by shuttering some older less efficient capacity and

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expanding their sheet capacity while doing so. As this comment by NewPage demonstrates, it was seeking efficiency from an acquisition. What Mr. Martin of NewPage did not tell you this morning was that most of the Kimberly output was coated ground wood paper and web rolls, not coated sheets. Sappi made the same point when it announced its own closure. It makes no sense to continue operating high-cost facilities, when you can produce the same amounts at lower-cost facilities. Moreover, these closures reflected broader trends in consumption for all coated papers, not the very specific trend of coated sheets that account for such a small portion of total production at these mills. That is why the industry was able to increase its sheet capacity and production even as it was reducing capacity of other products.

By 2010, domestic sheet capacity was up 13 percent. Employment was down, but by no more than one would expect given the plant closures. Most of this decline reflects the decline in the much higher volume web roll production and other products, not changes in sheet production. If plants were closed, it was because of the lost web roll volume and the opportunity to consolidate, not the much smaller loss of sheet volume.
Domestic industry operating profits were unaffected by subject imports. When subject imports were fully present during 2009 and 2011, the domestic industry performed well and indeed had even stronger performance in 2009, once one includes the payments from the black liquor tax credit. Given the NewPage statements that have viewed the tax credits as a direct pass through, adding back the black liquor credits makes sense. The operating cash during 2009 was both the lower prices on the coated paper, but also the direct cash payments from the U.S. Government on every ton produced.

On the other hand, when subject imports declined in 2010 and the black liquor tax credit ended, domestic industry performance weakened. This slide compares interim 2010 to the prior year, but without black liquor tax credits. The sharp drop in subject imports had no effect on the domestic industry operating income in interim 2010. Volumes were stronger, but prices remained weak. Moreover, this strong performance has understated -- has been understated since the Commission is still missing questionnaire responses from some domestic producers. As this slide shows, based on public estimates, the total volume of paperboard for packaging that meets
the scope definition adopted by the Commerce Department, the current coverage is only about 40 percent. We urge the staff to redouble its efforts to gather this critical missing information.

Thus, the continued weak performance in 2010, even after subject imports had left the market, should be no surprise. The domestic industry saw increase in shipment volumes because consumption increased. When subject imports left, non-subject imports simply replaced them. The domestic industry, however, saw continued weak prices because the underlying demand remained weak and the essential intra-industry competition continued. NewPage continued to need volume to generate cash flow to service its huge debt. Excluding subject imports, which are quickly replaced by other imports, does not change these essential dynamics, nor does the final evidentiary record justify finding of threat.

Petitioners provided quite a bit of speculation in their pre-hearing brief, but speculation is not positive evidence. The final record now before the Commission provides something not seen every often, excellent coverage of Chinese exporters. Indeed, the pre-hearing report confirms that the record has certified questionnaire responses

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from those Chinese companies representing almost all
total imports from China. The coverage for Indonesia
is even better. The Commission has traditionally
relied on specific questionnaire data, particularly
when the coverage is so high. The record also
includes questionnaire responses from all the Chinese
mills with new capacity coming on line in 2010 or
2011. With specific information about how much
capacity is actually coming on line, the Commission
thus has an unusually complete evidentiary record.

The starting point for considering future
trends is to review what has been happening recently.
As noted earlier, subject import volumes were
extremely stable over the period, increasing less than
one percent. Moreover, subject imports dropped over
the interim period. As we approach the fourth
quarter, it seems virtually certain that subject
imports will remain low for all of 2010 and into 2011.
These past trends in no way suggest any imminent
surge. Moreover, Chinese suppliers actually lost
major national accounts before the petition was filed
and even replacing this historical volume in the
future will be challenging. The Commission has the
most unusual situation of Petitioners snatching major
customers from subject import suppliers before the

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trade case has even begun. Again, these facts confirm
the unlikely of any imminent rapid increase.

Chinese and Indonesian producers do not
depend on the U.S. market. Petitioners attempt to
give the impression that the U.S. market is the only
market of any significance to the Chinese and
Indonesian industries. In fact, the record
demonstrates in no year did U.S. exports exceed 10
percent of total shipments, rather shipments to other
markets consistently accounted for the overwhelming
majority of total shipments.

None of the Respondent producers have
significant excess capacity. Capacity utilization for
subject Chinese producers increased throughout the
period, averaging 93 percent. By 2009, unused
capacity was only four percent, hardly indicative of a
likelihood for substantially increased imports in the
future. Neither the questionnaire data nor the RISI
data projects significant excess capacity going
forward. And excess capacity for Indonesian suppliers
was similar.

Petitioners rely heavily on speculation
about dramatic future increases in Chinese capacity.
Chinese suppliers will increase their production
capacity in 2010 and 2011, but this increase needs to
be put in context. The Commission has responses from all of these Chinese mills. It has detailed explanations for each mill's plans for capacity expansion. This is all relevant record evidence. The Chinese producers have reported to the Commission the actual details of what capacity they are adding, when it will come on line, and what practical constraints will limit their actual production capacity. There is simply no credible basis for the 2.5 million ton increase in capacity that Petitioners have alleged.

This capacity must also be considered in light of the booming Chinese market. Everyone, from independent analysts, to investment firms, to the Petitioners, themselves, note the rapidly increasing coated paper consumption in China. This growth fully justified the additions to capacity and the Chinese consumption will absorb a substantial portion of this increased production.

This increasing focus on the Chinese market and other markets in Asia will be reenforced by shifts in the nature of U.S. market demand. U.S. paper customers are increasingly concerned about environmental and sustainability standards, particularly those of the FSC. The inability of the largest Chinese and Indonesian suppliers to offer FSC-
certified products limits their ability to increase in the U.S. market in the future.

Finally, there is overwhelming evidence that any increases in subject imports will simply displace non-subject imports. When subject imports declined in 2010, non-subject imports quickly seized the opportunity and completely replaced subject imports. Petitioners may wish to avoid this evidence of direct and complete import substitution, but the Commission should not. The Commission must reflect this critical role of non-substitutable imports in its analysis.

Finally, we would like to close our presentation with some comments by other industry experts. There is the economist who studies Asian markets, just released comments about the Chinese markets, stressing the importance of Asian markets and the declining importance of North American markets. The markets in Asia are just growing much, much more rapidly. And just a few weeks ago, Sappi was presenting its views to the investing public about future trends. Sappi officials repeatedly stressed that new capacity in China was going to stay in the Asia regional market. Sappi officials also noted the improved forecast for the industry. These latest forecasts are inconsistent with Petitioners'
allegations of vulnerability in this case.

Thank you for your time. Our entire panel is now ready to answer your questions.

MR. PORTER: Madam Chairman, before turning the microphone over to you, I would like to introduce two other witnesses, who are part of the panel, but who picked long straws last night and so, therefore, we're not pressing to service today. They are Mark Dragoo and Anthony Atamimi, who are in the third row in the back. And I notice Mark submitted a detailed statement to the Commission, as part of a request for a subpoena. So, he is here to answer any questions about his information that he gave. Thank you.

CHAIRMAN OKUN: Thank you. And before we begin our questions, I want to again thank you all for being here, for your participation, for your willingness to stick it out and answer questions. We greatly appreciate your participation at the Commission. We will begin our questions with Commissioner Pearson. I will just remind parties -- remind witnesses that when you answer questions, if you could just identify yourself for the court reporter. Commissioner Pearson?

COMMISSIONER PEARSON: Thank you, Madam Chairman. Welcome to the afternoon panel. I
congratulate you on your perseverance.

The record seems to indicate that web rolls 
are not being imported from China and Indonesia. Is 
this correct?

MR. HUNLEY: This is Terry Hunley. That is 
correct. If they are imported, in very, very limited 
quantities.

COMMISSIONER PEARSON: Why aren't we seeing 
more of them imported?

MR. HUNLEY: A couple of reasons. One, our 
operations are actually set up to produce sheets. 
Most of the world is a sheet market. The United 
States is a little bit different, in that we rely 
heavily on web rolls.

The second thing is that the cost of 
transporting web rolls is actually more expensive per 
ton, so that reduces the competitiveness of the 
product in the United States. We're really not 
competitive on web rolls.

COMMISSIONER PEARSON: Is that because of 
just the physical logistics of putting them into 
containers?

MR. HUNLEY: Yes. You know, round peg, 
square box, you're shipping a lot of air.

COMMISSIONER PEARSON: Okay. For post-
hearing, do you have any information you could put on
the record regarding the production of web rolls in
the subject countries, in China and Indonesia?

MR. HUNLEY: I'm sure we can.

MR. PORTER: Yes, Commissioner Pearson. I
believe, let me check with Zheng Rui, does the China
Paper Association have that data?

MR. ZHENG: Yes.

MR. PORTER: Yes, we will submit it in our
post-hearing brief.

COMMISSIONER PEARSON: Okay. And then
perhaps in the same submission, contrast that with the
market in the United States, the production and
availability of merchant web rolls, that sort of thing
--

MR. PORTER: Absolutely.

COMMISSIONER PEARSON: -- just to give some
perspective.

MR. PORTER: Yes.

COMMISSIONER PEARSON: Thank you. Turning
to volume, the record does show growth in subject
imports between 2007 and 2009, somewhere in the
neighborhood of, I think, around nine percent. Let's
see --

MR. DURLING: Actually, I think you're
comparing 2007 and 2009, which is about a 3,000 ton, about a one percent increase, or 2008 to 2009, which is a somewhat larger percentage increase, because in 2008, imports had gone down a little bit. It's where you're starting from, Commissioner.

COMMISSIONER PEARSON: Yes; yes, you're correct. I looked at the wrong number. It's late. Give a guy a break.

Okay. Even that relatively modest increase is a little bit unusual in the context of investigations we've dealt with recently where the recession is a big factor. And so what was going on that caused even that modest increase in subject imports, rather than having a decrease commensurate with what we were seeing happen to apparent consumption?

MR. HUNLEY: This is Terry Hunley, again. In 2009, the market was declining, but it was declining faster in those other grades of products, number one and number two. We are just in the -- well, we call it the value grade or the number three grade on our product. That part of the market did not decline as much and, therefore, our sales did not decline as much.

COMMISSIONER PEARSON: Okay. But that part
of the market didn't actually increase, did it?

MR. HUNLEY: But the increase that we're
talking about, from 2007 to 2009 or 2008 to 2009, is
actually relatively small. We can see that variation
in literally one month's worth of orders.

COMMISSIONER PEARSON: Okay.

MR. HUNLEY: Three-thousand tons is nothing.
One merchant needs to -- you know, finds a new printer
that's running a particular product and all of a
sudden you can easily move -- you have that much
variability in your order patterns.

MR. KLETT: Commissioner Pearson, this is
Dan Klett. I think also there was displacement. Most
of the increase in imports from China, you saw
corresponding decrease if not more in imports from
Korea. Now, we heard from Dr. Kaplan that there is
some -- that's inconsistent with some overall
macroeconomic trends, but I don't necessarily see the
linkage between that and this industry. I think the
description given by Mr. Harris as to why you saw that
displacement makes a lot more sense, in terms of this
particular industry.

MR. PORTER: If I may, Commissioner?

COMMISSIONER PEARSON: Go ahead.

MR. PORTER: Again, total imports came down,
just as you would expect. I think what you heard from
the industry witnesses today, in general, okay -- I've
been here a long time; I'm not going to overstate it,
but there is a little bit of domestics, compete with
domestics and imports compete with imports. So total
imports follow the general macroeconomic trends. The
fact that subject imports took share from non-subject
is a very important fact because it had no effect on
the domestics.

This industry needs imports. As you can see
from your staff report, consumption is well, well
beyond the domestic capability to produce, so imports
need to be present in the market. And so the idea of
substitution is, I think, an important point,
considering -- just to consider when -- and analyzing
the effect of the so-called small increase.

COMMISSIONER PEARSON: Okay. Well, I have
to admit that I'm starting to confuse the data we have
in this investigation with seamless pipe, which was
Tuesday's exercise. And so I just don't recall, do we
have on the record data that break down the shipments
of the number three value grade paper versus the rest
of the market? Because I hear what you're saying
about some grades being -- responding differently in
the marketplace than others and I just don't know

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whether we have that.

    MR. PORTER: Honestly, I do not know whether it's on the record but the good news is it's available. AF and PA tracks this data and we will provide it in our post-hearing brief.

    COMMISSIONER PEARSON: Okay.

    MR. DURLING: Commissioner Pearson, we will supplement the record with the available data about these trends because it is available and we can give you for the complete industry. But even in the record you have now, if you compare the total volumes in the different pricing products, you can basically see much of volume declines in the higher bright products. So if you just sort of look at the relative volume trends within the pricing products, you can see these broader trends, which we can then confirm more generally for you with the overall industry data and we'll provide that post-hearing.

    COMMISSIONER PEARSON: Okay. Thank you, Mr. Durling. Let me shift to price. There's a lot of underselling on this record. It's there. It's all over the place. The domestic industry indicates that it has had a really significant influence on their ability to sell product. How do you respond to that?

    MR. KLETT: This is Dan Klett, again,
Commissioner Pearson. You had underselling over the whole period. You had underselling prior to 2009 and U.S. prices were going up. You had underselling after 2009, prices were going down. I mean, the Commission requires more than just underselling to show a causal effect between imports and prices, either price depression or price suppression. And furthermore, there was some testimony this morning about the delta that was required because of the logistical additional cost of buying imports, which is higher than carrying costs and things of that nature. And I think when you adjust for that, the underselling is not as significant as the actual nominal levels that you see in the staff report.

COMMISSIONER PEARSON: Okay. But, we do have an increase in the COGS to sales ratio, which is one indicator of price suppression. You may wish to explain that more, but that's there. And then in addition, we have, I would say, a higher than average percentage of confirmed lost sales, lost revenues.

MR. KLETT: Well, I think these were two of the components that Dr. Kaplan relied on. With regard to the increase in COGS to sales ratio, that's a mathematical exercise. I mean, it is increasing. But the key point is the increased COGS to sales ratio,
how much of that increase is due to prices declining due to subject imports. And as we know, a good part of our presentation by Mr. Durling was that we think other factors, such as demand factors, cost factors, explain the price -- a much better explanatory -- much better explained price decreases and, therefore, the increase in COGS to sales ratio than do subject imports.

COMMISSIONER PEARSON: Okay.

MR. KLETT: And in terms of the lost revenue allegations, again, I mean, in every investigation, you have -- you generally have confirmed lost sale allegations. You have confirmed lost revenue allegations. I mean, those are kind of anecdotal instances of particular purchasers and the question is, is that material with respect to adverse price effects or volume effects for the industry overall. And I think when you look at the overall trends, notwithstanding some of these anecdotal instances reported by purchasers, we don't think that imports are a material cause of prices being depressed or suppressed. A better explanation of what happened during 2009 were the other demand and supply factors.

COMMISSIONER PEARSON: Okay. Well, thank you, very much for those responses. I have a feeling
-- I will come back to this, if my fellow Commissioners don't learn enough about it. Thanks.

CHAIRMAN OKUN: Commissioner Aranoff?

COMMISSIONER ARANOFF: Thank you, Madam Chairman. Welcome to this panel. We appreciate your enduring to this point and hope to ask you lots of questions, so you think it was worth your time.

I want to go back to the like product issue. I can't speak for my colleagues, but as far as I'm concerned, the one factual issue on which this really hangs in the balance is this issue of practical interchangeability, the question of whether cutting up web rolls and feeding it into sheet presses is a common occurrence or a very occasional unsanctioned and irresponsibility occurrence. We, obviously, have testimony on the record from a number of people in the industry from this morning's panel to the latter effect. We have some declarations on the record from various people represented on this panel to the other effect. Putting the best spin on it, we've got two groups of people, who from where they view the market, are drawing very different conclusions from what they're seeing.

Now where that leaves me right now is I have to make a credibility determination about which of you
I think is seeing the market more reliably. It would be better from my perspective if I had something objective on which to base -- not that I'm not an objective person, but I'd rather have some data or something. Is there anything that you can suggest to me, is there anyway to track this behavior or measure it?

MR. HANSCOM: This is Andrew Hanscom. You know, I was trying to come up with, you know, building total tonnage to be able to share and that's very difficult because we're not selling web rolls. But what I can -- I can probably shed a light on to this instance is that much of the other companies, Sappi, NewPage, and Appleton here today, they sell exclusively through merchants. And so they're not selling directly to the printers. Eagle Ridge Paper has an advantage that we are selling directly to the print community. We are in those print shops. We see the paper running. We see the sheeted product, the non-labeled products sitting in press rooms. I did state specific instances where there is a company that manufactures only web, heat set web offset rolls, located on the west coast -- they're not here, they're not present as the Petitioners -- that clearly has sold multiple truckloads of paper to keep their

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capacity full, selling to converters, who, in turn, will determine if they need to either sell that paper into a web printer or to sheet that down and run that on a sheet-fed press.

And, you know, again, I think this was pretty powerful because when I was challenged on my testimony, that it's not being done, I think it's what they didn't say, because they -- as Mr. Nelson said, that we don't guarantee the paper and I think it was brought up later, yes, of course they don't guarantee it if it's cut down because they're manufacturing it to web specs. But the product is sheeted. It is being sold to printers, who are very price sensitive. And when there's a market differential of sheet-fed pricing in the marketplace versus web pricing in the marketplace, meaning if sheet-fed skids are sold at such a higher rate that it is economically viable for a printer to install a real sheeter on the end of their price, they will do that. And there are printers that consistently are looking at those opportunities, so that they can carve out seven to eight dollars, a hundred weight savings.

MR. PORTER: Can I add one comment, Commissioner Aranoff?

COMMISSIONER ARANOFF: Certainly.
MR. PORTER: You asked for objective evidence. I have the brochure. The fact that there is an equipment manufacturer specifically offering tools to sheet -- web offset rolls to sheet-fed printers, I think is objective evidence that is at least prevalent enough for this person to invest in offering this machinery. And so that's item one.

Item two is, I understand your position. At least from where you sit, you're looking at a he said -- well, he said, he said, rather than he said, she said. And what we will do in our post-hearing brief is we will attempt to get as many printers, who have this type of equipment, to get an affidavit saying I have this equipment, this is what I do. We know those printers exist because Andrew talked to them all the time. In fact, I have talked to many of those printers, as well. So, it is certain that they are out there and we will do our best to quantify it, so that you can have that objective evidence that you seek.

COMMISSIONER ARANOFF: Okay. I appreciate that, very much. The second similar factual situation where we have a kind of a he said, he said going on here, or there may actually have been a she involved in this one, is this issue of the importance of FSC-

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certification and how much of the market that represents. We have testimony from this panel saying that it's in the 20 to 30 percent of the market, at least in some parts of the country. We have testimony from a number of people on the Petitioners' panel, that it's one to two percent. And, again, those are very different numbers based on people's personal experiences. So, I'm open to suggestions again there on how to resolve that.

MR. PORTER: A couple of comments and I will ask my colleagues to join in. Again, understand where you sit having what you perceive to be conflicting statements. All I can say is that we've done our best to both have the statement and have some supporting backup. Ian, he's very passionate about this. This is his job, okay. His actual job is to try to convince the world that APP is not such a bad guy, okay, and he's having a hard time at that. And so, he was -- he was the perfect person to say, you know, tell me -- explain to me how it's difficult for APP to sell their paper. And so, he did what he knows. He went to the sales people and say, tell me what's happening out in the marketplace, and that's the basis of his declaration that was submitted. So, it's not only sort of direct people, who were out there in the
market saying this is what I'm reporting, we also have
provided you names of actual printers, who have said
we will not buy from you because you do not offer FSC-
certified. So that's just what we've offered.

There are other things, though, that can be
done, which we will attempt to do. One is to go
through and look at all of the -- I guess it's not
brands, but the names of the papers that NewPage,
Sappi, Appleton offer, what they say is FSC-certified
and we will try to come up with a quantity of that
paper being sold.

But the last point I want to make is
something that Ian mentioned, okay, and that is I
understand you want to get a quantification, but
sometimes the quality aspect is important. Sappi,
NewPage and Appleton, on their websites, promote FSC-
certified as being, number one, a growing thing and,
two, having a competitive advantage over their
competitors who don't have it. So it is an important
aspect of the competitive dynamics, even though it
might be difficult to quantity.

COMMISSIONER ARANOFF: Okay. Well, I take
all of those points and I guess I would say let's just
suppose all of that is true and it is an important
competitive advantage and let's just say a meaningful

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part of the market. We know that the subject imports sold a quite a respectable quantity in the market here prior to 2010 and clearly that portion wasn't affected by these concerns. So perhaps in the end, the answer to my question is going to be it doesn't really matter if it's two percent or 30 percent because there's another 70 percent of the market out there.

MR. PORTER: Aha, Commissioner, understood. We anticipated this response, which is why we put this discussion in our threat section, not our material injury section, okay. Threat it all about the future. Threat is all about does the evidence suggest that there will be an imminent increase to a level causing material injury. And we're saying because of all the difficulties that APP has in selling their product here, that's not going to happen.

COMMISSIONER ARANOFF: Okay. I will come back to this. Thank you, Madam Chairman.

CHAIRMAN OKUN: Commissioner Williamson?

COMMISSIONER WILLIAMSON: Thank you, Madam Chairman. I do want to express my appreciation to the witnesses for coming today. I guess on this last point you made about you're putting these FSC-certification in the threat, I guess what is the evidence, particularly in these hard economic times,
that this use is going to accelerate, you know, it's going to make a difference, particularly given, as they stated, the economy, the pressure people are under about prices?

MR. PORTER: Let me tell you what we have given you and ask our industry witnesses to elaborate. We've given you a couple of things. First, we have given you growth of sort of companies, who have become FSC-certified. We have given you growth of forest that have become FSC-certified. So, clearly, others are seeing this is going to -- because they are seeking FSC-certification.

The second thing is something that Ian mentioned, I think it was International Paper --

MR. LIPSHITZ: xpedx.

MR. PORTER: -- sorry, xpedx, that they reported a tremendous growth in their sales of FSC-certified. So, there is evidence on the record suggesting that it is growing and that growth is recent and it's dramatic. And I'd like to ask, I guess, Ian to follow up and others to elaborate.

MR. LIPSHITZ: Just to quickly add on that. We've seen recently large major retailers, huge users of printing, such as WalMart, Staples, actually issue public statements about their requirements and their
demand to purchase FSC paper only. We see that in the banking industry, as well. When people receive their banking statements, you'll notice it's on FSC paper or most of the time it is on FSC paper. And, again, that's a market price. And now as a result of our inability to achieve FSC-certification, we can't deliver on that product and we are shut out of that business, as well. So, we are seeing that.

There are other certifications in the marketplace. However, North America, as I've been told many times by many customers, if it's not FSC-certified, it's nothing and it doesn't count in their experiences.

MR. MCCULLOUGH: Commissioner Williamson, one more point because I think it's important to understand that the certifications, themselves, you know, it's not just a feel good or good corporate citizen dynamic involved. I mean, the reason you're seeing an increase here and you're going to see more use of these certifications is because there are both civil and criminal sanctions involved in handling contraband material. And there are strict liability provisions that flow all the way down to customers that can lead to the seizure of product that's found to be in violation of the Lacey Act. And you can't
forget that. And whether or not a certification
applies to a product, you may be subject to the Lacey
Act and that's a major concern for any one purchasing
material.

COMMISSIONER WILLIAMSON: Okay. Thank you.
I will take a look at that. I want to turn to another
question. This concerns price timing and price
movements. Petitioners claim that the price data
shows that imports began to fall in price first and
that domestic producers were forced to follow. I was
wondering, what is your response to that argument?
We heard it a number of times this morning.

MR. DURLING: We tried to get it --
Commissioner Williams, this is Jim Durling. We tried
to get at that with our slide, basically kind of
showing what precisely the timing of price movements
and trying to put Petitioners' theory to the test,
which is kind of their theory is we lower the price
and then they lower the price and then they kind of
pretend that nothing else was going on. But what the
data actually shows is a disconnect; that in 2008,
we're going kind of up and down and they're not
reacting and we actually imported slower their price
at the end of 2008 and the domestic prices remained
relatively high. They did not react for quite some
time. In other words, it wasn't us lowering prices. Us lowering prices, they were quite happy to continue increasing their price. It was only when the other factors begin to kick in, that we saw their price reaction, right. I mean, there's the price point. There's the big drop that they were complaining about and I note that during that period -- again, this is an index. We'll do this later with the actual data. But what the index pretty strongly suggests is that the domestic prices are still going up quite happily and then two slides after this, John -- and it's basically -- so prices are going up and it's only going into 2009, right, imports have already lowered their price. That's not what is causing the price reaction. What causes the price reaction is when demand falls off the cliff.

The most compelling evidence I can point you to is the very telling e-mail traffic between xpedx and Sun Paper, which really -- it's very nice granular contemporaneous documentation that's telling you what's going on. That e-mail documentation tells you about the reaction to these very different demand factors. It talks about the relative pricing levels of different folks in the market. You know, it points out that, yes -- I mean, subject imports had lower

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prices, but Koreans were in there offering prices at
exactly the same level as the subject imports, at
least according to their publicly redacted information
that's available. And so, it's a very nice kind of
capsulation of what's really going on in the market,
what's really going on in the first quarter. It's
these guys reacting to the demand to the inventory
trends.

COMMISSIONER WILLIAMSON: Okay.

MR. PORTER: One more piece of evidence.
The questionnaires asked the purchasers who is the
price leader in the market. And they do that,
Commissioner Williamson, to get at your very question,
to see whether -- you know, if someone -- who is
followed up or down and I assure you that the answers
were not subject imports. They were the domestic
producers. And so, yes, Petitioners have been able to
find one point in time in which the subject imports
moved a little bit differently and they seized on
that. But as the evidence here demonstrates, that
single instance cannot explain their theory of the
case.

COMMISSIONER WILLIAMSON: Okay. In fact, my
next question was going to be what about -- there have
been a number of questionnaires, who were saying that
the domestic industry reduced prices in competition
with subject imports. So, wouldn't that tend to sort
of say at least some of the purchasers believed that
was happening? And the charts you had, the first one
you showed me where it looked like the -- for me,
right, the subject imports, that that price went down
first; right? There is a lag before the --

MR. KLETT: That's correct, Commissioner
Williamson, and I think Mr. Hunley pretty much
admitted that's what happened and he explained why.
And he was reacting to macroeconomic forces, that the
domestic producers ultimately reacted to, as well. He
just reacted -- saw the decline first in the market.

COMMISSIONER WILLIAMSON: So even with the
shipping delays, he was more fortunate than the --

MR. KLETT: Well --

MR. PORTER: These are not shipping delays.
This is actual market pricing here. This is not
import values. There's no shipping delays.

COMMISSIONER WILLIAMSON: Okay.

MR. DURLING: Commissioner Williams, this is
Jim Durling, again. I mean, I guess the other point I
would note is, yes, subject imports went down first,
but everything else is also happening. And so
domestic prices stay high. Really the question is
given the complete evidence on the record, given the
collapse in demand, given the inventory adjustments,
given the fact that the major national distributors
stopped placing orders, given the black liquor credit,
given everything else that is happening 2009, do you
really think that even if subject imports had not
changed their price, that there would be any change in
the domestic price levels with all of those other
things going on in the market? I think there's so
much else going on in the market, it's simply not
credible to believe that none of that other stuff
mattered and that all that mattered was the subject
imports dropped their price by Commission standards,
was actually a small decline.

COMMISSIONER WILLIAMSON: I think the
question is how much did -- if the drop of the subject
import prices contributed to the effect, not that the
other things aren't there.

MR. PORTER: But, yeah, Commissioner -- I'm
sorry, John go back to the price chart. One of the
reasons the Commission asked for three or more years
of data is to look at trends.

COMMISSIONER WILLIAMSON: Yes.

MR. PORTER: And trends are important
because they tell what's happening and whether -- as
we're trying to say, whether sort of theories hold up. Petitioners' theory is that subject imports lead the price down. Well, look at here, subject imports went up and down over the 2008 period, yet no reaction from domestics. And so if it's not happening in the past, we have one instance, why do we assume that that's what caused prices to go down? And so what we're sort of saying, the evidence on the record shows a lot of other economic factors at work that, in our view, explain both the left side of the graph and the right side of the graph. And so that's our economic explanation.

COMMISSIONER WILLIAMSON: Okay, thank you. I appreciate all of those answers. My time is about to expire. Thank you.

CHAIRMAN OKUN: Commissioner Pinkert?

COMMISSIONER PINKERT: Thank you, Madam Chairman, and I'd like to thank all of you for being here today and helping us to understand the conditions in this industry. I want to begin with a question about subsidy pass through and this is particularly in reference to the black liquor subsidies. If you assume that there is full pass through of the subsidies, could there be, even conceivably be any impact on operating margins when the costs go down by
x and the prices are just by that same amount? Could there be any impact on operating margins in that situation?

MR. KLETT: Commissioner Pinkert, this is Dan Klett. I mean, I think it depends where you put the black liquor credit. I mean, right now, the black liquor credit is being reported below the operating level, so that even if you -- if you assume there is full pass through, so that there is a price decline that completely offset any gains from the black liquor credit, you're taking all the hit on the revenue side. But because the credit is being recorded below the operating level, you are capturing none of the benefit. So, basically, that is the reason we're saying that if you're going to -- if there is complete pass through and the effect of the black liquor credit is on price and revenue --

COMMISSIONER PINKERT: But isn't it also on cost in your hypothetical? It drives down the cost and the adjustment to the price is by the same amount.

MR. KLETT: No. It drives down the cost, but if it's -- it's not driving down the operating cost, as it's now being reported, because it's being reported below the operating level. So based on the operating profits as recorded in the staff report, it
actually isn't driving down costs because it's being reported below the operating level. It's being recorded -- so, it's not being captured as an operating cost the way the data is currently being reported.

MR. PORTER: Commissioner Pinkert, can I take a stab? I think we're a little bit talking about apples and oranges here and I want to try to at least how we sort of view this. One aspect of our analysis, why do prices go down, and are saying, well, because the domestics got this huge bundle of cash from Uncle Sam and they use that, you know, to lower price. And that explains the price decline.

But then we go to looking at a point in time or several points in time about profitability. And the question is, what do you do with that bundle of cash. Now, the Commission staff correctly said, we want to see it. And I believe that different companies for accounting purposes treat it differently. So, you have a situation where companies are treating it a little differently for their own internal accounting. But the question is, what should the Commission do in looking at profitability of the industry? What should it do with this bundle of cash?

As we showed in our slide, we believe because the

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industry, itself, says it's either directly related to
cost or it's directly related to sales, it is related
to operations of this industry, it should go into the
calculation of operating profit.

And, Commissioner Pinkert, I knew you in a
former life. You used to work for the Commerce
Department. And they do this all the time, as you
know, in dumping investigations, where they take a
foreign exporter's books and records and say, okay, we
see that you, in your accounting, have classified this
as an indirect expense, but we're, because we think
it's more appropriate as a direct expense. And so,
we're sort of saying the Commissioner should do the
same thing, look at essentially all the revenue, all
the cost, and put it into what makes sense for your
analysis.

COMMISSIONER WILLIAMSON: Mr. Durling?

MR. DURLING: Thank you. I just want to
clarify and underscore that this is a variable
element. This is an element that is changing. The
black liquor credit payment increased, as you
increased your tonnage. So the logic for
distinguishing operating results, which is something
that varies depending on the output being generated by
the industry, as opposed to below the line things,
which tend to be kind of large, fixed non-variable cost, like interest expenses, it makes sense to think of this variable element as being an above the line element, because, quite frankly, as the NewPage document show -- and, again, I'm pointing to the contemporaneous business documents, not the testimony you heard this morning, but the contemporaneous business documents, the way they presented it was, as basically kind of think of it as an offset. They put it right -- it's basically the first offset they do, right next to the price adjustment. So, they're saying to the investment community, yeah, we have lower prices; but, look, the alternative fuel credit essentially was a one-for-one match. And you put this slide together with their testimony about it being a pass through on the price, they view it, you know, at least vis-a-vis the investment community, they're viewing it as an adjustment to how to evaluate their operating results. Maybe that's the clearest way to think about it. When they're describing the results to the investing public, they want the investing public to give them credit for having received the black liquor credit. And we're making a similar proposal.

COMMISSIONER PINKERT: Thank you. Now

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turning to the 2008 period, you heard a lot of
discussion earlier in the day about the first half of
2008 and the second half of 2008. What caused the
increase in subject imports from the first part of
2008 to the second part?

MR. HUNLEY: Sorry, you mean the actual
number? Pardon? The actual increase in the first
half 2008, second half 2008?

COMMISSIONER PINKERT: The first and the
second half of 2008.

MR. HUNLEY: The first half of 2008, as you
saw our prices were increasing, as well, which had an
impact on our demand. In the second half of 2008, the
market was in complete disarray, to be quite honest
about it. What we saw coming up in the last part of
2008 was the market falling apart, customers not
knowing what to do, and we made just a typical
business decision to drop our price. Some customers
took advantage of that and bought a little extra
paper.

COMMISSIONER PINKERT: And perhaps this is
more appropriate for the post-hearing, but what was
the impact on the domestic industry of the increase in
the subject imports from the first half of 2008 to the
second half?
MR. PORTER: We will definitely address it in post-hearing, Commissioner Pinkert, but I would like to just sort of repeat an answer that we did earlier and that is because there was one-to-one substitution with non-subject imports, we think there was actually little to no effect on the domestic industry. Again, the domestic industry gained market share during this period.

COMMISSIONER PINKERT: Thank you. Now, you heard me ask earlier today about apparent U.S. consumption in 2008. And as you know, there's a decline in the apparent U.S. consumption during that year. I'm wondering, in your view, is the apparent consumption figure a valid measurement of demand for 2008?

MR. KLETT: This is Dan Klett, Commissioner Pinkert. The activity variable we're using is U.S. commercial print. And from 2007 to 2008, U.S. commercial print activity also declined from 2007 to 2008. So the decline in U.S. apparent consumption from 2007 to 2008 is consistent with the underlying demand indicator. Sometimes -- I mean, changes in apparent consumption don't exactly match one-for-one changes in the actual underlying demand indicators, although usually there's a pretty good proxy. So, I
think that the decline in apparent consumption in
2007, 2008 does reflect declines, slight declines in
demand.

MR. PORTER: One quick point. The whole
inventory adjustment highlights the difference between
underlying demand and consumption. Obviously, as
merchants sort of -- merchants can gear up and turn
down their inventory, that may or may not directly
correlate with the underlying demand drivers.
Actually, we think that's what also is going on here.

COMMISSIONER PINKERT: Thank you. One other
point about the 2008 apparent consumption. As you
know, Mr. Klett, the GDP was flat for the 2008 year.
So what, other than overall economic conditions, would
be driving the apparent consumption figure for 2008?

MR. KLETT: We think -- I mean, overall GDP
is a very broad indicator and roughly there's a
correlation between that and commercial print. But if
we go back to the commercial print, which we think is
the best demand driver for apparent consumption, the
commercial print indicator actually was going down
from 2007 to 2008. So there was a disconnect between
what we think to be a better demand driver for coated
paper and GDP, at least between 2007 and 2008. But,
we think commercial print is a better indicator of
underlying demand than overall GDP.

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

CHAIRMAN OKUN: Before I forget, Mr. Hanscom, I wanted to ask, the brochure that you have up with the machine, is that one that's already in the pre-hearing exhibits or is that something that we'll be provided post-hearing?

MR. HANSCOM: We'll provide it post-hearing.

CHAIRMAN OKUN: Okay.

MR. HANSCOM: I didn't think of it.

Fortunately, it was in my briefcase.

CHAIRMAN OKUN: Okay. I wanted to see exactly what the cover was. I just wanted to make sure if I had seen it or no. So, I appreciate it you putting that in the record.

My next question is for a representative from APP China, Mr. Rui Zheng. You had, in your testimony, discussed some of the RISI data and critiqued what you think is -- I think of as unrealistic assumptions on a couple of points and I just wanted to go through that again, to make sure I understood. Was that just with respect to your company or do you have more -- do you have information about the other capacity that would have gone in to

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the RISI estimates on Chinese capacity increasing by
24 percent from 2010 to 2011?

MR. ZHENG: So you're talking about the
capacity growth?

CHAIRMAN OKUN: Yes.

MR. ZHENG: Firstly, the concrete example is
our company, but believe there are other similar
situations with other Chinese producers. Normally,
they announce the capacity increase is the ideal
capacity increase. And I also want to address -- a
point I want to address is normally when you put a new
machine, for example, announce 400,000 pounds in 2011,
normally, the new mill needs a kind of normal up-time
period. So, actually, the whole year 2011 does not
really deliver this whole capacity estimate. So this
is also an additional point I want to make. And also
it stopped in July. It's just half of the -- for the
year, it's just half of the effective capacity coming
out. So, there are a few points to add.

CHAIRMAN OKUN: Yes, Mr. Porter and then Mr.
Durling.

MR. PORTER: I just want to -- what Zheng
Rui is saying is that RISI has sort of a capacity
projections, increases in capacity obviously from
information that they assemble, which is primarily

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announcements by the company when they announce new
capacity. What Zheng Rui is saying is all companies,
when they announce it, the only thing they can do
right then is to say this is the rated capacity of the
machine. And they have to pick a number and they
typically pick if you ran the machine at one product,
straight out, and that's all you did, what was that
number and, obviously, companies like to show a high
number.

Well, since this is important, your
questionnaire asked for actual practical capacity of
the very product at issue. And if you look at, and
Zheng Rui was in charge of this, what his company did,
they started with that number that was sort of
announced to the public, 1.4 million. And then he
said, this is how our engineers calculated the actual
practical capacity for the subject merchandise. And
in the questionnaire, they go through that and show
that calculation. And so all he was saying is when
you're looking at this, you have different data. We
believe your questionnaire responses in which the
companies actually did what you asked them to, which
is to give you practical capacity for the very price
at issue, is a little better evidence than the
weighted capacity, which is being reported by RISI.
MR. ZHENG: Maybe I can put that -- the entire industry, when they say past fuel consumption, they put a number, a gallon, how many miles. But, it is also the ideal case, right. It's less constant, speed, no brake. Actually, the consumption is there. In this case, you burn more fuel. And like in the same situation, the capacity they announced, it's the highest basis rate, at the highest possible speed. So, actually, it's not going to happen. Thank you.

CHAIRMAN OKUN: Mr. Durling? Okay. Then I had also wanted to make sure if I understood you. With respect to the RISI data on Chinese consumption, the projections about that period of growing by 8.6 percent, do you think that's a good figure or would you take issue with that figure, as well?

MR. ZHENG: We are actually more optimistic, and our internal analysis we've taken few point into consideration. Firstly like I addressed the forced closure of inefficient mills, they will bring some structural change of the paper market. And secondly the Asian, around Asia, around China, all those countries around China, they will have also a lot of additional demand growth.

CHAIRMAN OKUN: Okay. For posthearing, and I know you have information in your prehearing brief,

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but for posthearing if you could just go through
again, you know, the specifics with regard to both the
capacity and consumption information if there's
anything else, I know there's questionnaire data but
if there's any other internal documents that would
talk about forecast in the region I think that would
be helpful. I mean, you know, often in these cases we
use our best data because we don't have anything else.
Here we fortunately do have other information, but I
want to make sure that I understand what, you know, if
there's something that we're missing in any of the
comparisons if you could point that out and be as
specific as you can, that would be really helpful.

MR. PORTER: Absolutely.

CHAIRMAN OKUN: Okay, appreciate that. Then
let's see, I think I'll go to, well one question back
on these, on the certifications, the environmental
certifications. One of the points made, and you've
had some chance to respond just on the specifics of
the numbers and talked about that with Commissioner
Aranoff, one thing that I had heard the Petitioners
say is that this isn't difficult to get because, you
know, if you're buying from these different forests
that are certified that it shouldn't be as difficult.

I mean I understand the testimony from your
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witness that you've not able to do that because they were taken off the certification list, but I was just trying to understand that just generally for other producers is it, if you're just getting on the list is it easier than if you've been taken off? I mean I don't know if that's the right question, but.

MR. PORTER: If I may, Zheng Rui, can you talk about if it's difficult or easy for other Chinese manufacturers to get certified by FSC?

MR. ZHENG: Getting the pulp it's not, everyone can buy FSC certified pulp, but the producing, for example for us producing like Ian or you said that we are not able to label our, even when we use FSC pulp we are not allowed to label our product with FSC certification. And there are also other Chinese producers in the similar situation like we are.

MR. PORTER: If I may, we're talking about, can you put the FSC logo on your paper, okay. In order to do that you have to go to the essentially for -- an actual entity and you have to say, we would like to be able to offer your logo because the logo is very accepted and people want that. And so you need to convince them, and I believe he will elaborate on this, they have said, we will not give it to AP&P at Heritage Reporting Corporation (202) 628-4888
all. And, Ian, why don't you talk about why other Indonesian and Chinese would have difficulty getting it as well.

MR. LIFSHITZ: Yeah, as Dan mentioned -- Ian Lifshitz. As Dan mentioned, in order to get FSC certification and to sell FSC certified paper you have to have a TNF custody FSC certified, which means it's from start to finish you have to guarantee that product is FSC certified by third party auditors that come in and validate where the timber is harvested, how that harvested, how the timber is processed, how it's turned into paper, how it's shipped, and so forth.

And then once all those, once you can follow the chain of custody then you are able to more or less get your FSC certification. However, FSC has looked at countries like Indonesia, China, and so forth, and said any plantations, forest converted after 1994 shall not get FSC certification. I am paraphrasing their exactly bylaw, but that's more or less the gist of it, which makes it impossible for companies like us to receive that certification.

CHAIRMAN OKUN: Okay, thank you, and I also listened to the earlier responses and understand that it's, you focused on as the threat argument and I'll
look for the additional data on that, so I appreciate that. And then on pricing, Mr. Klett, let me just go back, I just want to make sure I understood a couple of points that you were making in respect to Dr. Kaplan's analysis which we spent some time on and you've had some earlier responses on pricing.

But one of the things that I'm still trying to work through is, you know, what the critique is of, you have critiqued the three points he focused on, the three things that he sees as most important in the market. Is there agreement on that? Because I think he started with that premise that Petitioners and Respondents agree that those are all important and then it's just?

MR. KLETT: One thing that I haven't mentioned with respect to his analysis, and it is his econometrics statistical analysis. I agree conceptually that econometrics is a useful tool if you're trying to statistically disentangle these alternative factors affecting price. We have a major problem with the reduced form specification that he used. We think that he included some explanatory variables that should be on the right hand side of the equation on the left hand side of the equation.

Anyway, we will present an alternative
reduced form statistical analysis using his data but what we believe to be a more appropriate reduced form equations. You have very capable economists here at the Commission that can look at why we did what we did, what Dr. Kaplan did, and, you know, come to your own conclusions in terms of which is most appropriate.

CHAIRMAN OKUN: Okay. Well I appreciate that. My time, I might come back with a couple of other follow ups, but I'll turn to Commissioner Lane.

COMMISSIONER LANE: Good afternoon. I was excited this morning to be the first questioner, I can't say I'm quite so excited to be the last questioner because everything seems to have been asked, but that doesn't mean that I understood all of the answers so I get to ask some of the questions again. But first I want to start on web rolls. It's my understanding that there are no web rolls coming in from Indonesia and China, is that correct?

MR. PORTER: Very little.

COMMISSIONER LANE: So the domestic industry is not competing or alleging that they are competing with less than fair value or subsidized web rolls from Indonesia and China, is that correct?

MR. PORTER: That's correct, Commissioner Lane. They have structured their case to only target
COMMISSIONER LANE: Okay. And they brought the case and so that was their prerogative, right?

MR. PORTER: It was definitely their prerogative to identify the imported targeted merchandise. It's obviously the Commission's responsibility to decide which industry in the United States produces a like product.

COMMISSIONER LANE: Well I want to go back to some of Mr. Hanscom's testimony. I looked at, I had here my notebook my dissenting opinion in the earlier case in which the definition of web rolls and sheeter rolls were a big issue at the hearing and who made what and whether or not they were interchangeable. And I saw that in my dissenting opinion we had mixed people, we had printers that said they could use it, we had printers that said they couldn't use it, and I think I decided that at least 50 percent of the printers might be able to interchange back and forth. And so, Mr. Hanscom, is that sort of what you're saying or are you saying that they're interchangeable one for one on every machine?

MR. HANSCOM: Well, I think -- this is Andrew Hanscom. I think your question has two sides. The question is the usability of the web rolls for
heat set web printing, so what printers have the
capabilities of using that type of product and they
have to use that on a specific web, heat set web
offset press. So I don't know the exact numbers as
far as what printers, I think the data shows that the
total consumption or usage of the coated free product,
80 percent of that product is heat set web.

Now there are significantly more sheet fed
printers out there in the marketplace. So it's
disproportionate there. The second part of I think
your question is the manufacturing process. And in
the manufacturing process many of the machines that
are actually making sheet fed product are also making
sheet fed web. And as they discussed earlier a few of
the Petitioners discussed in the manufacturing process
they change a little bit of the coating formulation,
basis weight becomes a big differential.

But if you're talking about for example 70-
pound text basis weight, they'll make that product
exactly on the same paper machines and all they do is
switch over to their newer coating formula if in fact
they do change the coating formula. Now the
interchangeability is another issue where you can't
use a sheet fed product on a web press because of the
moisture content, and you, because of the concern for

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blistering.

But you can use a heat set web offset roll and cut that into a sheet and run that through a press, and many printers do do that, use that, successfully run that. And so that's why when I believe when you're looking at this whole marketplace, when there's a steep decline in the demand for web rolls, those paper companies are looking for business to be able to sell out their paper machines, and so they look to the sheet fed market.

Now again you look, you take my example that I used with the annual reports. That was a huge, huge market for web offset printing. They've lost that. Basically what I understand in the industry is that annual reports now are about 10 percent of the consumption that they used to be several years ago. And so paper companies, and I worked for Sappi, I know they built their business around web. The Somerset mill has three state-of-the-art heat set paper machines that were built in the early '90s, late '80s early '90s. But, you know, now they're looking for where do you go and how do you build a business if business now is moving more towards sheet fed?

COMMISSIONER LANE: Okay, thank you. Mr. Porter, most of this information I'm assuming is

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business proprietary so I'm going to just talk in general terms. But I'm looking at subject imports over the three-year period 2007 to 2009 relatively high and relatively stable except that in 2009 it is higher than in 2007. And then I look at the domestic units sold and those 2007, okay, then they went down in 2008 and went down more in 2009.

Now the units sold went down but their market share went up. But it's the units that I'm looking at. Then I look at the prices of the domestic sales, those unit prices went down. So at the same time that their volume in units went down, their prices went down and their profitability went down. So I'm having a hard time understanding how you are saying that the presence in the market of subject imports that are being sold at less than fair value and their subsidized are not having an effect upon the U.S. industry.

MR. PORTER: Commissioner Lane, I obviously have not done my job at least with respect to you, and so I'm going to try again. A couple of points. Let's go back to the subject where you have the subject, the timing point, pricing with the favorite time, yeah, here. Commissioner Lane, you did a very nice job of summarizing sort of Petitioner's theory of the case.
And their theory of the case is exactly that, the presence of less than fair value subsidized imports which are underselling the domestics, that must have caused the price decline in the market and their depressed profitability, that is their theory.

And if you had nothing else and that's all you had, you just had those facts, dumped and subsidized imports, little bit increasing, underselling, and then market price decline, you could make an assumption A caused B. But what we're saying is that the Commission has a responsibility to look at all economic factors, and they have a responsibility to look at everything what's going on in the market. And what we say is when you look at that, that theory doesn't hold up and we believe this, shall I go back, John? That chart supports it.

Because if their case, why are they increasing when subject import prices are going up in down? Similarly, why could they not raise price when subject imports disappeared from the market? So that suggests that something else is going on. And what we've tried to do is to explain what we believe that something else is, and not only that, we tried to explain why we believe that something else actually supports the entire period. And that we've tried to
do, and that something else is the collapse in demand, the Black Liquor subsidies, the inventory adjustments, the substitution you have the subject and nonsubject. And you take all those into account, that's why we believe Petitioner's case doesn't work.

MR. KLETT: Commissioner Lane, this is Dan Klett, I just want to make one other point. You've also got nonsubject imports in the market. And that is that it's incorrect I think to assume that you've got, you can't just look at subject imports alone because nonsubject imports are also in the market, and imports in general have always been a part of this market. So I think it's incorrect to assume that imports should be out of the market because that's never been the case.

Also going to 2010 you see a big shift in nonsubject imports, and one of the points they made for 2009 was, yes total imports didn't go up but subject displaced nonsubject and there was an adverse price effect. Well look at 2010, you had the complete reverse, subject imports pretty much went out of the market, nonsubject imports increased almost on a one for one basis, and you had no positive price effects, you had no positive profitability effects.

And in terms of their theory for why that

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happened with respect to price, they said there was inventory overhang of imports. You've actually got inventory numbers from your purchaser questionnaires of Chinese inventory. You can look at that versus, and I don't think that's an explanation of kind of residual import effects in 2010.

COMMISSIONER LANE: Okay, thank you.

CHAIRMAN OKUN: Commissioner Pearson?

COMMISSIONER PEARSON: Thank you, Madam Chairman. Back to lost sales and lost revenues. In reading from the public version, and this is just one example, you know, of a certain purchaser was named in a lost sales allegation valued at X dollars. It agreed with the allegation, it further reported that it has switched from purchasing certain coated paper from U.S. producers to suppliers of imports from China and Indonesia due to price, and that U.S. producers have reduced their prices in order to compete with subject imports.

Now I read similar statements to that pretty much throughout the whole lost sales lost revenues section. In other investigations it's not unusual to see, particularly when there's intense price competition in the marketplace, that one domestic producer loses sales to another domestic producer.
thinking that it lost a sale to imports. I'm not picking that up here. I mean I'm just impressed with the consistency of what I'm reading here, and so whatever you can do to shed light on it would be great.

MR. PORTER: Thank you, Commissioner. We will obviously address this again in our posthearing brief. I have to disagree with you on sort of your read of the data, and I'm going to be real careful here. But I guess I can say is that when we look at it and we look at, because I believe that there are other examples in which they were not confirmed, how about that, I think I can say that, and you look at who was saying that they're not confirmed and who was saying confirmed and you look at relative volume, I think you get a little different perspective.

And again I'm sort of probably approaching the line and I don't want to cross it, and we will address this in posthearing. But, you know, you can ask ten and if eight say, oh yeah I can confirm it, but two are five times the volume of the eight, the fact that eight out of ten confirm it doesn't tell you a whole lot, and I think I'll just leave it at that and we'll address that more in posthearing.

COMMISSIONER PEARSON: Okay. Mr. Hanscom?

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MR. HANSCOM: This is Andrew Hanscom. You know, relative to your question and I think what you're trying to get at and what Dan touched upon is the size of the customers. And if we're talking about the print community who are the ultimate, you know, consumers of this paper, if you look at the top 25, they are buying, R.R. Donnelly being number 1 clearly above.

As the person in charge of selling directly to these national accounts who have multiple locations, I'm kind of putting myself in an embarrassing situation because I was unsuccessful being able to sell them because I was told that our pricing was too high. And their volume rebates and their pricing didn't support them putting a program together with us to buy from us.

Now and I'm buying directly from the mill and in turn selling to them at lower margins, not selling to a merchant who in turn is marking that paper up, you know, X percentage. So why was I unable to sell to these and be competitive? And, you know, the standard question I ask is, well where do I need to be as a salesperson? And they, you know, the answers were, that were given to me, that we couldn't even touch. It was below what our cost was coming
into the U.S. and to be able to in turn, you know, ship to them. So the whole pricing issue really has me perplexed.

COMMISSIONER PEARSON: Okay, well thank you for that. Mr. Durling?

MR. DURLING: Yeah, I would just, and again in detail posthearing because we can do it confidentially, but what we do know publicly is that Unisource, one of the two large national distributors, was doing just the opposite during this period. So that's part of understanding the overall record of lost sales during this period, who's swapping to whom and why and what reasons are given. And with all due respect you have a pretty complete record now on the Unisource situation.

You have, you know, you have a bunch of questionnaire data, you have, you know, the testimony of Mr. Hunley who was basically involved in that particular commercial situation. You have a pretty clear picture of what's going on and you can include that in your overall assessment. The fact that there may be a large number of extremely small volume purchasers who are confirming, again we can, you know, do it in detail in the posthearing, but Unisource is huge, Unisource was 50 percent of his business. If
you think he's big in the market and Unisource was half of his business, that one went the other way. And so we just would urge you to take all of that into account if you evaluate the lost sales. It's not just about counting the number of allegations.

COMMISSIONER PEARSON: Right, no I appreciate the points you're raising and I look forward frankly to reading your assessment in the posthearing brief. Mr. Durling, chart 36 which you had up there earlier, it shows the Black Liquor Tax Credit and the effect on margins for coated paper. My question is, is this done allocating just the portion of the Black Liquor Tax Credit that applies to the production of coated paper to the profitability of that paper?

MR. DURLING: Absolutely. This simply takes your staff report information on operating income and the Black Liquor Credits allocated to certain coated paper for only the companies for which you already had the data. In other words this is conservative. Because again I can't go into the details because they're BPI, but if you read the footnotes to the staff report you'll realize that there are amounts for Black Liquor that haven't been included here because of the way people answered, you know, questionnaires.
and you didn't have the information.

And even more importantly some of the biggest beneficiaries of Black Liquor are other integrated producers who may or may not have yet answered questionnaire responses. So remember the slide I showed you on coverage, that our best estimate from public information is that you've actually only gotten responses from domestic producers that represent roughly 40 percent of the industry.

Commissioner Aranoff, this was the point that you raised, there seem to be a lot of missing questionnaires that could dramatically change the picture. This in our view shows that there really is a potential out there. We won't know for sure until we actually get the questionnaire responses from these guys and we can see what the data is, but my slide including the Black Liquor doesn't include any of the Black Liquor credits that would have gone to any of these other producers who haven't responded yet.

So thinking back to the morning testimony about these guys would be happy if they were earning, one set of testimony was 10 to 12 percent, the other testimony was 15 percent. Look at the second half of 2009. Even on a conservative basis they're hitting their intended target rates. Admittedly it's not
coming in the form of dollars for every ton of paper sold that were -- no, it is. It's for every ton of paper they sold they got some dollars from the customer who paid a certain amount and then they got some dollars in a check from Uncle Sam.

The other point that's critical about this is at least in 2009 you need to think about how does this affect the incentives of domestic producers when they're thinking about their business strategies, their pricing decisions. Think about the incentive this gives them to basically slash prices to maintain the volume because it's a good tradeoff, they do better. There's no point in keeping prices high and maybe having a slightly higher operating margin if you're foregoing the opportunity to get all these dollars on the volume side through the Black Liquor Credit.

COMMISSIONER PEARSON: Okay, so part of your theory is that because of the incentive provided by the Black Liquor Credit, at a senior level in the company there could have been a decision saying, for a certain number of months we really need to run the mill or mills as close as we can to full tilt, do the best allocation among products as you can, and but go ahead and produce the stuff and we'll figure out how
to sell it later, is that?

MR. DURLING: Well I think it's a matter of structuring the business to recognize the extra benefit associated with pushing out the volume. And especially a company like NewPage that we know from public information has extremely high debt burden, right, so they have very significant interest costs, and so their particular incentive to run their business that way is even more compelling because as you can see in the email traffic from xpedx to Sun, you know, the email traffic from, it was actually the April email, they were basically talking about kind of ramping up machine time because they wanted the volume.

COMMISSIONER PEARSON: Okay, well thank you. My time is expired. Mr. Hanscom, you have --

MR. HANSCOM: Chairman Pearson, yes.

COMMISSIONER PEARSON: No, just Commissioner. The Chairman is over here and it's her time that I'm protecting here. But if you have a quick comment I think she won't be too disappointed in me.

MR. HANSCOM: Commissioner Pearson, I apologize. I apologize, Chairman. To your point about the mills, would they run their pulp mills to

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maximize their ability to get taxpayer's dollars?
Absolutely. But the problem is they can't, they need
to do something with that pulp when they're running
their pulp mills so they're going to manufacture paper
and they're going to figure out how to sell it. And
it was moving, it was in rail cars, it was all over
the country. They were moving product and then
figuring out how to sell it, and therefore that's why
we see such a huge decline. Because, you know, as
they're holding on to that inventory, why not get rid
of it and just get cash flow? They needed cash flow.

COMMISSIONER PEARSON: Okay, but just to
clarify then, the incentive was to run the pulp mill
hard, then you've got the pulp supply and the question
how do you handle that, do you make more paper or do
you sell it as merchant pulp?

MR. HANSCOM: No, you probably run it as
paper because they probably weren't selling it as pulp
or couldn't sell it as pulp because they couldn't,
they didn't have the demand there.

COMMISSIONER PEARSON: Yeah, okay. Thank
you very much and thank you, Madam Chairman, for the
indulgence.

CHAIRMAN OKUN: That's all right, and no
apologies necessary. Commissioner Pearson's been a
Chairman too and the other day I got a letter addressed to Chairman Deanna Tanner Aranoff. So we all merge. So now it's Commissioner Aranoff.

COMMISSIONER ARANOFF: Can someone provide for me, and this may be posthearing, an estimate of the amount of money that APP has spent during the period of investigation investing in the establishment of Eagle Ridge, including salaries, facilities, marketing, whatever else goes into getting that operation up and running?

MR. PORTER: Yes, we can do that, but obviously posthearing. Thank you.

COMMISSIONER ARANOFF: Absolutely. And the point of that question obviously is to go back to the conversation we were having at the end of my last questioning period, which is if future prospects in this market are as limited as you're trying to argue that they are, what's the thinking that goes into that investment?

MR. HUNLEY: Terry Hunley. Eagle Ridge was initially set up as a long term replacement for the Unisource volume that we lost. And it was set up prior to the case being initiated against us. So we thought that over a number of years we would be able to replace our large national distributor with Eagle Heritage Reporting Corporation (202) 628-4888
Ridge, but we were well aware that this was going to
take, you know, quite some time.

If you look at it, there's really only two
national distributors, there is xpedx which is owned
by International Paper, and APP and International
Paper do not get along well, we do not play well
together, so there is very very limited opportunities
for us to do business with them. And then there's
Unisource, which was taken away from us by NewPage.
So we had to have a replacement for that, and there
are no others. So we established Eagle Ridge to do
that, but as I said we were well aware that that was
going to take a very long time to come to fruition.

COMMISSIONER ARANOFF: Okay, now if I were
the domestic industry I would probably respond to that
by saying, well wait a minute here, you lost this big
customer, you've said that your prospects for gaining
other customers are limited, and you've also told us
that, you know, honestly you don't have that much
volume to send to the U.S. market because there's
better markets out there. Why invest in the U.S. to
sell more paper here? Why not just cancel some of the
expanded capacity back at home that now you have to
sell somewhere?

MR. ZHENG: Yeah, I think we were constantly
around 8, 9 percent of our total shipment. But by
loss of these big account we really lost half of our
business. So that strategy is actually to maintain
around 8, 9, around 10 percent.

MR. HUNLEY: In addition, Eagle Ridge is
available to sell other products that APP manufactures
as well, so it's not just for coated paper.

MR. PORTER: And, Commissioner Aranoff,
it's, obviously in the world nothing is black and
white. You raise some very good questions, but my
sort of response is, APP is a business. They, you
know, they want to sell paper in this, for this
investigation they want to sell coated paper. What
we're talking about really is in the threat context
does the evidence suggest there will be a surge, a
huge increase that would cause material injury in the
future?

And we're just saying all the evidence
suggests that that's not going to happen. Doesn't
mean that APP is going to disappear, it doesn't mean
it wants to disappear. It just means we look at
everything and the importance of the U.S. market
relative to other markets and their difficulty selling
here, you don't see the big increase that in other
cases the Commission has said is need for a threat
determination. That was the whole sort of discussion

with Eagle Ridge.

COMMISSIONER ARANOFF: Okay. I respect the
balancing act that goes into that answer. Mr.
Lifshitz, let me turn to you. I know that you
answered some questions from my colleagues about this
issue of why it's difficult for your company or maybe
other Asian companies to have this certification. And
I didn't entirely understand your answer, which had to
do with something about conversions after 1994. Can
you just go back and explain that?

MR. LIFSHITZ: Sure. Hi, it's Ian Lifshitz.
Essentially one of the bylaws within FSC to obtain FSC
certification specifically states that companies that
convert plantation forests, which APP does when it
harvests its pulp, that's converted after 1994 from
natural forest shall not receive FSC certification.
So we as a company in Indonesia for example, you know,
we're a young company within the foresting and the
harvesting industry. In that time we've, you know,
converted our plantations after 1994, as a result we
can't receive that certification.

COMMISSIONER ARANOFF: Okay. Now when
Petitioners were testifying earlier today, they
suggested that basically the certification just

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certifies chain of custody, that all you have to be
able to do to get the certification is be able to keep
good records about where your wood came from. So
you're suggesting that that is not in fact true, that
there are other sort of broader requirements that
apply?

MR. LIFSHITZ: It's actually a complicated
issue to get FSC certification, there is multiple
assessments that has to be accomplished both on the
way the wood is harvested, where it's stored, how it's
treated, how it's shipped, right from start to finish.
So again in order to get chain of custody
certification there is third party assessments,
environmental assessments et cetera, so it's not as
cut and dry as we keep good records of how the
material was harvested.

COMMISSIONER ARANOFF: Okay. Let me turn --
oh, I'm sorry, Mr. Hanscom?

MR. HANSCOM: One of the things I think that
maybe you're trying to get at is that APP, certain
products of APP were FSC certified. And they changed
the bylaws, and I don't know exactly what year that
was, but they changed the bylaw and a new bylaw came
in that said the forest needed to be certified prior
to 1994. So that therefore they pulled FSC

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certification away from all of us. So that's confusing, so because of the bylaw.

COMMISSIONER ARANOFF: Okay, okay.

MR. ZHENG: This is Rui Zheng, just an additional comment here. That was actually in December 2007, it was published in the press what Andrew mentioned, so there was a so called disassociation. So FSC disassociated with us and we are not allowed to use the logo.

COMMISSIONER ARANOFF: Okay. I think I understand that. Let me turn now to the questions I was asking Petitioners' panel about the Lacey Act. Ms. Miller testified that the compliance is no big deal for U.S. and European companies. There's just some paperwork, and it doesn't change the way you do business at all. Well, I don't want to put words in her mouth, but that's sort of my paraphrase. Can you comment?

Well, I note in your brief you talked about the Lacey Act was a problem. I wanted to understand a little bit more about why it's a problem, and I wanted to understand a little bit more about whether you think it's a problem now or you predict that it will be a problem in your threat argument in the future because of changes in the regulatory regime that may
be upcoming?

MR. PORTER: I'll start, Commissioner, and then I'll ask my colleague, Mr. McCullough, to amplify. Your last comment is absolute bingo. That's exactly correct. Essentially, we raised the Lacey Act because what we're seeing is we anticipated this sort of she said, he said about the quantity of FSC-certified. I mean, we're doing our best to get all this information, and we want to say well, it's not just about putting a logo on.

There are other things going on in the regulatory regime that quite honestly are putting the fear of God into purchasers, and that is the Lacey Act. I believe you're familiar with the Lacey Act, fundamental changes in the so-called Lacey Act Amendment. Now, it's true that they originally were going to impose this importer declaration on paper products, on wood products and because of the outcry and still some confusion about it, they pulled back on that, but as my colleague explained, the Lacey Act still is in effect.

If you violate the Lacey Act provisions, you get criminal sanctions and civil sanctions. We're saying that it's creating an atmosphere to push people to think about the green environmental issues more,
and that will enhance FSC certification in the future, which will limit APP's ability to increase their sales.

COMMISSIONER ARANOFF: Okay. But right now, APP when it imports a product into the United States is providing the necessary certifications without undue difficulty?

MR. PORTER: Yes. The Lacey Act is not preventing APP from shipping their product to the United States now, that is correct.

MR. MCCULLOUGH: Commissioner Aranoff, if I could clarify a little bit? The Lacey Act amendments came into effect in 2008 and were effective at enactment. Anyone who's handling products using plant materials is already subject to the Act. If you are not exercising due care in understanding whether or not the products you're bringing in are violating or compliant with both U.S. and foreign laws, you run the risk of getting into trouble both in terms of civil penalties or criminal penalties.

There is a separate component to this, which is the importer declaration, which for paper has not come into effect yet, but that does not mean that the Lacey Act doesn't already apply to anyone bringing in paper products. It will be enhanced moving forward,
but it's already effective now.

MR. PORTER: I know your time is up. Can I have 10 more seconds, Commissioner Aranoff?

COMMISSIONER ARANOFF: I'll ask the indulgence of the Chairman.

CHAIRMAN OKUN: Okay.

MR. PORTER: Thank you. Just with respect to Petitioner's comment about European countries well, yes. If you look at what's going on in the world, Indonesia and China were sort of cited for the reason that the Lacey Act was applied in the first place to wood products. Indonesia and China unfortunately have a reputation of not being particularly good with illegal logging, and that's a fact that's out there, and that fact contributes to the climate that APP is operating under.

CHAIRMAN OKUN: Before turning to Commissioner Williamson, I understand that we have our last Congressional witness.

MS. ABBOTT: Yes, Madam Chairman. The Honorable Al Franken, United States Senator, Minnesota.

CHAIRMAN OKUN: Good evening, Senator.

MR. FRANKEN: Good evening. Thanks for letting me come back to testify. I was here a little
earlier, but we had a vote, and Senator Rockefeller had a lot to share. Thank you for this opportunity once again to testify. As you know, I represent the state of Minnesota, and my concern in this case is that Minnesotans have been affected by dumped and subsidized imports of paper products. The outcome of this case will have a significant impact on Minnesota businesses and workers and their families.

Both NewPage and Sappi have significant operations in Minnesota. NewPage's pulp and paper mill is located in Duluth. It's very efficient and includes a recycled pump mill that recycles almost one million pounds of recovered paper every day. Sappi's mill is in Cloquet and has been in operation since 1898. It's an outstanding integrated mill that supports the livelihoods of hundreds of workers and their families.

I'm here to support the anti-dumping and countervailing duty petitions with respect to the coated paper from China and Indonesia. I've heard concerns about unfair imports from my constituents, and the Commission has made a preliminary determination that the domestic industry is in fact materially injured by reason of these imports from China and Indonesia.

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At the time the petitions were filed, the Minnesota mills and those in other states were negatively affected by imports from China and Indonesia, and my understanding is that they continue to be negatively affected. That is no surprise. Available information on sales volume and depressed prices shows clearly that it hasn't been a good period for our paper producers and their workers, and the record suggests why.

Your own preliminary report found that U.S. imports from China increased by over 40 percent from the first half of 2008 to the first half of 2009. Those are stunning numbers. Indonesian imports had increased in an earlier phase before decreasing during that 2008 to 2009 period. Meanwhile, as your preliminary report notes as well, there was downward pressure on prices in the domestic industry. Such pressure has very real affects in Minnesota and elsewhere. NewPage and Sappi have already shut down mills in other states which did not stop prices from dropping.

Lower prices have also affected capital investment, which in turn harms businesses over the long term. Sappi, for instance, has had to forego its planned addition of a new paper machine at the Cloquet Heritage Reporting Corporation

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mill. That machine would have been run on clean, natural gas, and scrapping it means the loss of jobs that could have been there for the operators in these tough economic times.

No doubt there may be other factors at work aside from dumping and subsidized imports and the declines in demand for coated paper, including of course the economic recession and the ongoing development of the internet, but those do not change the fundamental question of whether there is injury by reason of the imports. As your preliminary determination found, even as U.S. consumption declined, it appears the volume of subject imports increased significantly into 2009 as did the imports market share here in the United States.

Similarly, downward pressure on prices may come from several sources, but that is not to deny that such affects have clearly resulted from the dumped and subsidized imports from China and Indonesia. Economic opportunity for American workers and a fair, competitive environment for our businesses depends on the proper enforcement of our laws. Anti-dumping and countervailing duty laws exist for good reason.

I understand that some people may fear a

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trade war with China in particular if China retaliates against possible action by the U.S. China is also a significant market for our paper producers, but fair is fair, and it ultimately serves no one's interest to shy away from ensuring fair trading practices. I strongly believe that our businesses can compete with those in any other country if there's a level playing field, so let's make sure that we're playing on a level playing field.

I appreciate your determination to follow the facts, and I thank you again for the opportunity to testify. Thank you all very much.

CHAIRMAN OKUN: Thank you, Senator, and thank you for taking the effort to make it here twice. I'm sorry? Senator?

COMMISSIONER PEARSON: Senator, if I may?

CHAIRMAN OKUN: Not that you're here, we may as well keep you here.

MR. FRANKEN: Now it's my third time here.

COMMISSIONER PEARSON: It's my custom to greet fellow Minnesotans, and so I wanted to do that, and if I may?

MR. FRANKEN: Well, then you know where Cloquet is.

COMMISSIONER PEARSON: I came through

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Cloquet on September 5 on Highway 33 coming south from fishing, so yes, I've been there quite often.

MR. FRANKEN: Fish?

COMMISSIONER PEARSON: Yes.

MR. FRANKEN: In Minnesota?

COMMISSIONER PEARSON: No. Technically, I was north of the border in Ontario, Quetico Provincial Park.

MR. FRANKEN: I've been in Quetico. It's beautiful. It's in the boundary waters area. It's north.

COMMISSIONER PEARSON: Yes. We did find some walleyes, but I told that story earlier for Congressman Oberstar.

MR. FRANKEN: Yes. Why? Why did you tell that earlier? It has nothing to do with --

COMMISSIONER PEARSON: I thought that Congressman Oberstar didn't understand the supply and demand balance in the walleye market, and I had to explain to him that the supply of walleyes had been not as great as the demand, and so we were disappointed in that, but in the small mouth market, the demand was really abundant.

MR. FRANKEN: Gosh. I'm not an economist.

COMMISSIONER PEARSON: I'm not much of a
fisherman, but we caught some anyway, but I just
wanted to note so that you don't feel slighted that
when Senator Klobuchar was here, I indicated that this
was the first time in my tenure that there had been
two members of Congress from Minnesota at the same
hearing. Now you're here, and you've made it three,
and I wanted to thank you for that and also to note
that we saved you a prime-time, late evening slot.

MR. FRANKEN: I appreciate that.

COMMISSIONER PEARSON: Come back again.

MR. FRANKEN: I'm very honored to have
appeared in this special time slot. Thank you all.

CHAIRMAN OKUN: And thank you, Senator. No
more fish stories. Commissioner Williamson, do you
have questions?

COMMISSIONER WILLIAMSON: I can't follow
that. Okay. I just want to go back. I'm glad the
FSC sign is still up there. Just a couple of
clarifications. I understand if you're sourcing the
wood for your plants in Indonesia from Indonesian
forests, that's a problem, but if the wood is coming
into China, a lot of the pulp is being imported from
Brazil and places like that, why isn't it possible to
import pulp and follow all the rules and regulations
to get the FSC certification for exports?
MR. LIFSHITZ: Hi. It's Ian Lifshitz again.

To receive FSC certification, you have to be the entire process, so yes, we can import FSC pulp, but the pulp that we mix with it to produce our paper is not FSC-certified. It has to be 100 percent FSC certified pulp, and the entire process of making the paper has to be verified by FSC.

COMMISSIONER WILLIAMSON: So you're saying it's uneconomic to do that?

MR. ZHENG: Let me answer these questions, okay?

MR. LIFSHITZ: Okay.

MR. ZHENG: Because I was actually tending the situation, I was negotiating with FSC. I flew to the FSC headquarter in 2007. Actually, the APP Chinese mill got FSC COC certified exactly like you described. We are able to purchase FSC pulp, and we are following the standard with 100 percent compliance, but there was some political decision inside FSC. They say because APP Indonesia has bad reputation, APP China we don't want our name linked with APP, so that was the main reason, so APP technically we are certified by independent certification body.

In the certification database, we are still
present, so they cannot cancel our certification, so
our status is just suspended because they say you
cannot use our name. You cannot use our logo. That's
our right, so that was FSC's one cite deficient.
There was a lot of mistaking around that, so that's
the situation even when we are 100 percent in
compliance with, we have today no possibility. Even
we buy 100 percent FSC pulp we cannot label our
product with FSC logo.

COMMISSIONER WILLIAMSON: Unless you're able
to get FSC changed.

MR. ZHENG: Unless you can move the FSC
Board to agree they -- the litigation, this other
Asian policy.

MR. LIPSHITZ: It would require FSC Board to
change their bylaws to let that happen.

COMMISSIONER WILLIAMSON: Okay. Since this
hearing is not really about FSC, I won't go into more
questions. I haven't had a lot of experience in
international organizations. I've been wondering
about this, but at least I have a better understanding
of it.

MR. LIPSHITZ: Thank you.

COMMISSIONER WILLIAMSON: I just had one
other question. I guess it's been asserted that the
growing Chinese market will provide a ready outlet for
Chinese production, but I was just saying taking a
look at the Table 272, it really doesn't show any
increase in home-market shipments from '07 to '09 or
between '09 and the first half of '09 and the first
half of 2010, and I was just wondering how do you
square that assertion about the growing Chinese demand
with the data?

I mean, I guess in the U.S. you think with
media and all that, the prospects for what's happening
with demand in the U.S. and the reasons why the threat
from alternative media and things like that, which I
assume would be also happening in places like China,
what's the basis for saying that all this increased
production is going to be used in the home market?

MR. ZHENG: Actually, we are very confident
like I lay out in my testimony. Firstly, also the
Petitioner this morning mentioned that the net
increase of new consumption in Asia surrounding China
with over 600,000 homes, and we forgot the old Asia
imports was over 20 percent from known Asian exporters
to Asia, and because we believe we are very close to
the Asian market like our competitor here in U.S.,
they have competitive advantage here in U.S. over us.

We have the same situation because it's like

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our home market. It's very close. We have shorter time. We have lower freight cost, so we will be able to go after these 20 percent more or less slowly from the known Asian exporters.

COMMISSIONER WILLIAMSON: Is that in the Chinese home market, or is that just in the Asian market?

MR. ZHENG: Surrounding China, which like Vietnam, for example, they have no coated free sheet, Laos, Cambodia and Thailand has not enough, India, who is very fast-growing. You have also far less capacity than they need that demand helps the oldest because we are much shorter than European and most American producers in that Asian market, so it's not a home market, but it's very close to us. It's just next door.

MR. PORTER: Commissioner, can I make just an additional point?

COMMISSIONER WILLIAMSON: Yes, please.

MR. PORTER: With respect to the Chinese market, I think we have a bit of an evidence issue, and it goes as follows: When you're looking at the U.S. market, and assuming, which actually I'm not so sure it's here, but assuming you have very good coverage in your questionnaire of all U.S. producers,
you can look at shipment data for the United States and make some assumption one way or the other about growing demand in consumption.

In what we have the questionnaire data is we have excellent, excellent coverage for those exporters who have historically shipped to the United States. We virtually have them all. We also have excellent coverage about those producers who have increased capacity recently, but needless to say, there are a lot of Chinese producers that only produce and sell in China, and so if they've got a question, they probably don't understand it, and so you don't have that.

What we've done then is to say because the questionnaire data itself about the Chinese market may not be as robust, we look to other sources of data that show a very significant increase in demand for Chinese-coated paper, and one of the things that Zheng Rui said a little bit earlier, the reason for the optimistic growth is because presently per capita, Chinese consumption of coated paper is dramatically less than it is in industrial countries, so while you have some decline in industrial countries, you're having dramatic increase in China. That's the reason for the optimism.

COMMISSIONER WILLIAMSON: I'm tempted to say
I hope they don't get flooded with the same amount of junk mail we've been getting. But that's not the subject of this hearing. I'm sorry, Mr. Durling?

MR. DURLING: Just one additional point, Commissioner Williamson. Again, just looking at Table 7-2, I think what's important in not just to focus on China, I mean obviously we have data on China but to look at the strong growth to Asia and the strong growth to all other markets. In other words, what's stable is exports to the U.S have been relatively stable, and at least during this period of time, shipments in China were stable, but there was significant growth to non-U.S. export markets, and that's a big part of our argument. There are markets in Asia. There are other markets where there are no domestic producers with paper, and there are a lot of opportunities, and that's where a lot of the growth is going to come.

In addition to that, there's very strong prospects in China, and I would just call your attention to a very key point from Rui's testimony, which is think about paper consumption on a per capita basis. Right now, the U.S. is at about 300. China is at 60. Then think about the size of the Chinese population and imagine even just a small increase in...
the per capita consumption. It's easy to see why
there are very aggressive prospects in the Chinese
market.

MR. ZHENG: Zheng Rui again. I would like
to comment. I remember there was a case 2006, 2007
case when we were here. We prepared a market, and at
that time China perhaps consumed 45 kilos. Now, two
years later we already have 60 kilos, so I think just
at two more other year it will be at 70 kilos or 75
kilograms. It's a very huge increase, big potential.

COMMISSIONER WILLIAMSON: Okay. Okay.
Thank you very much for those answers, and I have no
further questions. Thank you.

CHAIRMAN OKUN: Commissioner Pinkert?

COMMISSIONER PINKERT: Thank you, Madam
Chairman. I have a few more questions. Is there
record evidence that the prices of the non-subject
imports are comparable to the prices of the subject
imports?

MR. DURLING: This is Jim Durling,
Commissioner Pinkert. The questionnaire data on non-
subject imports is a lot less complete and a lot
spottier, and to be honest, some of it, it's kind of
hard to make sense out of. I think a particularly
good example of the ability of non-subject imports to
be available essentially at the same price point, you can see it in the email traffic between xpedx and Sun because xpedx is basically talking specifically about certain Korean suppliers offering very attractive prices that are kind of in the same range as everyone else, so you have that.

What I like about that piece of record evidence is that it's at the key period of time that we're interested in, and it's the merchant basically using kind of the relationship the merchant has with different import sources and how that's all playing out, so you can see the Koreans very much in the thick of things with prices that are completely competitive with other Asian suppliers during this period of time.

The other evidence that's not price specific, but we'll try to supplement the record on this, the other evidence is just kind of looking at what's been happening in the market. Well, think of it this way. When you have the non-subject substitution on the massive scale that we've had, if it wasn't substituting at about the same price as the subject imports they were chasing away, we would have expected to see some significant changes in the market prices.

The combination of two facts that prices
have remained relatively constant, and you have a huge volume shift suggests pretty strongly to me that most of that is substituting in at roughly comparable prices. Otherwise, the record evidence doesn't make sense, but we'll try to supplement on that specific issue as well.

COMMISSIONER PINKERT: Thank you. Now, one other question related to evidence. Do we have a business plan that shows how Eagle Ridge Distributors are likely to expand or stay the same or contract in the imminent future?

MR. PORTER: Yes. In their questionnaire response, Eagle Ridge provided both historical and what the business plan shows for the next I believe two years or possibly more. It's in the questionnaire response.

COMMISSIONER PINKERT: Thank you, and finally, I don't know who on the panel can answer this last question, but do you believe that the U.S. market is changing in a structural manner away from printed media? In other words, it's not just a gradual decline, but a reason structural shift in the needs of the end users?

MR. HARRIS: Ken Harris. I believe this is true. I believe it is very true with regards to very

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specific products. When we look at products being of
higher-quality No. 1, or premium No. 1, No. 2, I think
this is where we're seeing the drop in demand, and the
reason being is that for the annual reports that were
discussed earlier, that it's usually a higher-value
grade, they want the best possible reproduction of
photographs for their CEOs and to show that the
corporation is a solid company, and they want it
glossy, and they want it to look nice.

You don't want that in a recession
necessarily, and at the same time, you can now post
your results on your website, and there is no need to
have your investors have a printed document within a
certain period of time, so this has taken a lot of
tons out of the premium No. 1 market.

MR. PORTER: Commissioner Pinkert, though I
must add it's hard to generalize. I'm going to ask
Mark Dragoo to comment about the paperboard sort of
segment of the market because I believe it's not
showing the same sort of trends. Mark, could you
comment about where you see future demand for
paperboard for packaging?

MR. DRAGOO: This is Mark Dragoo. In the
paperboard side of things, you see the packaging side
of it continuing to grow most definitely. I mean,
it's expanding. Well, just the graphic side of it is
taking over. People are printing more and more
higher-end graphics on it to attract more business to
it. Smaller type of runs, private branded types of
material you find being more and more coming into the
market like on the paperboard side, so it's growing,
or it's busier, if you will.

You'll also find on the bristle boards or
the lighter caliper type of stuff, you will find
smaller type of runs for people that are doing direct
mail-type of information, the stuff that you get in
the post office every single day. We do a lot of
that, so it's changing away from catalogs to postcards
a lot more.

COMMISSIONER PINKERT: Mr. Hanscom?

MR. HANSCOM: Yes. Along Mark's comment
about catalogs, yes. Clearly, I know it's hard to
believe maybe sometime around the holidays that we
have mailboxes full of catalogs, but that part of the
marketplace has just fallen off the cliff along with
magazines. If you look at the number of magazine
publishers that are closing and condensing and
eliminating titles.

Ad pages, you don't see the thickness of
those magazines anymore, so the page count is down

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significantly. That's all significant tonnage when you think of the level of printing, and you look at the iPad and what that is doing right now and where that potentially is going to go. That's making significant changes, but on the packaging side, you just see that moving in a different direction.

To his point, catalogers aren't mailing multi-page catalogs. They're sending a nine-point direct mail flier calling to action to get you to go onto their website, and then therefore that's where they're dying, so you have a huge decline in that web marketplace, but you are having an increase in the board side or the single mailing pieces.

MR. PORTER: Commissioner Pinkert?

COMMISSIONER PINKERT: Mr. Porter?

MR. PORTER: With your permission, what we'd like to do is to take all of this in the post-hearing brief and respond to your question about how different trends in demand, long-term trends in demand for the different segments of the market, how the Commission should analyze for the purposes of this case.

COMMISSIONER PINKERT: It would be very helpful. Thank you. Mr. Zheng, do you have a comment on this issue?

MR. ZHENG: Yes. I think the electronic age
will affect printing and writing sectors sooner and later, but how exactly? I think if you ask around in the industry, it's more than speculation. I have been in many events and symposiums people talking about actually paperless office already in the early 2000s, but it's not happening right, and I also still receive a coated-paper worldwide. In total it's still growing, and then there was a lot of discussion why this is happening, so it's more or less speculating. I'm certain I will save my comments for that.

MR. PORTER: Commissioner Pinkert, I'd note for the record that we have not reduced the size of our prehearing briefs.

COMMISSIONER PINKERT: Just to clarify for the post-hearing, Mr. Porter, the focus here is on the U.S. market, the structural changes.

MR. PORTER: Yes, absolutely.

COMMISSIONER PINKERT: Okay. Thank you. And with that, I have no further questions. I thank the panel. We didn't go quite as late as some people predicted, but still, it's commendable that you stuck through the hearing, so thank you very much.

CHAIRMAN OKUN: I think I just have a couple of things left. First, I know that in your pre-hearing brief you did spend a fair amount of time on

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the commerce scope determination, possibilities, so
just such for purposes of completeness of the record
for post-hearing to make the same request I made of
Petitioners which is in particular to provide your
methodologies once we get that scope determination
both for the share of imports with the new HTS
numbers, if that's the finding, and also for total
non-subject imports for negligibility.

       MR. PORTER: Of course.

       CHAIRMAN OKUN: Okay. And then perhaps just
a follow up on Commissioner Pinkert's question and your
post-hearing response, which is if you can talk about
that structural change and what that means for price
competition in the market for products, so I'd make
that request post-hearing. I'm trying to think of a
way to put that question because I guess in response
to some of the earlier questions about what you
produce like the premium product the 1 versus 3 or the
1 versus 2 and 3.

       I'm still trying to sort through what our
record says about the price effect of subject imports
among the different products, and if there's a couple
of things you wanted to add now, I would look into
that. I know you talked about the lost sales, lost
revenue information as being you could look at it a

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different, and obviously we'll look at what you say
post-hearing, and I'll go back to who the specific
customers are, but I think I was reading it in this
particular case thinking that it did lend credence to
the idea that it's not such an attenuated market if
that's what we're hearing and seeing.

Again, please address that, and you can do
so now but also post-hearing just to make sure I'm not
taking the wrong impression from that.

MR. PORTER: Let me start, Commissioner
Okun. I guess I ask my colleagues to join in. We try
hard not to overstate our argument. Sometimes, we're
not as successful.

CHAIRMAN OKUN: You mean to settle for --

MR. PORTER: Yes. Well, when we make
attenuated competition arguments, with all due
respect, it's in response to Petitioner's theory that
100 percent substitution and every ton sold by subject
imports is a ton that they would have produced, could
have produced and didn't produce, so they're, if you
will, starting with perhaps an unreasonable thing, and
we're sort of reacting, so we just want to say that's
not true. Let me tell you about competition in some
respects is attenuated.

What we're going to do on this demand is

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also to try to relate it back to the products that we're talking about, and one of the things again that we highlighted is that when you're looking at these demand trends, and you're talking about the catalogs, and some of the other, that's for web rolls, and again if demand is falling off a cliff for the product, if you adhere to your preliminary determination for a separate like product produced by the domestic industries, well, that's a factor that you just need to reconsider.

That's what we're saying, and so we're going to try to do it to say okay, here is where we have different demand trends, and here is how it affects the products that you're looking at.

CHAIRMAN OKUN: Okay. And it's that latter point that I'm still trying to make sure I understood the argument within --

MR. PORTER: Right. I'm sorry. Then the answer your very specific question is we're going to try to give you more data with the products at issue, not the web rolls, the very sort of sheets or at least the grades, the data that shows the difference in pricing and shipments for Grade 1 versus Grade 3, which is where the subject imports are at.

CHAIRMAN OKUN: Okay. And how that relates Heritage Reporting Corporation (202) 628-4888
to the customers?

MR. PORTER: Yes, of course.

CHAIRMAN OKUN: Okay. That would be great.

With that, I don't believe I have any other questions.

Let me turn to Commissioner Lane.

COMMISSIONER LANE: I just have one question. The black liquor tax credit, was that just for the year 2009, or is it a recurring tax credit?

MR. PORTER: I'm pretty sure it ended effective December 31, 2009. I believe that there is another tax credit that is out there, but that's what I call a real tax credit. You only can use it to offset income, whereas the reason why black liquor was so important, it was cash from Uncle Sam. Whether you made money or lost money, as long as you produced the pulp, you got a check from Uncle Sam. The new tax credit that's talked about in the industry is just simply you can offset taxable income, but I would like to address that more in post-hearing after we get some more information on that.

COMMISSIONER LANE: So it's more than a tax credit. It was actual rebate?

MR. PORTER: Absolutely.

MR. DURLING: Yes, yes. This is Jim Durling, Commissioner Lane.

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COMMISSIONER LANE: Yes.

MR. DURLING: That's part of what made this event such a big deal in the industry because normally a tax credit isn't a check from Uncle Sam, but this was an unusual tax credit, and that's why it was such a major event in the industry, and frankly it's why there's so much discussion of it in the public filings by those companies that are publicly traded. I mean, it became an obligatory part of the quarterly disclosures. They talk it about it in their 10-Ks and their 10-Qs. It was a really, really big deal because it literally was a check from Uncle Sam.

COMMISSIONER LANE: Dare I ask where this came from?

MR. DURLING: You mean the law?

COMMISSIONER LANE: Yes.

MR. DURLING: Some clever tax attorney figured out that you could actually qualify for a kind of biodiesel tax credit by essentially taking existing black liquor, the waste product coming out of the pulp production process, you add a little bit of diesel, so the irony is you take a purely organic process, you add the fossil fuel, and all of a sudden you have a qualifying biofuel, and you could then claim the tax credit.
It wasn't the intent of the writers of the credit at the time. This isn't the way it was intended, and again, that's why it was rather controversial in the industry because it was a massive, massive, hundreds and hundreds of millions of dollars were paid out, billions of dollars paid out by the U.S. government for something that wasn't really intended, and it all went to these guys.

MR. HUNLEY: This is Terry Hunley. It was actually, as Jim said, a clever accountant, but essentially, if I remember correctly, it was in one of the transportation acts, and it was to help people that were using diesel fuel to replace part of that with biomass. Now, the clever accountant and the U.S. paper industry took their biomass and actually added diesel to is, and the government certified that as being the same thing, and they were able to get those subsidies.

MR. ZHENG: Sorry. Zheng Rui. I remember I have read article in the Washington Post or somewhere, it was Maryland Senator?

MR. HUNLEY: Senator Kerry.

MR. ZHENG: Kerry of --

MR. HUNLEY: Massachusetts.

MR. ZHENG: Yes, was against that and then
was saying they want to keep the money for the health
bill or something. That was last year news, we can
probably find that article.

MR. HANSCOM: But I think originally the
credit was set aside to be less than $100 million and
then after the paper industry discovered how they
could back into it the payout for all of 2009 was
estimated somewhere around $9 billion of taxpayers
money.

COMMISSIONER LANE: Okay, so it's a tax
rebate or credit or whatever that came from the United
States government to these companies, but the bottom
line still is that the cost of production, they don't
really figure this tax rebate into their cost of
production or their selling price. I mean somehow or
other that is separate and it doesn't really figure
into what it costs to produce the product or in
figuring out their margins when they sell it?

MR. PORTER: Honestly, Commissioner Lane, we
believe it should be part of that analysis, and the
Commission staff has done a good job as Mr. Durling
explained earlier, of getting the actual amount,
because they obviously produce pulp for a variety of
products, getting the actual amount of the Black
Liquor subsidy that is attributed to the very product.

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So we have that information. The question is, what should the Commission do with it in its analysis.

Now we have two slides. One slide here is, they themselves are saying, they are telling the investment community, look it, we've got all these dollars and we're considering to either an offset of a price decline or cost. And so that's why, go back to the other slide where we have the thing, we think you should include it in the calculation of operating profit. It is part of operations, it's a whole bunch of money that they have, and we think when you're analyzing the performance, the operating performance of the industry, you need to account for it. And you have it but obviously the question is, you know, what you do with it.

COMMISSIONER LANE: Okay, Mr. Porter, I want to ask one more question and I sort of feel like I'm getting too tired and I should be quiet, but I'll ask you. First you say that the credit goes, was passed on to the customers, and now you're saying it ought to be used to beef up their bottom line. Are these inconsistent?

MR. DURLING: No. Commissioner Lane, let me tackle that one. What we're saying is, because of this change in 2009, this kind of quirk in the tax
law, they now had a tremendous economic incentive to lower the price, you know, if they were otherwise going to sell their paper for $100 they can think to themselves, okay if I sell the paper for $100 and I don't get the sale then I don't get the $100 and that's not a good thing. I can cut my price to $90, if that allows me to sell the paper to produce the ton to get the tax credit.

I may lower my price from $100 to $90, but if Uncle Sam's going to write me a check for $8 or $9, that is a significant offset. As it turns out, when you look at the net result, all right, the net result of prices going down for whatever set of reasons but extra cash coming into the company because of this payment, the net effect is they actually did better with lower prices and the Black Liquor Credit than they did straight up before the tax credit was in place. That's the whole point of this slide, right?

Before the Black Liquor Tax Credit their operating income was about 6 and a half percent. Yeah prices went down in '09, but the price decline was more than offset by direct cash payments from the U.S. government, variable cost, you know, variable payments because it was based on the tonnage they were producing. And this is the amount allocated to this
subject merchandise that the Commission is looking at.

And these amounts are just for the handful
of companies that have given you the data. I mean who
knows how much more they would have gotten and how
much taller these bar graphs would have been if we
actually had complete data from all the people who
received Black Liquor Credit associated with their
production of subject merchandise during the period.
As amazing as that 12.2 percent number is, that's
conservative.

COMMISSIONER LANE: Okay, thank you. Thank
you, Madame Chair.

CHAIRMAN OKUN: Let me see if there are
other questions. Commissioner Pearson?

COMMISSIONER PEARSON: One issue that I
think will be quite quick. Does APP have the ability
to produce grade 1 paper, high brightness high quality
paper?

MR. ZHENG: I think not yet at this moment.

COMMISSIONER PEARSON: Okay, so the company
in none of its plants really is producing the highest
grade of coated paper now?

MR. ZHENG: Not yet.

COMMISSIONER PEARSON: Okay, thank you,
that's all I wanted to know. Thank you, Madam

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Chairman, and let me express my appreciation to the panel for your continued participation throughout the day.

COMMISSIONER ARANOFF: Any other questions from my colleagues?

(No response.)

COMMISSIONER ARANOFF: Let me turn to staff to see if staff has questions of this panel?

MR. CASSISE: Chris Cassise, Office of Investigations. Madam Chairman, the staff has no questions.

COMMISSIONER ARANOFF: Do counsel for the Petitioners have questions for this panel?

MR. STEWART: No questions, Madam Chairman.

CHAIRMAN OKUN: All right, well before we turn to our closing let me take this opportunity to again thank all of you for being here, for your answering our many questions and staying with it into the evening. And again we very much appreciate your participation, look forward to the posthearing briefs. And now we'll just take a couple of moments to prepare for the closing statements and I'll go through the time remaining.

(Discussion was held off the record.)

CHAIRMAN OKUN: Time remaining, Petitioners Heritage Reporting Corporation (202) 628-4888
have 5 minutes total for the closing. Respondents
will have a total of 9 minutes, that's 5 for closing
and 4 from their direct. And I see that Mr. Kaplan is
up here and ready to go, you can proceed.

MR. GILBERT KAPLAN: Thank you very much,
Madam Chairman and members of the Commission, and
thank you for the time you've taken today to listen to
this case. I'd like to make a few brief points. I
know the hour is late and I don't have much time. How
did the Respondents, how did they get to 24 percent of
the U.S. market, 21.7 percent in 2009? If you listen
to their case it's obviously because of the Lacey Act,
Black Liquor, and falling demand. They haven't
attributed any of this change to anything else that
has gone on in the last few years.

Let me turn very briefly to like product.
Commissioner Aranoff, you suggested that it's a he
said she said situation. I'd just point out that it's
really a he said he said situation because Mr. Hunley
admitted himself at the staff conference that sheet
fed toted product assuming you are using sheeter rolls
is typically not suitable for web roll usage due to
temperature requirements for heat set web printing,
the paper would blister and fail. That's on page 132.

And then on page 188 he says "But in general

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most printers tend to be web printers, sheet fed printers. There are a few in the middle but it's not the majority of printers." Says Commissioner Roth-Roffy, "So do you know for those that have a dual capability whether or not they use the web rolls, split them up, and put it in their sheet fed or just sheet fed goes into their sheet fed presses?" Mr. Hunley, "I would say in general they would use web rolls on their web presses and sheets in their sheet presses." And this is on page 188.

And there was talk about a machine that you can use to sheet right on the end of a press, but as we testified in our part of the hearing, that's sheeter roll that's being sheeted, not web roll, so that doesn't really contradict anything we've been talking about. And Mr. Porter's review of machines won't tell you anything because that's sheeter roll. There was also a question that Commissioner Pinkert asked about the price levels of other imports.

If you look at table 4-2 in the public staff report you'll see that for example in 2009 all others had a unit value of $1,014 while the subject imports had a unit value of $840. I would also say that the Respondents talked briefly about the Petitioners being price leaders. Well what the public staff report says

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at page 5-5 is the Petitioners are typically first in
announcing price increases, not in announcing price
decreases.

There's also one other misstatement by the
Respondents. They say, and they like to quote this
quote from NewPage about how they used the tax credit
to lower prices, this is on page 51 of their
prehearing brief. They say "We believe that the
majority of the industry benefits from this
alternative fuel mixture tax credit has now been
passed on to our customers in the form of price
reductions." But that's a misquote.

The misquote which occurs also in their
brief at exhibit 6 on page 4, they leave out the word
"Unfortunately, we believe that the majority of the
industry benefit has been passed on," the implication
there being it's because of the low prices. And
that's exactly what chart 23 shows. It shows --
rather chart 22 -- it shows that they led the prices
down, that's what happened here.

They like to say, something else is
happening, it's not really that we led the prices
down. In the 337 area, which I know you're aware of,
that's what you call lawyer argument. There is no
economic analysis would show something else has
happened. What happened is they led the prices down and then in 2009 we were forced to lower our prices to keep any kind of market share, and that's when we went into a total operating loss position.

You could say, well there is no showing, how do you know that's what really happened? You'd have to go out and ask the customers who was leading the price down. Well that's exactly what your staff did. You did go out and ask the customers who was leading the price down, and they said over and over again as you said, Commissioner Pearson, U.S. producers have reduced their prices in order to compete with the subject imports. "U.S. producers have reduced their prices in order to compete with imports from China," this is at page 5 of our prehearing brief.

So what happened when that occurred was that in 2009 we went from a operating profit of $80 million to an operating loss of $6.8 million. So let me just conclude. What you have here is an industry that is suffering injury as a result of a surge of low priced dumped and subsidized imports. Domestic industry operating income plunged from $106 million in 2007 to operating losses of $7 million in 2009 and $11 million in the first half of 2009. And the cause of the industry's decline is clear. True underselling

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subject imports have gained significant market share.

CHAIRMAN OKUN: Your light's on.

MR. GILBERT KAPLAN: Oh I see. Let me conclude just by saying that the import increases which were not talked about at all by the Respondents in their presentation are very significant. The market share increases, and the volume share on an absolute basis increased when everybody else's imports in a commodities type industry have dropped. I'll just say response of the other side --

CHAIRMAN OKUN: You're a minute and 20 seconds over, Mr. Kaplan. I'm going to ask that --

MR. GILBERT KAPLAN: Then I'll just conclude, I'm sorry.

CHAIRMAN OKUN: Thank you.

MR. GILBERT KAPLAN: But thank you very much for your attention and thank you for this, listening to us during this long day.

CHAIRMAN OKUN: Thank you. You may proceed.

MR. PORTER: Thank you, Madam Chairman. The hour is late. Actually the hour is very late. And so I'm going to do my best not to even approach my total time of 9 minutes. One of the advantages of, of course being on Respondent's panel is we get to address a lot of our rebuttal points during our

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discussion, so that's, and I'm not going to repeat them here. Just want to make a few little points I believe were not addressed.

I'm sorry, I can't let it go, I have to respond to Mr. Kaplan. This brochure, the machinery we talked about has a device right here in black and white, it's a web moistening unit. And what it does is it adds a little bit more moisture to web rolls so they can go through the sheet fed presses easier. It's a special device that's added so you can sheet web rolls to go to sheet fed presses. It exists, they sell it, it wouldn't be offered if it wasn't prevalent in the market. That's on like product.

One comment on Dr. Kaplan's economic model. Of course we will submit detailed comments in our posthearing brief, but honestly we urge you, don't wait until then. Please talk to your very competent economists and ask them a simple question, and that is to verify whether Dr. Kaplan properly included key supply and demand factors as explanatory variables. That's on the economic model.

Next point. There is actually something that Respondents and Petitioners agree, and that is the composition of the domestic industry. We all agree that you need to get more responses the best you
can of those packaging paperboard producers that produce paperboard sheets that meet the definition of scope.

We believe as we've submitted repeatedly to the Commission that it's a big volume and we respectfully urge the Commission to do their best to get the data. Lastly, I want to end with our first page of our brief. It's all about the evidence. We believe that the evidence strongly strongly favors a negative determination and we ask you to reach that conclusion. Thank you very much.

CHAIRMAN OKUN: Thank you. Posthearing briefs, statements responsive to questions and requests of the Commission and corrections of the transcript must be filed by September 28, 2010. Closing of the record and final release of data to parties is October 13th, 2010, and final comments are due October 15th, 2010. No other business before the Commission, this hearing is adjourned.

(Whereupon, at 7:30 p.m., the hearing in the above-entitled matter was concluded.)
CERTIFICATION OF TRANSCRIPTION

TITLE: Certain Coated Paper

INVESTIGATION NO.: 701-TA-470-471/
731-TA-1169-1170 (Final)

HEARING DATE: September 16, 2010

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: September 16, 2010

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

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