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P R O C E E D I N G S

(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. 731-TA-1084-1087 (Review) involving Purified Carboxymethylcellulose From Finland, Mexico, Netherlands and Sweden.

The purpose of these five-year review investigations is to determine whether revocation of the antidumping duty orders covering purified carboxymethylcellulose from Finland, Mexico, Netherlands and Sweden would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Schedules 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 the time allocations. Any questions regarding the time allocations should be

1 directed to the Secretary.

2 Speakers are reminded not to refer in their
3 remarks or answers to questions to business
4 proprietary information. Please speak clearly into
5 the microphones and state your name for the record for
6 the benefit of the court reporter.

7 If you'll be submitting documents that
8 contain information you wish classified as business
9 confidential, your requests should comply with
10 Commission Rule 201.6.

11 Mr. Secretary, are there any preliminary
12 matters?

13 MR. BISHOP: No, Madam Chairman.

14 CHAIRMAN OKUN: Very well. Will you please
15 call our embassy witness?

16 MR. BISHOP: Our first witness is Salvador
17 Behar, Legal Counsel for International Trade, the
18 Embassy of Mexico.

19 CHAIRMAN OKUN: Welcome back.

20 MR. BEHAR: Thank you very much, Madam
21 Chair. On behalf of the Government of Mexico, I would
22 like to appreciate the Commission, the Chair and the
23 Commissioners too for the opportunity to appear before
24 the court and express our views on the case. For the
25 record, I am Salvador Behar, Legal Counsel for

1 International Trade at the Embassy of Mexico here in
2 D.C.

3 Let me first say this is an important case
4 that the Government of Mexico has been following
5 closely. Mexico and the U.S. are trading partners,
6 and both place the highest importance for the free
7 flow of bilateral trade.

8 There is a meaningful bilateral trade
9 between the industries of Mexico and the U.S. because
10 of our geographical advantage. This is not based on
11 low pricing. Instead, it is the need of alternative
12 suppliers and ease of transportation, which we will
13 resolve soon as well.

14 I would like to address three specific
15 issues during my testimony. First, the record
16 evidence does not support that imports have injured
17 the U.S. industry. There is not competition between
18 products. The ITC will be able to confirm that it
19 does not compete with one manufactured by the
20 Petitioner and the other countries under investigation
21 as it serves different customers and markets.

22 Second, that in the threat of injury
23 analysis the ITC should consider the existence of
24 other factors explaining imports of CMC --
25 carboxymethylcellulose, CMC -- in the U.S. market for

1 any potential cause of injury to the U.S. industry.
2 Third, Mexico has no production capacity to increase
3 its exports of CMC into the U.S.

4 Regarding competition between products, we
5 consider that the ITC should evaluate if during the
6 period when the antidumping duties on imports of CMC
7 was in force the conditions that led to the cumulation
8 of imports from Mexico and the rest of the
9 investigated countries prevailed.

10 In particular, ITC should examine the
11 conditions of competition between the CMC of Mexico
12 with the CMC originating from the rest of the
13 countries under investigation and the domestic like
14 product according with Article 3.3 of the antidumping
15 code.

16 B) As it was mentioned, since the initial
17 investigation Mexican producer Quimica Amtex mainly
18 supplies a specific sector of the U.S. food industry.
19 Therefore, we believe that the ITC should evaluate
20 whether the CMC exported by Amtex has a specific use
21 or customers that are not served by other national or
22 international producers for technical reasons, not
23 price.

24 When analyzing the behavior of imports from
25 Mexico and their purpose in the period of validity of

1 the antidumping duty, the ITC can confirm that it does
2 not compete with the one manufactured by the
3 Petitioner or other countries under investigation as
4 it serves different customers and markets.

5 Regarding other factors of injury, we
6 request that the ITC assess the existence of other
7 factors explaining imports of CMC to the U.S. market
8 -- for example, supply problems or lack of capacity to
9 supply the local market -- for the following reasons:

10 Even with the imposition of the antidumping
11 duties of 12.61 percent or with the current .83
12 percent and the economic crisis, Mexico kept its
13 presence in the U.S. market, attending to the same
14 customers and has not expanded its market share.
15 Mexican CMC offers significant advantages in its use
16 independently from its price by serving customers on
17 both sides of the border.

18 We request the ITC to verify the Petitioner
19 has made imports of the CMC from nonsubject countries
20 while the antidumping duty was in force. This could
21 be associated to the fact that domestic production
22 cannot supply local demand.

23 We note that the imports from Mexico tend to
24 focus on specific market segments, specifically in
25 food producers. The food industry and cosmetics must

1 meet strict quality standards, especially purity.
2 Therefore, the ITC should consider whether the
3 existence of these factors determined that the CMC of
4 Mexico demand in the U.S. market and whether any
5 potential cause of injury to the U.S. industry lies
6 elsewhere.

7 We respectfully ask the ITC to determine
8 that the possibility of continuance or recurrence of
9 injury is not due to the imports of the subject
10 countries, particularly Mexico, but imports from other
11 countries not under investigation whose offer has
12 increased significantly to the U.S. market and is
13 expected to continue increasing.

14 With regard to the export capacity, the ITC
15 must assess that Mexico has no production capacity to
16 increase its exports of CMC in the immediate future,
17 not even in the medium term, even with the elimination
18 of the antidumping duty, according with the following:

19 Mexico has produced practically at near its
20 maximum capacity, and we understand that there is no
21 likelihood of an increase in the immediate future
22 because of the high cost it represents. Amtex will
23 address that issue today. Amtex has operated with
24 normal levels of inventories.

25 The above shows that the elimination of the

1 antidumping duty would not be an incentive for Amtex
2 to reduce their price and increase their exports to
3 the U.S. market since it operates at full capacity.
4 Therefore, Amtex exports are not a threat to the U.S.
5 industry in the imminent future.

6 In conclusion, we consider that there are no
7 elements to sustain that the elimination of the duty
8 will be likely to lead to continuation or recurrence
9 of injury. Therefore, the Commission should conclude
10 the procedure eliminating the antidumping duty imposed
11 on imports of purified carboxymethylcellulose from
12 Mexico in accordance with Articles 11.1 and 11.2 of
13 the antidumping agreement.

14 The Government of Mexico is confident that
15 the Commission will carefully consider all the facts
16 in the record and make a separate finding regarding
17 Mexico in its final determination and further
18 determining that Mexican imports are not the cause of
19 alleged material injury or threat thereof.

20 Madam Chair, this concludes my remarks, and
21 I thank the Commission for considering my testimony in
22 this case. If you have any questions, I will remain
23 in the court for quite a bit.

24 CHAIRMAN OKUN: Thank you very much for your
25 testimony today, Mr. Behar. Questions?

1 (No response.)

2 CHAIRMAN OKUN: Thank you. Very well.

3 MR. BISHOP: Opening remarks in support of
4 continuation of the orders will be by Edward M. Lebow,
5 Haynes and Boone.

6 CHAIRMAN OKUN: Good morning and welcome.

7 MR. LEBOW: Good morning.

8 CHAIRMAN OKUN: Please make sure your
9 microphone is on.

10 MR. LEBOW: There we are. Good morning.

11 CHAIRMAN OKUN: Thank you.

12 MR. LEBOW: Madam Chairman and members of
13 the Commission, my name is Ed Lebow of the law firm of
14 Haynes and Boone. I'm here with Dan Klett of Capital
15 Trade representing Petitioner Aqualon Company.

16 When I tell people about the work I do, some
17 contrarians -- usually theoretical, economist types --
18 challenge me and contend that from a purely economic
19 standpoint the theory of protection from dumping is
20 fundamentally flawed. Perhaps others in this room
21 have had similar experiences.

22 I'd like to respond with real world
23 examples. One of the best examples is the experience
24 of Aqualon Company at its Hopewell, Virginia, plant
25 that produces purified carboxymethylcellulose or CMC.

1 The antidumping law has really made a difference to
2 this company and its workers.

3 Look back at the situation before the
4 antidumping duty orders were imposed. Between 2001
5 and 2002, import volume share were increasing rapidly.
6 Aqualon lost an additional 10 percent of the domestic
7 CMC market in just one year. As a high fixed cost
8 producer of a largely commodity chemical, Aqualon
9 couldn't afford to watch its volume erode and its per
10 unit cost increase.

11 In 2003, Aqualon was forced to make the
12 strategic decision to reduce prices and take back some
13 share. This was only partially successful. Prices
14 from Respondents also went down, as did Aqualon's
15 profits. Aqualon found itself in what looked like a
16 death spiral and so Aqualon decided to file an
17 antidumping petition against dumped CMC from Finland,
18 the Netherlands, Sweden and Mexico.

19 In 2005, the Commission found that the
20 domestic CMC industry had indeed been materially
21 injured by dumped imports from all four countries, and
22 antidumping duty orders were imposed. The cumulative
23 impact of the dumped CMC was multiplied by the fact
24 that one company -- then called Noviant, now called CP
25 Kelco -- produced CMC in three countries and conducted

1 U.S. marketing as if from a single source.

2 Immediately after the orders were imposed,
3 import prices rose quite moderately. Aqualon was able
4 to increase its own prices too and return to
5 profitability. Respondents didn't go away, however.
6 The U.S. market remained important, and with one
7 exception Respondents continued to sell substantial
8 quantities of CMC, and to do so they had to continue
9 to dump, often at quite substantial levels. They also
10 continued to undersell the domestic industry in most
11 instances.

12 Still, with higher prices, better product
13 mix, increased volumes and better spreading of costs,
14 Aqualon CMC's business has been profitable. Now
15 Respondents point to that very profitability and
16 contend that if the antidumping duty orders were
17 revoked Aqualon would stay profitable.

18 As we have demonstrated in our brief,
19 however, if the amount of the price increase that
20 followed the imposition of the antidumping duty orders
21 were to go away, Aqualon's performance would be
22 seriously and immediately affected, even without the
23 likely loss of volume that would also follow.

24 Our witnesses will be discussing the impact
25 of revocation of antidumping duty orders from all

1 three countries currently under consideration -- the
2 Netherlands, Mexico and Finland. It's no secret that
3 while there is a material and consequential threat to
4 the domestic industry from producers in all three
5 countries, the greatest threat comes from CP Kelco in
6 Finland with its huge facility in Äänekoski.

7 However, for reasons known only to CP Kelco
8 it has chosen not to participate as a party in this
9 sunset review. Thus, there will be no one from CP
10 Kelco to answer any questions you might have about
11 let's just generously call it its creative way of
12 reporting its capacity and capacity utilization in its
13 questionnaire response, and there will be no one to
14 answer any questions you might have about why it
15 continued to dump during the period of review with
16 rates of up to 14 percent. On the contrary, you won't
17 hear from CP Kelco at all.

18 Because Quimica Amtex and Akzo Nobel are
19 here, it will be difficult for all of us in this room
20 not to focus our attention on Mexico and the
21 Netherlands. That's why I wanted to conclude my
22 opening remarks by reminding everyone in this room, my
23 own clients included, that CP Kelco of Finland is also
24 very important.

25 In fact, the most important reason why

1 revocation of the antidumping duty orders on imports
2 of CMC from Mexico, the Netherlands and Finland would
3 be likely to lead to recurrence of material injury to
4 the domestic injury within a reasonably foreseeable
5 time. Thank you very much.

6 CHAIRMAN OKUN: Thank you.

7 MR. BISHOP: Opening remarks on behalf of
8 those in opposition to continuation of the orders will
9 be by Jeffrey S. Neeley, Barnes, Richardson & Colburn,
10 and Matthew T. West, Baker Botts.

11 CHAIRMAN OKUN: Good morning and welcome.

12 MR. NEELEY: Good morning. I'm Jeff Neeley
13 of the law firm of Barnes, Richardson & Colburn here
14 this morning on behalf of Quimica Amtex.

15 The Commission has a tough job, as we all
16 know, in sunset reviews. You're called upon to
17 project out what's going to happen in the event that a
18 dumping order is revoked and, while not speculating,
19 it is a tough job to do.

20 Here we think that the projections with
21 regard at least to Mexico are pretty straightforward
22 and there's no great mystery. What we see with regard
23 to Mexico is consistently low dumping margins from the
24 only producer in Mexico, which is my client, Quimica
25 Amtex. The current dumping margins are .3 percent.

1 They've been consistently 1 to 2 percent.

2 This is commercially insignificant dumping
3 margins. What those dumping margins show is that they
4 have no effect on Mexico, but at the same time they
5 show that prices in Mexico are very slightly above
6 those in the United States.

7 In addition, with regard to Quimica Amtex I
8 should note that the company has operations in
9 Colombia and Argentina as well. If the company had
10 desired to sell much greater volume at low prices into
11 the United States there's been nothing preventing them
12 from doing it from those other countries for the last
13 several years.

14 We can't say that there is absolutely no
15 competition with the United States with Aqualon, but
16 there is virtually none. It is very, very small,
17 very, very little overlap with Aqualon. Quimica Amtex
18 has its very distinct customers, and there's only a
19 handful or not even a handful, and we see no impact
20 whatsoever so far, and there would be no impact if the
21 order were revoked. Quimica Amtex is operating at
22 full capacity, and this fact has not been really
23 questioned by Aqualon.

24 The U.S. industry is also in a far different
25 position than it was at one time. The U.S. industry,

1 it is quite apparent from the public record and my
2 clients told me this as soon as I began to review this
3 case; that Aqualon has turned to its French affiliate
4 to begin to import substantial amounts of CMC from
5 that country because it's at full capacity in the
6 United States.

7 It is doing so in what we consider to be
8 frankly a very rational business decision. We're not
9 criticizing that in any way, but we do point out that
10 it shows a high capacity utilization and it shows that
11 Aqualon is probably quite profitable. Mexico is not
12 an export-oriented country or industry as some other
13 places are. It's a huge home market, and that is
14 where the concentration of Quimica Amtex has
15 traditionally been.

16 For all these reasons, which we'll discuss
17 in a few minutes, we believe there should be no
18 cumulation of Mexico with other countries and
19 furthermore that Mexico by itself or cumulated is
20 showing no injury to the U.S. industry if this order
21 were revoked. Thank you.

22 CHAIRMAN OKUN: Thank you. Good morning.

23 MR. WEST: Good morning. My name is Matthew
24 West. I'm with the law firm of Baker Botts appearing
25 of counsel for Akzo Nobel.

1 As we come before the Commission today, we
2 will be reviewing a CMC market involving the
3 Netherlands that is materially different than it was
4 during the original investigation. In our
5 presentation today we will focus on three points
6 related to this difference.

7 First, as you've heard, with the
8 construction of the CP Kelco plant in the Netherlands,
9 Akzo Nobel is the sole producer of purified CMC from
10 the Netherlands. You will hear how the conditions of
11 competition between the three actively producing
12 subject countries are now significantly different. No
13 longer is there cross border control over the
14 production of purified CMC, and with regard to the
15 U.S. market each country is pursuing its own direction
16 in optimizing its opportunities in the U.S. market.

17 Second, you will hear how in recent years
18 Akzo Nobel has pursued and will continue to pursue a
19 sales strategy around high value applications for
20 purified CMC. This strategy does not solely rely on
21 sales to the U.S. or even to its own domestic market
22 in Holland, but rather is a global sales strategy
23 where the company has pursued new customers through
24 emerging markets in complement to its long
25 established, high value customers in traditional

1 markets.

2 And, third, you will hear how the trends in
3 the data for the past five years support and evidence
4 these sales strategies pursued by the company's
5 management, believing that these sales strategies will
6 lead to a conclusion that does not support the order
7 and rather continuation and reoccurrence of material
8 injury to Aqualon -- if I may finish my sentence,
9 Madam Chair?

10 CHAIRMAN OKUN: Please. Go ahead.

11 MR. WEST: Thank you. That the imports of
12 purified CMC from the Netherlands will not lead to a
13 continuation or recurrence of material injury to
14 Aqualon in the foreseeable future if the order is
15 revoked. Thank you.

16 CHAIRMAN OKUN: Thank you.

17 MR. BISHOP: Would the first panel, those in
18 support of continuation of the antidumping duty
19 orders, please come forward and be seated?

20 Madam Chair, all witnesses have been sworn.

21 (Witnesses sworn.)

22 CHAIRMAN OKUN: Thank you.

23 (Pause.)

24 CHAIRMAN OKUN: It looks like all your
25 witnesses are seated. You may proceed.

1 MR. PANICHELLA: Good morning, Madam
2 Chairman and members of the Commission. My name is
3 John Panichella. I am the president of Ashland
4 Aqualon Functional Ingredients. Ashland Aqualon
5 Functional Ingredients is the name under which Aqualon
6 Company has been doing business since the acquisition
7 of its parent company, Hercules, Inc., by Ashland,
8 Inc. in November 2008.

9 Like many of my colleagues at Aqualon, I am
10 a chemist, as well as a business person, and have
11 degrees in both disciplines. After a 25 year career
12 with General Electric and Betz Dearborn, I joined the
13 Aqualon unit of Hercules in 2006 and have led that
14 business, which includes our purified
15 carboxymethylcellulose operations, since that time.

16 I was fortunate to take over this business
17 after the antidumping duty order had been imposed on
18 dumped imports from Mexico, the Netherlands, Sweden
19 and, most importantly, Finland. Early in my tenure at
20 Aqualon I had ample opportunity to review where the
21 CMC operations had come from and where they needed to
22 go.

23 As CMC is part of a larger family of
24 products manufactured at Ashland, its performance is
25 evaluated against that of these other products and

1 affects decisions on where to invest and at the end of
2 the day whether to continue operations. Our CMC
3 prices had to be high enough to cover production
4 costs, while our operations had to be made lean and
5 efficient enough so that our costs would be as low as
6 those of any producer anywhere. The successful
7 antidumping investigations made both possible.

8 Before the antidumping orders were imposed,
9 we saw our market share dwindle early in the
10 investigation period due to lower pricing by dumped
11 imports. Under the leadership of my predecessor, John
12 Televantos, whom Commissioners Lane, Okun and Pearson
13 may remember from his appearance before you in 2005,
14 Aqualon made the strategic decision at that time to
15 reduce its pricing to regain some of the market share
16 and thereby keeping its volumes up and fixed unit
17 costs down.

18 This strategy also helped us to minimize the
19 reduction in our workforce, although some layoffs were
20 required at that time as one way to reduce cost in the
21 face of declining prices and profits. As the
22 Commission stated in its June 2005 opinion, "All of
23 these improvements in the industry's volume-related
24 indicia were, however, more than offset by the very
25 substantial decline in the industry's pricing and

1 profitability levels during the period of the
2 investigation."

3 The benefits of the antidumping duty orders
4 were immediate and profound. As the Commission has
5 seen from ours submissions, in the first year after
6 the orders were imposed, 2005, CMC sales volumes,
7 pricing and profits all had rebounded significantly.
8 Moreover, with this return to normal profitability, we
9 have been able to make meaningful investments to
10 upgrade our facilities and improve production
11 processes and efficiency.

12 For example, we increased the automation of
13 a major CMC drying unit and we upgraded our CMC
14 milling processes with the most recent investment
15 being made for a diverter system that allows us to
16 efficiently process CMC with different particle sizes.
17 We have also been able to do a lot of research and
18 development on ways to make CMC dissolve more quickly
19 and evenly, plus we are providing formulation, product
20 development and application support for our customers.

21 A thriving Hopewell, Virginia, CMC unit is
22 also important for several of our other cellulose
23 ether businesses, and it allows a more equitable
24 sharing of some common fixed costs.

25 Perhaps because of their own desire to

1 maintain production and spread their fixed costs,
2 Respondents have continued to make significant CMC
3 sales into the U.S. market, even after the antidumping
4 duty orders were imposed. Many of these sales have
5 been at substantial antidumping duty rates.

6 This shows quite clearly that Respondents
7 value the U.S. market and not only are willing to dump
8 -- they have to dump -- to continue selling here. As
9 my colleagues, Karen Gruber and Zissis Pappas, will
10 describe to you shortly, Respondents show no
11 hesitation, even in the face of antidumping duty
12 orders, to take business by underselling Aqualon. I
13 understand from the public version of the staff report
14 that this underselling is quite widespread.

15 If the orders were revoked, the elimination
16 of antidumping duties would mean that Respondents
17 would be able to to lower their prices by the not
18 insignificant amount of the dumping duties and without
19 affecting their net return. Given the importance of
20 price to our customers, this would put downward
21 pressure on Aqualon's prices, sales and profits and
22 also would make it harder for us to continue the type
23 of investments and research and development needed to
24 maintain the business in the future.

25 Although we saw a small uptick in our

1 business as we attempted to service customers caught
2 short when CP Kelco's Netherlands plant experienced
3 the fire that took it off line in July 2009, we are
4 now finding that CP Kelco's Finland plant is more than
5 taking up the slack.

6 That plant is the world's largest, with a
7 publicly reported capacity of over 100 million pounds
8 of purified CMC. That's nearly triple Aqualon's
9 Hopewell plant capacity. CP Kelco's Finnish plant has
10 government and customer approvals to make all types of
11 purified CMC, including regulated grades used in food
12 and personal care items.

13 I do understand that CP Kelco's Chinese CMC
14 facility is not subject to an antidumping duty order.
15 However, it is still relevant to this proceeding. CP
16 Kelco opened a 15,000 ton CMC plant in China in
17 November 2009.

18 Although the CP Kelco China plant is GMP
19 certified, up to this point we have seen this facility
20 focus on supplying nonregulated CMC to export markets,
21 including the United States. This has the effect of
22 freeing up CP Kelco's Finnish CMC capacity to supply
23 higher margin regulated grades. If the antidumping
24 duty order on CMC from Finland were revoked, we would
25 see an immediate and profound impact on Aqualon.

1 We are also seeing significant underselling
2 by Quimica Amtex at several accounts in both personal
3 care and food industries with the latter already
4 having resulted in Aqualon's loss of a major customer.
5 Although the CP Kelco plant in the Netherlands has
6 been shut down, Akzo Nobel Functional Ingredients is
7 already qualified to sell purified CMC at some of our
8 largest customers with business totaling several
9 million pounds.

10 Among these are customers it has serviced in
11 the past and to which it would no doubt attempt to
12 sell once again if the antidumping duty order on
13 purified CMC from the Netherlands were revoked.
14 Notably, in its most recent antidumping review the
15 Department of Commerce found that Akzo was dumping at
16 a rate averaging over 9 percent. Price reductions of
17 at least that amount by Akzo, if the antidumping duty
18 order were revoked, would be devastating to Aqualon's
19 business.

20 As I mentioned and as Ms. Gruber and Mr.
21 Pappas will amplify, CP Kelco, Amtex and Akzo are all
22 aggressively competing with and often underpricing
23 Aqualon for regulated CMC business, notwithstanding a
24 dumping duty for CP Kelco of over 6 percent and at
25 times during the past few years as high as 13 percent.

1 For Amtex and Akzo, the Department of Commerce
2 projected dumping in the event of revocation of 12
3 percent and 13 percent respectively.

4 To assist the Commission in projecting what
5 would happen if the antidumping duty orders were
6 revoked, I have reviewed what did happen with our U.S.
7 CMC operations during and shortly after the initial
8 period of investigation. Immediately after the orders
9 were imposed, there was a noticeable pop in our CMC
10 prices and sales volume in the year 2005. Our U.S.
11 price increased by an average of nine cents per pound,
12 and our U.S. commercial shipments increased by 10
13 percent in 2005.

14 Based on U.S. Census data, purified CMC
15 imports from subject countries declined by 32 percent
16 from 2004 to 2005. I can tell you that if the orders
17 were to be revoked, these patterns certainly would be
18 reversed with adverse financial consequences to our
19 CMC business.

20 For example, a price drop of nine cents a
21 pound alone will result in a decline in operating
22 profits for this business of almost \$3 million. The
23 actual adverse effect would even be greater as we
24 surely would lose volume, which would have the
25 additional effect of increasing our fixed cost and

1 squeezing our margins.

2 Before closing, I'd like to address a few
3 words to Commissioner Pearson. I've read your
4 dissenting view on the original investigation and
5 respect your thoughtful analysis. There is one point,
6 however, where things have definitely changed since
7 2005, and I want to emphasize that for you and your
8 colleagues.

9 You noted that at the time the underlying
10 Commission determined CP Kelco in Finland was not GMP
11 qualified and thus could not compete with Aqualon in
12 the food and personal care markets for CMC. Looking
13 forward from 2001, however, I ask you to give special
14 attention to the fact that CP Kelco in Finland is GMP
15 qualified and the fact that they became GMP qualified
16 in short order after 2005.

17 Today, CP Kelco is shipping a wide array of
18 regulated CMC grades from its Finnish plant and would
19 hit us even harder across the board if the antidumping
20 duties were revoked.

21 With these conditions in mind, I
22 respectfully request that the Commission find that
23 revocation of the antidumping duty orders on imports
24 of purified carboxymethylcellulose from Finland,
25 Mexico and the Netherlands would likely lead to the

1 recurrence of material injury to the domestic industry
2 within a reasonable foreseeable time. Thank you again
3 for your kind attention.

4 MR. LEBOW: Thank you. Our next witness
5 will be Karen Gruber.

6 MS. GRUBER: Good morning. I am Karen
7 Gruber, and I'm the Global CMC Business Director. I
8 have a Bachelor's degree in Chemistry and a Master's
9 degree in Chemical Engineering from Texas A&M
10 University.

11 I worked for 12 years in the Specialty
12 Minerals and Pigments Division of Engelhard
13 Corporation, which is now BASF. In 2001, I came to
14 Aqualon, and since 2004 I've been involved in the CMC
15 business first as the CMC Business Manager and now my
16 current position.

17 I joined the business in the year prior to
18 the imposition of the antidumping duties. I have been
19 fortunate to see the business recover and have worked
20 hard since then to keep the business healthy. My
21 colleague, Zissis Pappas, will be speaking to you
22 shortly about the energy and specialties markets for
23 CMC, but first I'll share some of my experiences about
24 the food and the personal care markets, which use the
25 regulated grades of the purified CMC.

1 Food applications for CMC include syrups,
2 juices, cocoa, tortillas and even pet food. CMC is
3 used to make the pet food gravy thicker and it allows
4 it to cling to the morsels, making it more appetizing
5 at least to humans like me that watch the TV
6 commercials.

7 In human food it serves as a thickener, a
8 stabilizer and a rheology enhancer, which means it
9 affects how things stick together when they pour or
10 how the final product feels in your mouth. In the
11 U.S., the CMC used in these applications is required
12 by law to be at least 99.5 percent pure. That's not
13 the case in some of the emerging markets.

14 For personal care applications they include
15 toothpaste and denture adhesives, laundry starches and
16 detergents and other products. In these areas, CMC
17 serves as a thickener, a flow facilitator, an
18 antideposition or bonding agent.

19 In my role as Global CMC Business Director,
20 I oversee the aspects of the Aqualon Hopewell,
21 Virginia, CMC factory. I make sure that our products
22 meet the customer requirements and the product
23 quality.

24 It's also my job to maintain the
25 profitability, which means I have to decide on pricing

1 and collaborate with the sales and marketing team on
2 our business strategy. In this position I am
3 constantly aware of the competitive threats and
4 pressures and have to make decisions on whether to
5 meet the prices of the import competition.

6 I would like to share with you several
7 specific, recent examples of situations where
8 Respondents, CP Kelco and Quimica Amtex, have
9 attempted and in some cases succeeded in taking our
10 business from Aqualon by underpricing. Our prehearing
11 brief sets out the details of the customer names,
12 quantities and pricing for each of these examples.

13 In one instance, a producer of laundry
14 detergent approved our new product that we developed
15 specifically for that customer. We made plant trials
16 at Hopewell, but we ultimately lost the business to CP
17 Kelco at pricing that was reportedly as much as 20
18 percent below our price. If we were to meet that
19 price, we would have lost money on every sale.

20 In another case, we stepped in to help a pet
21 food customer of CP Kelco after the Netherlands plant
22 went down, but recently due to the increased price of
23 cellulose, which is a major component in our product,
24 we had to raise our price, and as a result we were
25 told that CP Kelco came in with a lower price from its

1 Finnish plant. We lost half of this business.

2 Besides indicating that CP Kelco is willing
3 to underprice in order to take business from Aqualon,
4 this shows that the CP Kelco Finnish plant is picking
5 up the volume that had been produced by the
6 Netherlands operation.

7 We have subsequently dropped our price,
8 notwithstanding our increased cost, in order to hold
9 onto this business. We're waiting for the customer's
10 final decision, but revocation of this order will make
11 it much less likely that we can retain this business.

12 Perhaps this is a good point to say a few
13 words about the impact in general of CP Kelco closing
14 its Swedish and Dutch plants. Closing the Swedish
15 plant was a planned event, and it really had no impact
16 on the market. CP Kelco had arranged for its
17 scheduled production to be moved elsewhere, and
18 customers were not left short.

19 The explosion and fire at the CP Kelco
20 Netherlands plant was of course unanticipated, and it
21 did have measurable short-term impact. We at Aqualon
22 were approached by several of CP Kelco's customers,
23 and we did our best to supply them at short notice.
24 This contributed to good years for Aqualon in 2009 and
25 2010, notwithstanding the recession.

1 However, CP Kelco appears now to have
2 rationalized its production, and it is increasing its
3 shipments in the U.S. It's able to satisfy all of its
4 preexisting accounts. What's more, it appears to be
5 moving more aggressively to capture business from
6 Aqualon in the United States.

7 For example, when we tried to pass our
8 recent cellulose cost increases to a U.S. producer of
9 juice drinks, we were told that our price is higher
10 than CP Kelco and we would have to share the business
11 and could soon lose it all.

12 What's even more surprising, this grade of
13 CMC uses either a high viscosity wood pulp or a cotton
14 linter, which both have been seeing significant cost
15 increases. My suspicion is that CP Kelco is probably
16 just trying to keep its large plant full and spread
17 its fixed cost.

18 And Quimica Amtex too has been quite active
19 in the food, the oral care and other personal care
20 submarkets. We recently learned that Amtex is bidding
21 against us for business at a major dental care account
22 and that we have lost part of our position at another
23 producer of a home care item due entirely to price.

24 We've also lost our entire position at a
25 domestic tortilla manufacturer where Amtex underbid us

1 by a significant amount. It has been mentioned that
2 our products have quality issues in tortilla
3 applications, but that is not the case. Several
4 manufacturers were able to use our products. They
5 cannot choose them when there is such a wide
6 difference in price between us and Amtex.

7 As for Akzo, they haven't been able to sell
8 as much CMC into the U.S. market due to their
9 substantial antidumping margin. However, Akzo is
10 selling a product that is not within the scope of this
11 investigation, croscarmellose CMC.

12 This is going to a major U.S. customer where
13 Akzo is already qualified to sell this subject CMC.
14 Before the orders were imposed Akzo undersold us
15 aggressively at this customer, and we can anticipate
16 it doing so again if the order were revoked. The loss
17 of this single customer would be very harmful to
18 Aqualon.

19 As John Panichella described, the
20 antidumping orders allowed us to go from a dramatic
21 decline to a healthy financial state within a short
22 period of time. Because of our improved position, our
23 CMC business has been able to get the authorization
24 from management to make several necessary investments
25 and to spend on research and development and

1 application support for our customers and potential
2 customers.

3 In recent years, that R&D has focused on
4 producing CMC grades with improved characteristics
5 such as ease of solution, speed and evenness of
6 dispersal and uniformity of viscosity. Thus, for both
7 the laundry care and the juice drink customer I just
8 mentioned our R&D allowed us to develop new grades
9 with enhanced performance. We immediately stepped in
10 when there was an issue at the CP Kelco Netherlands
11 plant, but we still find that price is a major factor
12 when selecting the purified CMC.

13 On the personnel front, we were able to
14 increase pay and by doing so employ more skilled
15 people who are capable of performing a multiplicity of
16 roles in our plant. Over the long term, after time
17 for the requisite training and broad experience this
18 personnel upgrade has allowed us to operate with fewer
19 total staff.

20 I'd also like to take a few minutes to give
21 you some more details of the capital upgrades that
22 John mentioned that we have made as a result of our
23 improved financial posture. At the Commission hearing
24 in our original investigation, we spoke to the need
25 for upgrading our dryer capacity.

1 As a result of our improvement in return and
2 show that under fair market conditions we can have a
3 sustainable business, we started a dryer automation
4 project in 2010, and we are continuing that upgrade.
5 This has allowed us to operate with more control and
6 increased capacity.

7 Another place where the orders have helped
8 us is in addressing the requirements of many of our
9 customers for different particle sizes for their
10 applications. As a result, we have changed our
11 particle size control by investing in a diverter
12 system, and this will allow us to provide the coarse
13 particle size grades. These two investments wouldn't
14 have been possible when the business was in a downward
15 spiral because of the unfair market conditions.

16 We've also hired an engineer to optimize our
17 milling systems and process technology, and along with
18 the Hopewell team he is focused on making sure that we
19 can meet the U.S. market demand. Without these
20 orders, future investment in the business would once
21 again be under great duress and we would not be able
22 to continue to invest in our business to serve the
23 U.S. CMC market.

24 I will now let Zissis speak to his market
25 segments. Thank you.

1 MR. LEBOW: Our next witness will be Zissis
2 Pappas.

3 MR. PAPPAS: Good morning. My name is
4 Zissis Pappas. I'm currently Global Industry
5 Director, Oilfield and Specialties Businesses, for
6 Ashland Aqualon Functional Ingredients. I graduated
7 from Temple University in 1989 with a Bachelor's
8 degree in Finance and then joined DuPont, where I
9 worked for three years in corporate finance.

10 In 1992, I moved to Betz Laboratories as a
11 financial analyst. Betz became Betz Dearborn, which
12 in turn was acquired by Hercules. At Hercules I
13 transitioned into the Corporate Development Group. My
14 responsibilities included analysis of acquisitions and
15 divestitures. Beginning in 2006, I was assigned to
16 the Aqualon unit of Hercules where I moved from
17 corporate development to commercial work.

18 For the past five years I have been
19 responsible for Aqualon's global oil field and
20 specialties businesses. My responsibilities include
21 setting marketing strategy and priorities, supporting
22 global sales teams on negotiations and overall
23 execution of our strategic plan for these two business
24 segments.

25 In my area of responsibility, the principal

1 markets for CMC are specialties and oil field.
2 Specialties comprises a number of uses, but the
3 largest two are paper coatings and civil engineering.
4 The paper coatings marketing is just what it sounds
5 like. We sell CMC to paper manufacturers to enhance
6 the printing characteristics, handling characteristics
7 and appearance of paper.

8 Civil engineering is a bit more diverse. We
9 sell CMC for tunneling, horizontal drilling and
10 special foundation projects used primarily as a
11 thickener to provide wall stability.

12 In the oil field sector, CMC is an important
13 component of many drilling muds. CMC is used
14 primarily to improve hold cleaning and suspension
15 properties.

16 Let me give you a bit more detail for each
17 of the three principal markets for which I have
18 responsibility. First, the paper coatings market.
19 Paper coatings is not as cyclical as other markets
20 such as oil field, as demand for paper is reasonably
21 constant. In paper coatings, customers are willing to
22 swap suppliers based on price, so we are always alert
23 and sensitive to competition.

24 CMC imported from CP Kelco in Finland is
25 prevalent in the west and midwest. We are now

1 starting to see more from CP Kelco's Chinese plant.
2 This appears to be freeing up CP Kelco's capacity to
3 sell into the paper market elsewhere and perhaps allow
4 more of its Finland capacity to be used for regulated
5 grades.

6 By the way, I note that Respondents allege
7 that purified CMC can be replaced in some oil field
8 applications with crude CMC. This in practice is very
9 limited. I have seen some attempts to replace
10 purified CMC with crude CMC, but these were not
11 successful.

12 Turning to the civil engineering market, it
13 is similar to the paper market in that we see CP Kelco
14 competing widely on price. And here it is all from
15 Finland, not China. Because these are often projects
16 let out on bid, price is very important. Customers
17 again are willing to swap suppliers solely on price.

18 Finally, I'll touch on the situation in the
19 oil field market. As you would imagine, it is quite
20 cyclical and fluctuates generally with rig count.
21 Global price of oil and natural gas drive the amount
22 of drilling activity. Based on current market
23 conditions, activity in this segment continue to grow.

24 We see CP Kelco from Finland very active and
25 offering to undercut our price. New entrants from

1 China are also putting on price pressure. Because
2 demand has increased recently there has been some
3 recovery in price, but not as much price recovery as
4 demand would seem to suggest because both CP Kelco and
5 the Chinese are undercutting strongly.

6 I'd like to ask Mr. Jeffrey Wolff, who has
7 been with Aqualon for three decades, to interject a
8 few words concerning the situation in the oil field
9 market before the antidumping orders were imposed.
10 Jeff?

11 MR. WOLFF: Thanks, Zissis. Good morning,
12 Madam Chairman and members of the Commission. As
13 Zissis mentioned, my name is Jeff Wolff, and I'm a
14 vice president in Aqualon and responsible for one of
15 the industry segments that sells CMC.

16 I just wanted to state that before the
17 orders were imposed in 2005 we were faced with extreme
18 aggressive pricing from CP Kelco, formerly known as
19 Noviant, as well as Amtex. I was around at that time.
20 Not responsible for that business, but involved in a
21 lot of meetings where I was hearing the angst that was
22 occurring at that time.

23 And actually we were struggling because a
24 lot of the sales in the area that Zissis has talked
25 about we were losing money, and it was very difficult

1 discussions. The antidumping duty order made a huge
2 difference for our business and significantly changed
3 the profitability. Zissis?

4 MR. PAPPAS: We are very concerned about the
5 impact on our oil field sector business if the orders
6 are revoked. As I've stated, price is critical in
7 competition in this sector. Even with dumping duties,
8 Respondents have continued to challenge us on price.

9 If the orders are revoked, Respondents will
10 be able to lower their prices by the amount of the
11 duties with no impact on their gross profits, and
12 without the orders there will be no floor on their
13 pricing. Judging by their past behavior, they will
14 decrease prices however much is necessary to capture
15 increased business. Thank you.

16 MR. LEBOW: Thanks, Zissis. Our final
17 direct witness will be Dan Klett of Capital Trade.

18 MR. KLETT: Good morning, Madam Chairman,
19 members of the Commission. My name is Daniel Klett.
20 I am a principal with Capital Trade, Inc. testifying
21 on behalf of Aqualon in this sunset review. My
22 testimony will briefly address some general issues and
23 some specific points made by Amtex and Akzo.

24 The orders clearly have been beneficial to
25 Aqualon's CMC operations. Confidential details are in

1 your staff report, but the turnaround in Aqualon's CMC
2 operations in 2005, the first year after the orders
3 were imposed, were dramatic and validate the
4 Commission's finding of a causal connection between
5 subject import competition during the investigation
6 period and the deterioration in Aqualon's CMC
7 profitability.

8 Although declining from 2004 levels, CMC
9 imports from Mexico and Finland have maintained a
10 significant presence in the U.S. market during the
11 review period. CMC import volume from Akzo, on the
12 other hand, has been a relatively small part of the
13 U.S. market during the review period.

14 Since the orders, CP Kelco's purified CMC
15 plants in Sweden and the Netherlands have closed. To
16 estimate the likely effects of revocation, I conducted
17 a proforma financial analysis that included only the
18 likely increase in subject import volume from the CMC
19 plants now in operation.

20 My estimated increases in subject volume are
21 justified based on the level of excess capacity at
22 these plants or even a relatively modest diversion of
23 shipments from the home market or non U.S. export
24 markets to the United States. The analysis shows
25 significant adverse effects to Aqualon's CMC financial

1 condition should the order be revoked.

2 Amtex asserts that absent the orders, its
3 exports to the United States will not increase because
4 the dumping duties are low and not a barrier for doing
5 business in the United States. However, what Amtex
6 does not say is that these low margins reflect some
7 degree of price discipline and they're competing for
8 sales in the United States. Amtex also argues that
9 there will be no discernable impact if the order is
10 revoked because its exports to the U.S. are
11 concentrated to food application customers.

12 Two points. First, you heard Ms. Gruber
13 testify that Amtex does sell or is competing for
14 personal care application customers. Second, based on
15 Census data, imports into the U.S. of purified CMC
16 from Mexico increased to 3.1 million pounds in 2010, a
17 39 percent increase over 2009 levels. The U.S. CMC
18 market is important to Amtex.

19 Akzo contends that purified CMC imports into
20 the U.S. from its plant in the Netherlands are not
21 likely to increase, given the small volume of imports
22 during the review period and overselling associated
23 with those imports. However, another possible
24 interpretation is the order has limited the volume of
25 imports from Akzo's plant in the Netherlands and that

1 Akzo is concentrated on higher priced applications.

2 In this context, Akzo's behavior during the
3 review period is not a good predictor of their likely
4 volume and pricing absent the order. This will depend
5 on such factors as the level of their excess capacity
6 and the ability of their home market and non U.S.
7 export markets to absorb purified CMC production in
8 the Netherlands.

9 Based on the analysis I have conducted on
10 these factors and concerns that Aqualon has for a
11 customer of its purified CMC that also purchases
12 nonsubject cross-linked CMC from Akzo, there is likely
13 to be a commercially significant adverse effect for
14 Aqualon's CMC business with revocation of the order on
15 the Netherlands.

16 Both Akzo and Amtex contend that Aqualon is
17 not vulnerable. To support its position, Amtex
18 compares Aqualon's net profit margin and that of the
19 U.S. chemical sector overall from 2007 to 2009. I
20 have reviewed these operating profit relationships
21 going all the way back to 2004, the last year of the
22 investigation period, and they are very instructive.

23 What they show is that in 2004, Aqualon
24 sustained an operating loss on its CMC operations when
25 the operating profit margins to the U.S. chemical

1 sector were 7.9 percent. In 2005, Aqualon's operating
2 profit margin for CMC improved significantly and was
3 very similar to that of the overall U.S. chemical
4 sector through about 2008, within a percentage point
5 or two.

6 In 2009 and 2010, Aqualon's operating profit
7 margin for CMC exceeded that of the U.S. chemical
8 sector. Tighter market conditions, most notably
9 resulting from the unexpected closing of Kelco's CMC
10 plant in the Netherlands in July 2009 and a change in
11 Aqualon's product mix, contributed to higher prices
12 and profit margins for Aqualon in the last two years.

13 Regarding CP Kelco, who is not here today,
14 the closing of their CMC plant in Sweden was planned
15 in line with a strategic restructuring of their
16 business, including building a CMC plant in China.
17 The CMC plant closing in the Netherlands in July 2009
18 was unplanned and resulted in tight supply conditions
19 both in the U.S. and worldwide.

20 However, Kelco is adjusting to the decline
21 in their Dutch capacity by having qualified its
22 Finnish CMC for regulated grade applications. Ms.
23 Gruber gave examples of competition in the market from
24 Kelco in the regulated and personal care markets.

25 The additional capacity in China of 15,000

1 metric tons or 33 million pounds gives Kelco increased
2 flexibility to supply the U.S. and world markets with
3 unregulated grade purified CMC from this plant and
4 therefore frees up the Finnish plant to supply more
5 higher margin regulated grade CMC.

6 Full year 2009 import data are now available
7 from Census, and purified CMC from Finland increased
8 by 17 percent or by 1.7 million pounds in 2009 to
9 2010. The fourth quarter of 2010 in particular was a
10 large volume month for CMC imports from Finland.

11 Aqualon's concern with the revocation,
12 notwithstanding the relatively strong financials from
13 CMC now being reported, is that it is specifically in
14 its higher margin regulated CMC markets that will be
15 targeted by Kelco, Akzo and Amtex.

16 Although CP Kelco's Finland plant
17 traditionally has served the U.S. paper market, it is
18 increasingly active in competition from regulated
19 grade customers. Akzo and Amtex likewise are
20 targeting or can be expected to target the regulated
21 grade market.

22 This is not to say that they do not compete
23 in other markets. We know that CP Kelco's Finnish
24 plant offers the full spectrum of CMC grades for all
25 applications, but it is the risk to Aqualon's higher

1 margin regulated CMC sales that puts its profits most
2 at jeopardy. Thank you.

3 MR. LEBOW: Thank you. Madam Chairman, that
4 concludes our direct testimony. Our witnesses of
5 course will be happy to answer questions from the
6 Commission.

7 CHAIRMAN OKUN: Thank you very much. Before
8 we begin our questions, let me take this opportunity
9 to thank all of you for being here this morning. We
10 very much appreciate those industry witnesses who have
11 taken the time from your business to be here to answer
12 our questions and better explain the state of the
13 industry, so we appreciate that.

14 Let me begin, if I could, the questions this
15 morning and just go back over some of the changes
16 since the original investigation and how we take those
17 into account. Ms. Gruber, I'll probably start with
18 you because you mentioned a number of them in your
19 testimony, but Dr. Klett as well in your last remarks
20 on the analysis.

21 I'm just going to tick off a number and then
22 just go back and ask you more specific questions. Of
23 the number of changes since the original
24 investigation, we have the closure of the CMC facility
25 in Sweden, the fact that imports from Finland are now

1 GMP qualified to supply all grades of purified CMC, CP
2 Kelco in the Netherlands ceasing production after an
3 explosion, the recent decline in the oil field market,
4 increase in nonsubject imports from China and France
5 and an increase in the use of substitute products.

6 There might be a couple more that we can get
7 into as well, but let's start just on the likely
8 volume if the order were lifted. You had touched on,
9 Ms. Gruber, the impact of the closure of the facility
10 in Sweden and the one facility in the Netherlands, and
11 I'm just trying to make sure I understand the argument
12 for if the order is lifted. Dr. Klett, you can
13 comment on this as well.

14 For purposes of the volume, the Swedish
15 facility talked a lot about it shifting. Part of it
16 is coming from China that has the nonsubject
17 production, but what are we talking about in volume
18 when we are looking as if Sweden is pretty much out of
19 the picture and it's more just this impact of what
20 it's sending from China, but it frees up some
21 production in the other facilities?

22 MS. GRUBER: To start at the beginning, the
23 Sweden plant, it was CP Kelco's initiative to close
24 that and move to the Netherlands. At the time, those
25 were those two regulated plants.

1 At the same time, in 2005 after the order,
2 they started with the HACCP or the GMP certification
3 of their Finland plant, so simultaneously I believe
4 they were trying to balance them both. I can't speak
5 for them.

6 But when the Netherlands plant went away
7 that was probably on the order of 10,000 to 15,000
8 tons estimate of capacity. That could now be split
9 between the 15,000 tons in China and the Finland
10 plant, which is the largest CMC plant in the world.

11 CHAIRMAN OKUN: Okay. Dr. Klett, this may
12 be a part of your analysis. The volume you anticipate
13 coming from the subject countries is greater or the
14 same or less than during the original investigation?

15 MR. KLETT: The proforma analysis that I
16 did, the proforma financial analysis, I estimated a
17 likely volume increase. The actual number is
18 confidential, but I can kind of just give you the
19 methodology.

20 What I did was I looked at what the -- and,
21 by the way, I looked at just the plants that are
22 currently in existence during the investigation period
23 and during the review period, so I controlled for the
24 fact that the CP Kelco Dutch plant and the Swedish
25 plant were no longer in existence.

1 And I looked at the relative market shares
2 between the last year of the investigation period and
3 the first three quarters of 2010 and assumed that they
4 would revert back to the shares they had in the
5 investigation period. That is just the three plants
6 currently in operation. And based on that I estimated
7 a volume effect, and I split it evenly between subject
8 and nonsubject imports.

9 So I have an estimated volume effect. I
10 can't give you the specific number, but that was kind
11 of the methodology I used for estimating what the
12 volume effect would be with revocation.

13 CHAIRMAN OKUN: Okay. I appreciate that.
14 Obviously I'll be looking at that carefully, but I was
15 just trying to understand just in terms of generally
16 how it fit in with what I was hearing from the
17 industry witnesses.

18 And then just before we move to a different
19 area, with respect to the product mix tell me what you
20 think the impact is on the product mix that would
21 likely compete in the U.S. More higher value? Is
22 that what I hear you saying?

23 I mean, you think that the reason that
24 you've mentioned the Chinese plant several times is
25 that it allows them to focus more or likely to sell

1 more of the regulated CMC?

2 MS. GRUBER: It provides more flexibility,
3 and just like the Akzo plant it's able to in Italy
4 make products that go into more of the lower margin
5 markets, oil field and some of the specialties.

6 By having that flexibility you can free up
7 the regulated plants and then service that market,
8 which tends to be the high profit, higher net selling
9 price.

10 CHAIRMAN OKUN: Okay. I may come back to
11 some questions on that.

12 Let me turn now to the demand side and what
13 was seen in the oil field market and how we should
14 take that into account in looking forward. I know a
15 couple of you have mentioned it. Mr. Pappas, I think
16 maybe it's your area of expertise.

17 You talked about the increase now, that
18 you're seeing an uptick in demand. What do you see in
19 demand going forward in the various segments? First
20 you and then Ms. Gruber. Future demand.

21 MR. PAPPAS: As you would imagine, the oil
22 field industry is quite cyclical, so a lot of people
23 are trying to still answer that question, how long
24 will this activity occur in the United States.

25 Our expectations and what we hear from the

1 large, multinational service companies who are
2 involved with this activity is that they expect it to
3 continue at least for the next several years here in
4 the United States.

5 So there's a lot of activity, a lot of
6 growth for drilling fluids, which is where you find
7 the use of CMC. We see more activity coming in from
8 China. We're seeing CP Kelco China material coming in
9 as well.

10 And as Ms. Gruber mentioned, that
11 essentially is freeing up their capacity in their
12 other plants to produce more of the higher value
13 regulated products. So those plants are quickly
14 filling up for them in China.

15 CHAIRMAN OKUN: And when you and Ms. Gruber
16 sit down and look at production, assuming you do -- or
17 maybe, Mr. Panichella, you can answer this one. But
18 when you're looking at projections going forward in
19 terms of what the product mix will be for what you are
20 going to sell, do you see a change?

21 It looks like in our record that you did see
22 a change in where more product was being sold, which
23 parts of the market segments, Ms. Gruber or Mr.
24 Pappas, is going to have more --

25 MR. PAPPAS: I'll let Ms. Gruber comment on

1 the product --

2 CHAIRMAN OKUN: Okay.

3 MS. GRUBER: We hope to continue to have the
4 growth in the regulated markets which are key to us in
5 civil engineering, like Zissis mentioned in the
6 specialty side. Those all have added value.

7 The concern is with the order if it were
8 removed that we would not be able to compete as much,
9 and that's why I gave the examples of CP Kelco coming
10 in already even when we're experiencing price
11 pressures, cost pressures on the cellulose, and
12 starting to try and regain the market share.

13 CHAIRMAN OKUN: And how does the use of
14 substitute products play in either of or any of the
15 fields, the different end uses that you have? Other
16 Respondents have raised that as eroding.

17 MS. GRUBER: Not significant. There are
18 multiple hydrocolloids that will go into food
19 applications, but they all provide a different kind of
20 functionality.

21 So in general for the oral care market, for
22 a lot of the processed food market, we would see
23 continued growth on a GDP type of level, and then for
24 the other markets I'll let Zissis comment.

25 MR. PAPPAS: For what we call the industrial

1 side, the oil field and the specialties, there have
2 been attempts, as I've mentioned in my testimony, with
3 the use of crude CMC, but I'm not aware of any
4 successes with alternative products.

5 MR. KLETT: Commissioner Okun, this is Dan
6 Klett.

7 CHAIRMAN OKUN: Yes?

8 MR. KLETT: One specific substitute that
9 Amtex mentioned in their brief was guar, and I think
10 they mentioned that Aqualon was importing guar from
11 India. We discussed that yesterday, and I think if
12 they could just touch on that specific product?

13 CHAIRMAN OKUN: Yes. Thank you.

14 MR. PAPPAS: If you take a look at the oil
15 field activity, there's many, many products that are
16 used and sometimes there's confusion as to what is
17 drilling. There's many components in the oil field.

18 The drilling segment is where we use CMC.
19 You read quite a bit about hydraulic fracturing today,
20 and this is an event where they use guar, a
21 significant amount of guar that is imported from
22 India. So all of our imports for guar are heading
23 into the fracturing or stimulation segment of the U.S.
24 oil field market. They're not being used as a
25 substitute for CMC in the drilling application.

1 CHAIRMAN OKUN: So the stimulation -- and
2 the amount going in, the demand for the drilling
3 versus fracturing.

4 MR. PAPPAS: What you see mostly occurring
5 in the U.S. market today is the hydraulic fracturing
6 for the shale clays that are occurring throughout the
7 U.S. Again, there you're using guar, not CMC.

8 CHAIRMAN OKUN: Okay. And oil field and rig
9 counts we're familiar with. In a number of cases
10 they're looking at what future demand will be. For
11 your other end uses, what are your indicators that you
12 look at in forecasting demand in the immediate future?

13 MR. PAPPAS: For our industrial side of the
14 business?

15 CHAIRMAN OKUN: Yes.

16 MR. PAPPAS: Again, we expect continued
17 growth. As I mentioned, in two of the segments where
18 we use most of our CMC is in the paper coatings and
19 civil engineering.

20 I would say the civil engineering growth
21 opportunity is better than the paper coatings market.
22 We see much of the industry moving to the east, the
23 actual production of paper leaving the United States
24 and heading towards the east. So the civil
25 engineering. We see quite a bit of activity there and

1 expect growth.

2 CHAIRMAN OKUN: Okay. My red light has come
3 on, but perhaps for posthearing if you can just
4 include any forecasts for future demand in the
5 different market segments that we could make part of
6 the record? I'd appreciate that as well.

7 Vice Chairman Williamson?

8 VICE CHAIRMAN WILLIAMSON: Thank you, Madam
9 Chairman. I too want to express my appreciation to
10 the witnesses for their testimony.

11 Just continuing on the Chairman's line of
12 questioning, she had asked about forecasts, and I
13 guess, Mr. Pappas, you talked maybe on your series and
14 all of the product segments. I'd be interested in
15 what are your indices and what do you use to track
16 demand?

17 MR. PAPPAS: One key indicator that we use
18 in the oil field business is the rig count. There are
19 projections out there in the public domain regarding
20 the number of rigs that are being put in place, as
21 well as active rigs.

22 Our close contacts with the multinational
23 service companies provide us indications on projected
24 jobs that they will be in both onshore and offshore
25 and so we use that as an indicator on the oil field

1 side of the market.

2 Regarding the civil engineering, as I
3 mentioned, most of these are large projects that are
4 underway, and there are many sources of information
5 that you can go out again in the public domain,
6 whether it be a dam project or numerous other civil
7 engineering types of projects that we will use, plus
8 input from our customers as well.

9 Paper coatings. As I mentioned, it's a
10 little more constant in terms of the demand. We get
11 most of our input from customers regarding new demand
12 being placed on their assets, which then we respond to
13 what their future needs are.

14 VICE CHAIRMAN WILLIAMSON: Thank you. Ms.
15 Gruber, what about for the personal care and the food?

16 MS. GRUBER: For the personal care and the
17 food it's pretty much a normal growth. You've got the
18 toothpaste market where we work closely with the
19 customers and denture adhesives, so all of those are
20 growing on the 2 to 3 percent type of level.

21 As far as food, we don't see a large amount
22 of substitution with other products. There are some
23 places that you can use combinations of hydrocolloids,
24 but that is typically more dictated by performance
25 than it is by price.

1 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.
2 Mr. Pappas, back to you for a second. We're talking
3 about how energy prices are going up, but I guess
4 natural gas is not. Those prices are different. So
5 how do you factor that into your --

6 MR. PAPPAS: Most of the activity today you
7 read about is they're going after oil, not natural
8 gas. The price of oil continues to rise. I'm not
9 sure where it closed yesterday. It may have been down
10 slightly. But that's sort of the sleek spot for the
11 service companies to go after.

12 The use of the guar, as well as CMC for
13 drilling. Again, they can be used both for natural
14 gas and oil. You can use the product in either event,
15 but today most of the activity, if not all of the
16 activity, in the United States is for oil.

17 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.
18 I've seen some discussion about cross-linked CMC, a
19 product outside the scope. Could you describe this
20 product and explain how it differs from purified form
21 CMC in its uses and production?

22 MS. GRUBER: It's actually a cross-linked
23 material, so it's not reactive in the same way as the
24 standard purified carboxymethylcellulose. It can be
25 used in combination in certain areas like

1 microcrystalline cellulose to provide similar
2 rheology, fiber, things like that.

3 We do not make it in any of our plants so I
4 don't have complete expertise with the production, but
5 I believe that you can make it in similar equipment.

6 VICE CHAIRMAN WILLIAMSON: What impact? Is
7 its use growing, and what impact does it have on the
8 demand for CMC?

9 MS. GRUBER: Its use is probably growing.
10 Not as much in the United States as it is in the
11 emerging markets, but --

12 VICE CHAIRMAN WILLIAMSON: Is there a reason
13 for that?

14 MS. GRUBER: Not that I know of.

15 VICE CHAIRMAN WILLIAMSON: Okay. Okay.

16 MS. GRUBER: I think a lot of it is because
17 there's new companies that are making microstyalline
18 silica in emerging areas for cost reasons.

19 But for us, the difference between the two,
20 as Ed said, the one product actually swells and does
21 something totally different than the CMC, which is
22 going to give you the rheology, but there are probably
23 better experts in the room to answer that question.

24 As far as uses together, it's primarily for
25 applications that go into the food market, but each

1 product would have its own specific function.

2 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.

3 MR. PANICHELLA: I think the key reason for
4 us, Commissioner Williamson, for putting that in our
5 testimony was that the customers that buy both the
6 cross-linked and the purified are the same.

7 So these companies have relationships with
8 those accounts. They're approved with both purified
9 and cross-linked, so it would be very easy for them to
10 step in and get the CMC reapproved -- because it's
11 already approved -- to resell based on price into
12 those accounts, and that's the reason we kind of
13 brought that point to light.

14 VICE CHAIRMAN WILLIAMSON: You're saying
15 then that it may become a marketing advantage for your
16 competitors who can provide a company both?

17 MR. PANICHELLA: Yes.

18 VICE CHAIRMAN WILLIAMSON: Okay. Any way we
19 can measure that? I think, Mr. Klett, you had made a
20 reference to this too, which I didn't quite
21 understand.

22 MR. KLETT: Well, I think there is a way we
23 can measure it, and we can provide that in our
24 postconference brief, because one of the customers
25 where this effect will occur is a customer of CMC of

1 Aqualon, so we can provide some information to you in
2 terms of at least for that customer what the likely
3 volume effect would be based on the dynamics that were
4 just described.

5 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.
6 I appreciate that.

7 Do you agree with Akzo that we should be
8 looking only at the data for it and not for CP Kelco,
9 that facility, when we think about the Netherlands?

10 MR. LEBOW: I think when you're going
11 forward you can't look at the CP Kelco Dutch facility
12 because everything we've read suggests that it's not
13 going to be rebuilt and we're looking at a prospective
14 injury so that the CP Kelco Dutch facility is not
15 going to be contributing to that prospective injury.

16 VICE CHAIRMAN WILLIAMSON: I see. Okay.
17 Akzo also makes some arguments regarding the relative
18 market power comparing Akzo to CP Kelco. So do you
19 agree with the characterization of the relative market
20 power, and how should this affect our analysis?

21 MR. KLETT: Commissioner Williamson, this is
22 Dan Klett. I don't agree because their analysis of
23 market power relates to their current position in the
24 U.S. market, and we believe that in large part that's
25 due to the order.

1 So, yes, they are a small player in the U.S.
2 market now due to the order and the dumping duties,
3 and so based on that they may not have much market
4 power, but, as Ed said, this is prospective and the
5 question is what's likely to happen going forward.

6 You know, Akzo is a large company with not
7 insignificant CMC in the world, so in that degree I
8 don't think they are a price taker as they
9 characterized as well.

10 VICE CHAIRMAN WILLIAMSON: How much credence
11 should we give to their argument about focusing on the
12 high end products?

13 MR. LEBOW: Maybe Mr. Panichella can add to
14 that. I would just say that since there's a dumping
15 order in the United States, the United States market
16 perhaps is less attractive so that during the last few
17 years other products or other markets became more
18 attractive for them.

19 But there's no reason why in the future if
20 the dumping order were revoked the United States
21 market would not then become the most attractive
22 market, and there would be substantial switchbacks to
23 the kind of behavior we saw from Akzo prior to the
24 imposition of the order.

25 MR. PANICHELLA: Yes. I think if you look

1 at the regulated market, Mr. Williamson, in the United
2 States it's an attractive market.

3 So I could contend that my strategy today
4 with a dumping order in place is to serve other
5 markets, but my strategy can change depending on how
6 the order is decided upon going forward, and if the
7 order is revoked I think it would become very clear
8 that the strategy would change.

9 The U.S. is an attractive market, and they
10 would penetrate that market by changing customers out
11 from other segments that they have to upgrade their
12 product mix and sell into a more attractive space.

13 VICE CHAIRMAN WILLIAMSON: Okay. Thank you
14 for those answers.

15 How useful are our AUVs for price
16 comparisons and are there significant differences of
17 product mix among the countries at issues or changes
18 in product mix that you're aware of?

19 MR. KLETT: One of the advantages of the way
20 the Commission collected data is that you collected
21 volume and value data not only for total sales to the
22 U.S. and export markets; you also collected the data
23 for each of the different market applications -- food,
24 regulated, oil.

25 So we looked at that as well to control for

1 possible product mix factors that might affect whether
2 if you look at the AUV comparisons the U.S. is higher
3 than alternative export markets, and I think even when
4 you look at the AUV comparisons, U.S. versus other
5 markets, for specific sectors it generally shows the
6 U.S. market to be attractive.

7 So product mix can be a significant factor
8 affecting overall AUV comparisons and can cause
9 distortions, but I think you've collected some data at
10 more precise levels to enable to control for that
11 possible distortion.

12 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.
13 My time has expired, so I'll have to come back to
14 that. I thank the witnesses for their answers.

15 CHAIRMAN OKUN: Commissioner Lane?

16 COMMISSIONER LANE: Thank you, and thank the
17 witnesses for coming here today.

18 Dr. Klett, you talked about an analysis that
19 you had performed to determine what the effect would
20 be if the orders were revoked.

21 MR. KLETT: Yes, Commissioner.

22 COMMISSIONER LANE: Can you provide that
23 posthearing for us?

24 MR. KLETT: Yes. We had part of it in our
25 prehearing and some of the detail was, but we'll

1 provide the detail in our posthearing.

2 COMMISSIONER LANE: Okay. Thank you. I
3 want to make sure that I understood what you were
4 saying. I think maybe it was Mr. Lebow.

5 Are you conceding that Sweden no longer has
6 any production and should not be included in the order
7 if we maintain the order?

8 MR. LEBOW: I am definitely conceding that
9 Sweden should not be continued in the order. We said
10 that in our filings previously. The plant is gone.

11 In response to Commissioner Williamson I was
12 also saying that when you do your prospective analysis
13 of the Netherlands you cannot include the CP Kelco
14 because that also was gone, so your analysis for the
15 Netherlands must be based entirely on Akzo.

16 COMMISSIONER LANE: Okay. Thank you. In
17 the past five years have there been any technological
18 developments either product-wise or process-wise that
19 we should know about in looking at the economics of
20 producing purified CMC?

21 MS. GRUBER: For us in the Hopewell,
22 Virginia, plant, we've been able to do a lot of the
23 things that we could not for investments before the
24 order, so it hasn't been anything that's been
25 tremendously innovative.

1 A lot of it is around dryer automation, the
2 particle size control that we needed in order to
3 service some of the customers that require coarse
4 particles. But as far as anything that was
5 groundbreaking, no, Ms. Lane. We don't have that.

6 COMMISSIONER LANE: Okay. Thank you. In
7 the prehearing briefs there's some discussion of the
8 raw material that's used to make purified CMC,
9 including whether cotton linters or wood cellulose is
10 used. Please explain why this matters and why this is
11 relevant, if at all, to our analysis.

12 MS. GRUBER: It's not completely relevant.
13 There's only certain cases in Europe where you have to
14 use wood products because of genetically modified
15 organism rulings. That's not common in the U.S.

16 That is part of the reason that we do bring
17 some of the material from France, a small volume,
18 probably less than 5 percent, is simply because
19 customers have to comply with the European rulings.

20 COMMISSIONER LANE: Okay. Thank you.

21 MR. PANICHELLA: I think I'd like to add one
22 other perspective to give you some broader perspective
23 on that question and where it is maybe relevant.

24 If you look, it's been widely publicized
25 what's happened to cotton prices in the world. In the

1 past 12 to 14 months, cotton prices have more than
2 doubled. So what we used to pay around \$1,500 per
3 metric ton for this raw material, they're now in
4 excess of \$3,000 per metric ton.

5 So as it pertains to the dumping order, our
6 ability to pass on those costs to customers is very
7 relevant, and we think that part of the reason we've
8 had some success in doing that is because of the
9 dumping order, so I think it's very relevant that
10 we're able to pass on what has been a very significant
11 run up in raw material costs.

12 COMMISSIONER LANE: This next question has
13 BPI information so I'm going to have to ask it very
14 vaguely. But as I read the report, a lot of your
15 product is sold from inventory, and some of it is sold
16 based upon a specific order.

17 In looking at the lead times, why would it
18 take so long to sell from inventory if the product is
19 already there? Don't they just go in and say hey, I
20 want that and take it?

21 MR. PANICHELLA: Well, I think the easiest
22 way to think about that is we make somewhere in excess
23 of 400 or 500 SKUs of individual products that go
24 through a production cycle from A to Z that takes over
25 60 days and so we do not inventory all of those

1 products, okay? That's not what we do.

2 We inventory some of the high volume
3 products, but we clearly don't try to inventory all
4 products that go in that production cycle of 60 days.
5 So I think the answer to your question is we inventory
6 the high volume products and we make the order in that
7 60 day production cycle the other products that are
8 not being inventoried.

9 COMMISSIONER LANE: Okay. But if it's in
10 inventory, why would you not be able to make immediate
11 delivery?

12 MR. PANICHELLA: I don't think there's any
13 reason we won't, and we have data that tracks what we
14 ship as far as customers on time based on their order
15 date, so I don't think that's something that I
16 understand.

17 MR. BEHAR: If we have material in inventory
18 that meets the customers' requirements you can ship in
19 advance of that.

20 The made-to-order products, which are
21 generally customer specific materials -- it may be a
22 special package, may be a special process -- those
23 products typically have the extra lead time, but that
24 way they can get into the production cycle and our
25 customers are able to predict in advance so they order

1 in advance.

2 COMMISSIONER LANE: I would appreciate for
3 posthearing if you would take a look at that table
4 that shows the lead times for your sales out of
5 inventory and give me an explanation. Thank you.

6 MR. LEBOW: Thank you. We'd be happy to do
7 that.

8 COMMISSIONER LANE: Thank you. In the
9 responses to the notice of institution and prehearing
10 briefs, it appears that none of the parties are
11 arguing for a different like product than the
12 Commission found in the original investigation. Is
13 this the case?

14 MR. LEBOW: That is the case as for Aqualon.

15 COMMISSIONER LANE: Okay, thank you. What
16 is required in terms of time and money for a plant to
17 be qualified to produce food-grade purified CMC?

18 MS. GRUBER: From a timing standpoint, it
19 can depend. And we noticed after the first hearing
20 that it came up on the website for Finland for their
21 CP Kelco plant in 2005 that their HACCP program, which
22 is the critical control point program, was underway.
23 From the data that we've seen and from customer
24 information, we believe that they were probably able
25 to start selling in 2006-2007, but that's not

1 confirmed by anything in documents.

2 So you can probably do it in a matter of a
3 year to two years. And as far as the cost, it depends
4 upon whether you do things internally to certify
5 yourself or how many external audits and things that
6 you need.

7 COMMISSIONER LANE: Okay, thank you. When
8 asked whether substitutes for purified CMC exist, a
9 number of substitutes were listed in the questionnaire
10 responses for certain applications. That's in the
11 staff report, pages 210 and 211, and were also
12 discussed in the Amtex prehearing brief. Are there
13 any substitutes that closely compete with purified CMC
14 in price or major application?

15 MS. GRUBER: No.

16 COMMISSIONER LANE: And has there been a
17 trend toward increased use of substitutes for purified
18 CMC since the order went into place?

19 MS. GRUBER: No.

20 COMMISSIONER LANE: Okay, thank you. Madame
21 Chair?

22 CHAIRMAN OKUN: Commissioner Pearson.

23 COMMISSIONER PEARSON: Thank you, Madame
24 Chairman. I also would like to welcome the witnesses,
25 and I would agree with Mr. Panichella that if the

1 finished plant had been certified in the time of the
2 original investigation, as it is certified now, it
3 would have been challenging even for me to find a
4 basis for decumulating Finland in terms of lack of
5 fungibility.

6 MR. PANICHELLA: Thank you.

7 Perhaps Mr. Wolff is the best person to
8 answer this question because it goes back to an
9 allegation that was in the original investigation, and
10 that is that we were being -- we were hearing from
11 Respondents that there was kind of a lack of a
12 customer service ethic in Aqualon at that time, and
13 they saw that as a condition of competition.

14 Could you comment either whether there might
15 have been some problems? And if so, do they still
16 exist, or has there been a change in customer focus?
17 Or do you just not think there is any credibility to
18 those allegations, even going back to the original
19 investigation?

20 MR. WOLFF: Excuse me. Is your question
21 back in 2005 or recent?

22 COMMISSIONER PEARSON: No. I'm starting in
23 2005, yes.

24 MR. WOLFF: Okay. Back in 2005, our service
25 levels and support to the customers was actually very

1 good at that point. So I'm not sure where those
2 allegations came from.

3 COMMISSIONER PEARSON: Well, from customers.
4 Ms. Gruber, are you familiar with this?

5 MS. GRUBER: A little bit. And I think to
6 answer the question that we didn't have a lot of
7 investments specifically focused on CMC because we
8 were in a spiral in the wrong direction from the
9 business. And today I'm happy. In my presentation
10 that I gave, I talked about two different new product
11 developments that were made as a result of working
12 closely with our customers. And we continue to be
13 very proactive in looking for new opportunities and
14 new applications for CMC.

15 So I might not have agreed with what they
16 said back then, but I think that we've come a long
17 way, and it's because of the order.

18 COMMISSIONER PEARSON: Right. And then the
19 reason I raised this is because it strikes me as
20 interesting that I don't see those allegations in the
21 current record, unless I've just missed them.

22 MR. PANICHELLA: Well, one thing I will add
23 that we have instituted in the past five years -- so I
24 can't comment on the previous. But we now have a
25 pretty rigorous measurement of our ability to serve

1 those customers. And while we still have room for
2 improvement, we've made pretty significant in our
3 capabilities, in our ability to meet their
4 expectations. So room for improvement, but we've made
5 a lot of progress.

6 COMMISSIONER PEARSON: Okay. Well, I have
7 some experience in customer service, and it's just an
8 ongoing challenge. So I have some empathy.

9 This question has to do with the reality
10 that Aqualon is the sole domestic producer with the
11 capacity to serve only a portion of the U.S. market,
12 okay? So given that U.S. demand for CMC is
13 substantially greater than Aqualon's U.S. production
14 capacity, Ms. Gruber, wouldn't you expect to have to
15 lose quite a bit of competition for business because
16 you can't win all of the business that's out there.

17 MS. GRUBER: Well, I don't like to lose
18 business. But in a competitive environment that's
19 fair competition, I do agree that you have to find
20 ways to differentiate yourself and service the market.
21 So I think that without the order, if it gets back to
22 the unfair basis that had been in the past, that's
23 where we're at risk because I want to compete, but I
24 want to compete fairly.

25 COMMISSIONER PEARSON: Okay. But, I mean,

1 from your testimony, I was getting the feeling that
2 you thought that there was really -- that it was a
3 surprise that Aqualon wasn't winning all the business.

4 MR. PANICHELLA: I think you have to look
5 also, Commissioner, at the segments of the market.
6 So, yes, while we can't serve the entire U.S. market,
7 the markets that, you know, this order really revolves
8 around are more the regulated markets, and we clearly
9 have capacity to serve the entire regulated market.
10 So while the U.S. market is larger than the regulated
11 market, that's kind of the area of focus for us, and
12 we do have capacity to serve that market.

13 COMMISSIONER PEARSON: Okay. In the
14 original investigation, we didn't dig into the
15 possibility of attenuated competition and trying to
16 split the market into segments. And we acknowledged
17 that there were different segments, but I don't recall
18 that we had the view that some were more desirable
19 than others.

20 In this investigation, should we putting
21 more emphasis on the regulated portion?

22 MR. KLETT: Commissioner Pearson, this is
23 Dan Klett. I think the point that's important, the
24 imports, the subject imports, are in all segments of
25 the market, the regulated and the nonregulated. And

1 so I don't think that you should split the market or
2 segment the market among the different segments. I
3 think the point that Karen and John are making is that
4 the regulated markets -- and this is a point I made in
5 my testimony as well, that the regulated markets are
6 the higher margin markets for Aqualon.

7 So in terms of their -- or threats to their
8 margin, that's where they see most of the risk. Now,
9 because for them -- we were talking about this
10 yesterday. You've got to fill your plant, so
11 obviously filling your plant with the oil field and
12 the nonregulated grades just so you're operating as
13 close to full capacity as you possibly can is very
14 important. But from a margin perspective, the
15 regulated grades are far more important. And I think
16 that's the distinction we want to make.

17 COMMISSIONER PEARSON: Okay. Thank you.
18 Ms. Gruber, are you also in charge of selling CMC that
19 Aqualon imports from France in the U.S. market?

20 MS. GRUBER: I'm globally responsible for
21 the CMC business, yes.

22 COMMISSIONER PEARSON: Okay. So when you
23 meet with a customer in the United States, are you
24 able to offer them either product produced in the
25 United States or produced in France?

1 MS. GRUBER: We can, although most of the
2 product that's produced in France serves two purposes.
3 One was the paper market, where they needed the coarse
4 particle size, and the second one is the food grade
5 for the non-GMO, the genetically modified. And that's
6 not a large enough business to change over the plant
7 in Hopewell to service.

8 As I mentioned, the imports for that would
9 be probably less than 5 percent of the imports that
10 we've had. And the new diverter system at Hopewell is
11 going to help us to not have to bring in the material
12 from France.

13 COMMISSIONER PEARSON: Okay. So then you
14 would expect that Aqualon would reduce its overall
15 sales in the U.S. market by no longer selling French
16 product.

17 MS. GRUBER: We won't reduce our sales. We
18 would supplement those with the material from
19 Hopewell.

20 MR. PANICHELLA: Today, think about it like
21 this. Today, we have a capability issue in Hopewell.
22 We can't produce the coarse grade. So we put in
23 capital to allow us to produce the coarse grade,
24 therefore that we won't have to have the need to
25 import French material. The only reason we had to

1 import the French material is we couldn't make the
2 product in our Hopewell plant. So we put in the
3 capital so now we can make the product, therefore we
4 don't need to import the French material. We can make
5 it in the Hopewell plant.

6 COMMISSIONER PEARSON: So are you
7 anticipating in the reasonably foreseeable future that
8 you'll be importing less from France?

9 MR. PANICHELLA: Yes.

10 MS. GRUBER: Yes.

11 MR. PANICHELLA: Because we won't need to
12 import it. We can make it in the United States.

13 MR. LEBOW: In fact, I think if you already
14 look at the last half of 2010, the imports from France
15 are way down because of the new diverter capability
16 for the coarse particle sizes at Hopewell.

17 COMMISSIONER PEARSON: Okay. Well, maybe
18 the question should be addressed to Mr. Pappas,
19 because you're the one who is out there dealing with
20 paper customers. You're now in a position where
21 you're able to offer a product from Hopewell that
22 would meet the needs of most U.S. paper producers. Is
23 that a correct way to understand it?

24 MR. PAPPAS: Correct.

25 COMMISSIONER PEARSON: Okay. And in the

1 past, you had been selling product from France for
2 that purpose?

3 MR. PAPPAS: Correct.

4 COMMISSIONER PEARSON: And you're now
5 selling less from France and more from the United
6 States?

7 MR. PAPPAS: Yeah. Well, the intent is not
8 to import the material into the United States because
9 of the costs associated with it. It's a very price
10 sensitive market, so we're looking at ways to optimize
11 our position and have local production available for
12 these paper customers.

13 COMMISSIONER PEARSON: Okay. Just out of
14 curiosity, you know, since the original investigation,
15 the dollar-euro exchange rate has shifted quite a bit,
16 such that it is now relatively more expensive to bring
17 product from Europe into the United States. Is that
18 an issue in the whole interest of Aqualon in --

19 MR. PAPPAS: Well, it's certainly an
20 incentive to have the material produced in the United
21 States.

22 COMMISSIONER PEARSON: Okay.

23 MR. PANICHELLA: But I think the bigger
24 issue is capability. We could not produce it in the
25 United States at the original time. We've since

1 changed that. We can now produce it. Therefore, we
2 will produce it in the U.S. for the U.S. market.

3 COMMISSIONER PEARSON: Right, okay. But Mr.
4 Pappas had made note of the price sensitivity of
5 bringing product in from France, and I can understand
6 that, given the exchange rates.

7 Madame Chairman, my time has expired.
8 Thanks.

9 CHAIRMAN OKUN: Commissioner Aranoff.

10 COMMISSIONER ARANOFF: Thank you, Madame
11 Chairman. And I join my colleagues in welcoming all
12 the witness on the panel here this morning. I want to
13 pick up where Commissioner Pearson left off and just
14 round out the question about nonsubject imports that
15 Aqualon has been making.

16 Am I correct in understanding that all of
17 the imports that you've brought in from France have
18 been for these two applications, the coarse grain that
19 you previously couldn't make and the non-GMO?

20 MS. GRUBER: The coarse grade and the non-
21 GMO, and then there is a couple of multinational
22 pharmaceutical customers that use very specific, very,
23 very small amounts.

24 COMMISSIONER ARANOFF: Okay. So everything
25 that you're bringing in from France or were bringing

1 in from France was something you didn't make here.

2 MS. GRUBER: That's correct.

3 COMMISSIONER ARANOFF: Okay. If there is
4 anything else that you want to add about nonsubject
5 imports -- because I don't want to get into
6 confidential information about where they're coming
7 from. But I would like to know with respect to all
8 the nonsubject imports that you're bringing in whether
9 they are products that you produce or could produce in
10 the U.S. and are complementary, or whether they're
11 things that you can produce here but have chosen to
12 import for other reasons. That would be helpful for
13 the record.

14 I want to switch gears for a minute and ask
15 a question about cumulation. And particularly, Akzo
16 Nobel makes an argument in their brief where they
17 argue that because they're a smaller producer globally
18 than either Aqualon or CB Kelco, that when they sell
19 product in the U.S. market, they're a price taker, and
20 they would always be a price taker, and that as a
21 consequence of that, they would compete in the U.S.
22 market if these orders were revoked under different
23 conditions of competition than other subject
24 producers.

25 Can you respond either to the premise that

1 they're a price taker in the U.S. market or to the
2 argument with respect to whether that creates a
3 different condition of competition?

4 MR. LEBOW: Let me begin, then perhaps Mr.
5 Klett or Mr. Panichella would like to add something.
6 I think the first thing you have to do is look back to
7 the conditions of competition before the orders were
8 entered because that is the better predictor of what
9 Akzo is going to be doing afterwards and what they
10 were doing during the period of the order.

11 As Mr. Panichella said, they can change
12 their business plans to meet the enticement of a
13 better market there in pretty short order. So I don't
14 think that they had proved to be price takers in the
15 past, nor do I think they will necessarily be price
16 takers in the future, nor do I think that their
17 capacity was particularly limited in the past to sell
18 to the U.S., nor do I think it will be in the future.

19 MR. KLETT: No. I have nothing to add. I
20 mean, I think I agree with the points made by add that
21 I think the price taker argument is premised on their
22 volumes in the U.S. market during the review period,
23 and I think that was -- they were small due to the
24 order. And you really have to look at their capacity
25 and also go back to pre-order conditions.

1 MR. LEBOW: And in fact, during the last
2 review, where they still were making some sales in the
3 U.S. during the order period, they were found to be
4 dumping at nine and a fraction percent. This is
5 actual calculated margins during -- I think it was the
6 2008-2009 period. So, you know, they were selling in
7 the U.S., and they were selling at substantial dumping
8 margins.

9 COMMISSIONER ARANOFF: I think in this case
10 perhaps the elephant in the room that people aren't
11 really talking about is the industry in China. And I
12 wanted to ask some questions about that.

13 First of all, do we know, and is the
14 information available, to what extent the capacity
15 that has been built up in China reflects investments
16 by existing multinational producers versus new
17 indigenous Chinese players that have come on the
18 market?

19 MR. PANICHELLA: Well, there is a lot of
20 information, but none of it by a published source. So
21 it's compiled from a variety of different sources.
22 There is not like a published report that you can go
23 out and get on the CMC industry in China.

24 However, the vast majority of the capacity
25 that's in China is non-purified grades, low-purity

1 grades. There are several producers that have high
2 purity facilities in China, but it's a less than 5
3 percent of the market. The majority of the market is
4 low purity. But there is no published public
5 information. You have to piece information together
6 to kind of get a picture and a perspective of what the
7 Chinese market is like.

8 COMMISSIONER ARANOFF: Well, if there is
9 information or market intelligence that you rely on
10 that you would be willing to submit for the record
11 that would help us to sort out, I'd really like to
12 divide up what we know about the capacity in China
13 between what is controlled by global companies, what
14 is controlled by Chinese companies; and among that,
15 what is produced in purified CMC versus other products
16 that aren't as relevant to this review. Okay. So
17 whatever you can offer on that.

18 MR. LEBOW: For the record, we will do so.

19 COMMISSIONER ARANOFF: Thank you. Are you
20 aware of Chinese producers who are currently certified
21 to provide food-grade or personal care product
22 customers?

23 MR. PANICHELLA: I'm not.

24 COMMISSIONER ARANOFF: Ms. Gruber?

25 MS. GRUBER: There are differences in

1 regulations for food-grade in China versus food-grade
2 in the U.S. And so in China, you can be at 95 percent
3 purity. As I mentioned in my testimony, you have to
4 be 99.5 percent purity in the U.S.

5 COMMISSIONER ARANOFF: Okay. So you're
6 saying they can supply those applications in China,
7 but not if the ultimate product is coming to the U.S.
8 sale or if the CMC itself is coming to the U.S. for
9 sale?

10 MS. GRUBER: That's correct. There are two
11 different specifications and two different
12 requirements.

13 MR. PANICHELLA: Many U.S. producers are
14 very hesitant to approve Chinese products into food
15 based on the melamine crisis that happened in China a
16 couple of years ago. And so there are a lot of
17 barriers, you know, based on risk profile that
18 companies are willing to accept to approve Chinese
19 producers, and most of them just aren't willing to
20 take that risk.

21 COMMISSIONER ARANOFF: And if you're a U.S.
22 company and you're producing -- well, purchasing a
23 Chinese product, a downstream product, that uses CMC
24 as an ingredient, the CMC that you use when you
25 manufacture the product in China has to meet the U.S.

1 purity standard in order for the end product to be
2 imported, or no?

3 MR. PANICHELLA: It depends. The China
4 regulation for food, as Karen said, is 95 percent
5 purity in the food. However, multinationals that go
6 there have a different standard to protect their
7 brands, et cetera. So if I were Procter and Gamble in
8 China, I may operate above the China law standard of
9 95 percent. I may operate to the high purity
10 standard.

11 COMMISSIONER ARANOFF: But are you required
12 to do so by U.S. law in order to import that product?

13 MR. PANICHELLA: No.

14 COMMISSIONER ARANOFF: No.

15 MR. PANICHELLA: It's a company-by-company
16 standard in China, and you have to meet the minimum
17 requirement at 95 percent, but then on a company-by-
18 company basis, they dictate which -- you know, what
19 their formulas call for.

20 COMMISSIONER ARANOFF: Okay, right. So do I
21 take it from that that as marketers of the food-grade
22 product in the United States, you're not that worried
23 in the immediate future about competition from Chinese
24 producers, or you are worried?

25 MR. PANICHELLA: I'm not that concerned.

1 COMMISSIONER ARANOFF: Okay. My
2 understanding is that the subject -- because of the
3 two plant closures, the subject capacity of AP Kelco
4 is lower now than it was at the time of the original
5 investigation. Is that correct?

6 MR. LEBOW: In terms of the company-wide
7 subject total, which doesn't include their China
8 plant, it would be lower, yes. But their capability
9 has been restructured because of the GMP authorization
10 in the other plant.

11 COMMISSIONER ARANOFF: Okay. So that was
12 actually the next thing I was going to ask, was
13 globally, is their capacity higher or lower if you
14 include their Chinese plant?

15 MR. LEBOW: About the same, I think.

16 COMMISSIONER ARANOFF: About the same.
17 Okay. My time is almost up, so I will come back in
18 the next round. Thank you.

19 CHAIRMAN OKUN: Commissioner Pinkert.

20 COMMISSIONER PINKERT: Thank you, Madame
21 Chairman. And I join my colleagues in thanking all of
22 you for being here today. I want to begin with some
23 questions about Amtex, the Mexican company. What
24 would Amtex likely do differently in the U.S. market
25 in the event that the order on Mexico is revoked?

1 MS. GRUBER: I think that basically what
2 would happen -- we've seen them in certain customers
3 that are in the food market as well as in the personal
4 care market, where they've come in and offered more
5 aggressive pricing. If the order were not there to
6 keep them understanding of the fair market value, they
7 might continue to come in at lower pricing and
8 underprice the Aqualon business.

9 MR. KLETT: Commissioner Pinkert, this is
10 Dan Klett. I think also the premise of that question,
11 I think, is that because the margins for Amtex are so
12 low that the orders have had no restraining effect
13 on --

14 COMMISSIONER PINKERT: I was going to get to
15 that with my next question, but go ahead.

16 MR. KLETT: And I think there is a problem
17 with that premise, and that is that even if you have a
18 2 percent dumping margin, that may reflect price
19 discipline in the market, their prices in the U.S.
20 being higher than they otherwise would be in order to
21 obtain low dumping margins.

22 So I don't think the premise that because
23 the dumping margin is low that there is really no
24 restraining effect, and therefore, if you take the
25 dumping order off, their behavior will not change. I

1 don't think that's a correct premise on their part.

2 COMMISSIONER PINKERT: Now, staying with
3 that, Mr. Klett, as you know, dumping margin is based
4 on a comparison. And we don't have to get into the
5 details of that comparison here. But rather than
6 basing the point that you're making right now on a
7 comparison, is there any way that you can show simply
8 that the pricing of Amtex has been affected in some
9 way by the order? In other words, not so much their
10 pricing relative to their pricing somewhere else or
11 relative to their cost, but just a time series of
12 their pricing and how it might have been affected by
13 the imposition of the order.

14 MR. KLETT: There is. We have data going
15 back to the investigation period as well as the review
16 period. And I've done this for imports overall, just
17 to see if from '04 to '05, for example, there was a
18 changing in pricing behavior. That would be a good
19 test of what the effects of the order were on pricing.
20 So the data itself are confidential, but that would be
21 one methodology to evaluate the effects of the order
22 on pricing.

23 COMMISSIONER PINKERT: And could you look at
24 that specifically in regard to Amtex for purposes of
25 the posthearing submission?

1 MR. KLETT: I will do so.

2 COMMISSIONER PINKERT: Thank you. Now, for
3 purposes of cumulation, there has been some talk today
4 about the cumulation issue. Is it your contention,
5 Mr. Lebow, that there is any structural difference
6 between the Dutch industry and the Mexican industry
7 that might guide in some way our cumulation analysis?
8 And by structural, I mean here differences that are
9 likely to persist over time in terms of the way that
10 they compete in the U.S. market or compete with regard
11 to one another.

12 MR. LEBOW: Without getting into proprietary
13 information, the thing that comes most rapidly to my
14 mind is that -- well, two points. In the original
15 investigation, you know, it was found that there was a
16 cumulative impact, that they were in the same market
17 segments, food especially, that similar patterns of
18 distribution, similar geography -- I think if I were
19 forced to point out a distinction going forward, I
20 think it would have to do with the capacity. I think
21 that probably given their overall size, that Akzo may
22 have greater flexibility in reaching their capacity,
23 given their structure.

24 COMMISSIONER PINKERT: Thank you. For
25 purposes of the posthearing, if you could look at the

1 proprietary information and flesh that out a little
2 bit, that would be helpful.

3 Now, turning to the issue of vulnerability
4 -- and I understand that there hasn't been much
5 emphasis on that question today. But I just wanted to
6 nail it down. Is it your contention, just looking at
7 a snapshot of the industry right now, that the
8 industry is vulnerable? And by no means is this issue
9 dispositive of the analysis that we're supposed to do.
10 But I just want to get that question answered. And I
11 see that Mr. Klett is smiling, so perhaps he has an
12 answer to that.

13 MR. KLETT: This was a question that we send
14 Mr. Lebow would answer, and that's why I was smiling.
15 So I'll let Ed answer it.

16 MR. LEBOW: Okay. I'll go ahead then. You
17 know, obviously with the positive results of the last
18 couple of years, it's hard to come in and say the sky
19 is falling, we're highly vulnerable. But we think
20 that if you looked at the -- certainly during the
21 earlier part of the review period, we would have been,
22 or Aqualon would have been, and that as this spike in
23 demand due to the closing of the Netherlands plant or
24 this change in Kelco supply capability is worked out
25 -- and it seems to be working out. In the last few

1 months, we've seen a lot more imports from Finland,
2 for example, and fewer of Kelco's customers coming
3 looking for help.

4 I think that we're returning, I would say,
5 to the position of vulnerability. And as you've heard
6 before, without overly differentiating the market, the
7 place where Aqualon makes much of its profit is in the
8 regulated grades, and that's a strong area for CP
9 Kelco. It's a strong area for Akzo. And with the
10 worldwide rationalization -- I think that's the word
11 they use for it -- that Kelco has for their production
12 -- and they are able to help themselves with lower
13 margin production from China -- we think that
14 particularly there is a vulnerability on the regulated
15 end from Finland and the Netherlands.

16 COMMISSIONER PINKERT: Now, in regard to
17 Akzo Nobel's prospective participation in the U.S.
18 market, I note that today this panel has placed a lot
19 of emphasis on Akzo Nobel's pre-order behavior as a
20 better predictor of how they might behave if the order
21 were revoked. And I understand that. But is there
22 anything on the record that is not pre-order that can
23 help us?

24 And I heard you refer to some degree to
25 capacity utilization figures. Is there anything that

1 you want to add to flesh out what is on the record,
2 not pre-order, that helps us understand their behavior
3 going forward?

4 MR. LEBOW: I think the one thing -- and I
5 again have to be very careful about BPI. We've
6 mentioned a particular customer in our brief. This
7 customer was a very large customer of Akzo Nobel's.
8 They are currently a customer of croscarmellose. They
9 have an ongoing business relationship. The subject
10 CMC is qualified there. It's custom revised in the
11 millions of pounds a year. In that customer's
12 questionnaire's response -- and I'm not going to quote
13 the language, just to be super careful, and we've
14 quoted this in our brief. The customer has said
15 things that indicate that price is an important factor
16 in their decision making once quality threshold is
17 met.

18 So we think that from the information in the
19 U.S. market from that customer, I think that it's fair
20 to suggest that there is a record information that
21 Akzo Nobel would be back.

22 COMMISSIONER PINKERT: Thank you very much.
23 Thank you, Madame Chairman.

24 CHAIRMAN OKUN: Ms. Gruber, let me turn to
25 you. You had in your testimony talked about the

1 ability of Aqualon to compete with -- in all of the
2 accounts, where the Mexican company is competing.
3 There has been discussion in Amtex's brief about
4 Azteca, which I think you had referenced. And I just
5 wanted to make sure that I understood exactly what
6 your argument is with respect to your ability to meet
7 that customer's needs, or whether there is anything
8 else on the record that we could look at to determine
9 whose description of this customer is accurate.

10 MS. GRUBER: In my testimony, I mentioned
11 the fact that we do sell to other tortilla or masa
12 manufacturers, or we had been selling until we were
13 underpriced at the particular account. So for us, we
14 have the ability to make the high-viscosity grain. We
15 have the ability to make the particle size that is
16 necessary. We have had some conversations with the
17 particular account that you mentioned, Azteca. But I
18 don't believe since 2004 -- I'm not sure whether we've
19 provided them any additional samples or anything that
20 they could get a reading on what our quality looks
21 like.

22 So I can't give you further insight into
23 their perspective.

24 CHAIRMAN OKUN: Okay. Thank you. Then
25 again I think I'll follow up to some of Commissioner

1 Pinkert's questions about post-order, where there
2 would be competition. And let me ask this in kind of
3 a cumulation context, which is with respect to the
4 segments of the market where the Mexicans have stayed
5 in versus what -- those segments of the market where
6 we have production from the Dutch. Do you think there
7 would be more competition in all segments if the order
8 were lifted, and if so, what evidence is on the record
9 that we could look at?

10 MR. LEBOW: I'm not sure I totally
11 understand your question. There certainly is
12 competition in food and personal care across the
13 board, which as far as we're concerned is wide enough.
14 I'm not able to speak to their participation in oil
15 field or paper, and perhaps Mr. Pappas can do that.

16 CHAIRMAN OKUN: Mr. Pappas?

17 MR. PAPPAS: Yeah. Very limited. We mostly
18 see activity from CP Kelco in the United States. But
19 the other two, limited activity in the oil field
20 markets.

21 CHAIRMAN OKUN: Okay. I just wanted to make
22 sure whether that had changed, or whether you saw
23 competition that is not on the record there. And then
24 with respect to the competition in the market -- and
25 again, I think was more Ms. Gruber, although Mr.

1 Pappas as well. Both today and in your prehearing
2 brief, you had talked about competition with subject
3 imports at specific accounts. And first, I just
4 wanted to make sure, is the information that you
5 described, both in the brief and today, are those all
6 accounts for U.S. sales?

7 MR. LEBOW: Yes. On the attachment 1 to our
8 brief, so it's all U.S. business within the last
9 several months really.

10 CHAIRMAN OKUN: Okay, okay. And so
11 everything that you've talked about is included in
12 that exhibit?

13 MR. LEBOW: Yes, that's correct, yes.

14 CHAIRMAN OKUN: Okay. All right. And I'll
15 go back and look at then and make sure. I mean, I'm
16 not sure if you can talk about this in public. But
17 with respect to the acquisition of Ashland in 2008,
18 can you describe the impact of that on your
19 operations?

20 MR. PANICHELLA: I think we've been really
21 pleasantly -- with, you know, the investment that
22 they're willing to make in our company, it has been
23 positive. So there has been really very little change
24 in the business. So I think for purposes of how we
25 run the company, almost no change.

1 CHAIRMAN OKUN: Okay. And then you had
2 talked about your capital expenditures during the
3 period of review and how that helped you, and a couple
4 have since competed in product lines that you didn't
5 previously -- were not previously able to produce.
6 Can you talk about -- I'm not sure if you can in a
7 public session -- but in terms of your planned capital
8 expenditures in the reasonably foreseeable future and
9 how that might impact competition or where you would
10 put your focus?

11 MR. PANICHELLA: Yeah. I think we'd prefer
12 to, you know, give you that kind of information in a
13 follow-up.

14 CHAIRMAN OKUN: Okay. I appreciate that. I
15 understand that. Just make sure -- just you can do
16 that in a follow-up. But I'll take a look at that as
17 well. And then there has been some discussion about
18 raw materials. And I think it was you who had
19 discussed about the ability to pass on these rising
20 costs. You had talked about cotton in particular, I
21 think, in those remarks.

22 What about for cellulose? What do you track
23 on that, and what evidence is there that those prices
24 increases have --

25 MR. PANICHELLA: Yeah. The two major raw

1 materials that CMC -- that we make our CMC with is
2 dissolving wood pulp and cotton linters. And they
3 track pretty careful -- I mean, they track pretty
4 closely as they -- you know, there are different price
5 points for the raw materials, but they pretty much
6 rise in unison because they're substitutes. You can
7 make the products either way.

8 The high viscosity products, however, you
9 can only make with cotton linters. And so -- but to
10 answer your question, the two have risen almost in
11 parallel up and down. They kind of move together.

12 CHAIRMAN OKUN: Okay. And are those indexes
13 that are available? They might be in the hearing
14 report, but I didn't see it.

15 MR. PANICHELLA: Cotton is an index that's
16 available.

17 CHAIRMAN OKUN: Right.

18 MR. PANICHELLA: I don't think wood pulp,
19 dissolving wood pulp, is an index that is available.

20 CHAIRMAN OKUN: Okay.

21 MR. LEBOW: If you would like, I'm sure we
22 can give you cellulose -- pricing on both over some
23 period of time.

24 CHAIRMAN OKUN: That would be great if you
25 look at that series for the period of review. That

1 would be great. I appreciate that. And then going
2 back to the Mexican producers' behavior if the order
3 were revoked, just in terms of -- just so I'm clear.
4 In terms of their capacity, their product mix, likely
5 to be the same post-order? Is that how you've
6 calculated it?

7 MR. LEBOW: I think we're seeing, based on
8 some of the sales activity just in the last few
9 months, which frankly surprised us, given the pendency
10 of this hearing, that they went into a major oral care
11 account, where they have not been in the United States
12 previously, and also -- I don't want to be too
13 specific -- another personal care product that's
14 mentioned in our brief.

15 So we think that there will be some
16 expansion of the types of products to which they would
17 be selling their CMC.

18 CHAIRMAN OKUN: On the personal care side.

19 MR. LEBOW: On the personal care side and
20 oral care side, yeah.

21 CHAIRMAN OKUN: Okay. And then just I guess
22 going back just briefly, Dr. Klett, about one of the
23 questions that Commissioner Pinkert had raised about
24 trying to understand what discipline has been placed,
25 you know, under the order. And I understand your

1 argument about, you know, a low margin can have
2 pricing discipline. But I guess I'm just curious on
3 the facts of this case, where you don't see much
4 change versus a case where you have a low order and
5 you see an increasing -- that one seems easier to see
6 the discipline. I mean, harder -- easier to see the
7 discipline when -- well, maybe my question --

8 MR. KLETT: I understand what you're saying,
9 and I think the question from Commissioner Pinkert
10 about kind of looking at what has happened pre- and
11 post-order may be a good measure in terms of the
12 discipline, and I'll look at that, because I agree
13 that if you have a high margin, all else being equal,
14 that indicates a greater degree of price discipline,
15 and low margin maybe less so, although it doesn't
16 necessarily indicate no price discipline.

17 So I understand what you're saying, and
18 we'll go back and look at the data and see if we can
19 provide some more empirical analysis to support the
20 point I'm making.

21 CHAIRMAN OKUN: Okay. I would appreciate
22 that. And then this will be more of a posthearing
23 question. I know you, Mr. Lebow, have addressed
24 cumulation in your brief. But just if you can look
25 at the conditions of competition, trends, and

1 capacity, capacity utilization numbers, and give your
2 argument with respect to why Mexico should continue to
3 be cumulated with the other countries, I would
4 appreciate that.

5 And I actually don't think I have any
6 further questions right at this point, but I
7 appreciate all those answers, and my light has come
8 up. Vice Chairman Williamson.

9 VICE CHAIRMAN WILLIAMSON: Thank you, Madame
10 Chairman. While you're addressing Mexico, you might
11 as well address the Netherlands, too. Thank you.

12 Let's see. Despite underselling by subject
13 imports, our pricing data show prices rising over the
14 period of review. Why is this not an indication of
15 likely price effects in the future?

16 MR. LEBOW: Two words: raw materials. But
17 I'll let --

18 VICE CHAIRMAN WILLIAMSON: Okay.

19 MR. PANICHELLA: I think us providing you,
20 you know, the history on raw material prices will help
21 you make -- give you the perspective around -- and
22 selling prices. I think that would be very helpful
23 for you to have that.

24 MR. KLETT: Commissioner Williamson, this is
25 Dan Klett.

1 VICE CHAIRMAN WILLIAMSON: Yes.

2 MR. KLETT: I think there is another answer
3 as well, and that is when you look at underselling and
4 whether underselling has had some price effect, you
5 almost have to look at, you know, what is the volume
6 associated with that underselling. And even though
7 there has been underselling during the period of
8 review, and prices -- and Aqualon has done better, I
9 don't think you can necessarily infer from that that
10 underselling hasn't had an effect, or if you take the
11 order off, there would be no adverse effects, because
12 if you were to take the order off, there would be
13 underselling, and you'd also have additional volume
14 associated with that underselling. And, you know, you
15 also have to look at the margins of underselling, the
16 actual margins of underselling that existed pre- and
17 post-order as well, which is relevant for that
18 evaluation.

19 VICE CHAIRMAN WILLIAMSON: Okay. And, Mr.
20 Panichella, what are you saying about raw material
21 prices going forward? You've probably already
22 addressed this, but I --

23 MR. PANICHELLA: Do you mean what is our
24 forecast?

25 VICE CHAIRMAN WILLIAMSON: Yes.

1 MR. PANICHELLA: Well, if you look at the
2 cotton forecast for the rest of 2011, they think it
3 will remain similar. And it all depends on crop
4 yields as to, you know, what the future -- so, you
5 know, it really right now depends on what kind of
6 yields they get in the U.S. and China and Pakistan and
7 the crop growing regions as to whether, you know,
8 they'll get a bountiful crop. And if they do, then
9 there may be some relaxation on their cost of those
10 raw materials. But I can't really predict that.

11 All I know is for this year, I think we'll
12 see the similar kind of costs that we have currently.
13 That's the current forecast.

14 VICE CHAIRMAN WILLIAMSON: Okay. And is the
15 cotton -- is the impact of the price of cotton bigger
16 than the impact of the price of wood?

17 MR. PANICHELLA: No. They're about the
18 same. The relative increase is about the same.

19 VICE CHAIRMAN WILLIAMSON: Okay. Is there
20 much shifting between wood and cotton in -- I mean,
21 you said the price of cotton went up, and the price of
22 oil goes down. Would there be a shifting of --

23 MR. PANICHELLA: That generally doesn't
24 happen. And if you look at the historical data, you'd
25 find that they move together, up and down.

1 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.
2 And data refers to proprietary, so you may need to
3 address this posthearing. But I'm curious why we see
4 AUVs and prices behaving the way they did during this
5 severe recession, and can you comment on this? So I
6 don't know if anybody wants to say anything now,
7 but --

8 MR. KLETT: Yeah. I mean, I think generally
9 I think we said that Aqualon's prices and its business
10 actually did not deteriorate in '09 and 2010, as
11 you've seen in a lot of other investigations. And
12 there are a number of reasons for that, one of which
13 is you had a supply shock with the Dutch plant going
14 out of business, which had beneficial price effects
15 for those that stayed in the market.

16 On the other hand, I think we want to
17 emphasize that Kelco has adjusted to that shock by
18 rationalizing their finish in their China operations.
19 But just in terms of an explanation, that's one, and
20 also there were product mix changes that was to the
21 benefit of Aqualon in terms of a higher share of their
22 sales being in higher margin products.

23 VICE CHAIRMAN WILLIAMSON: Okay, okay.
24 Thank you for that. And anything you want to add
25 posthearing would be useful.

1 Let's see. I had earlier asked about Akzo's
2 argument regarding relative market power, and you did
3 give me an answer, I guess vis-à-vis the U.S. But I
4 was wondering about globally. Does Akzo produce
5 anyplace else other than the Netherlands, and what is
6 their sort of, shall we say, market power on a global
7 scale?

8 MS. GRUBER: Akzo has a plant also I believe
9 in Italy that does not produce the purified grades.

10 VICE CHAIRMAN WILLIAMSON: Okay. So
11 basically, their influence on the global market is
12 going to be what comes out of the Netherlands more.

13 MS. GRUBER: It can be both because you can
14 use the materials from the other plant to service some
15 of the nonregulated businesses and free up capacity
16 from the Netherlands to supply the global market.

17 VICE CHAIRMAN WILLIAMSON: Okay, okay.
18 Thank you. Now, nonsubjects account for a substantial
19 amount of apparent compensation. But I get the
20 impression that you don't feel much competition from
21 these imports. Is that correct, Mr. Panichella?

22 MR. PANICHELLA: From the nonsubject?

23 VICE CHAIRMAN WILLIAMSON: Yes.

24 MR. PANICHELLA: Well, it depends on the
25 market. I think the question earlier was are we

1 worried about the nonsubject markets for the regulated
2 industries, and I think I said that we were not.
3 However, in some of the energy type applications,
4 there is a lot of competition from, for instance,
5 China.

6 VICE CHAIRMAN WILLIAMSON: Okay, good.
7 Okay. Thank you. And I think with that, I have no
8 more questions. I want to thank the panel for their
9 testimony.

10 CHAIRMAN OKUN: Commissioner Lane.

11 COMMISSIONER LANE: Thank you. Mr.
12 Panichella, you said that the United States can serve
13 the entire regulated market. Can you tell me what
14 percentage of the market is regulated? And break that
15 down into how much is for food application and how
16 much is for personal care.

17 MR. PANICHELLA: I can do that, but I don't
18 have that information where I can give you the exact
19 numbers. But we can for sure get it to you.

20 COMMISSIONER LANE: Okay. Thank you. Does
21 Aqualon produce any specialized categories of purified
22 CMC that are not subject to import competition?

23 MS. GRUBER: No.

24 COMMISSIONER LANE: Are there specialized
25 kinds of imports of purified CMC from any of the

1 subject countries that are not produced by Aqualon?

2 MS. GRUBER: No.

3 COMMISSIONER LANE: During the 2005
4 Commission hearing, Mr. Herrick described a
5 repetitive, semicontinuous production cycle such that
6 about 15 families of CMC products were produced over a
7 30 to 35 day period, each product family typically
8 running for one to two days, although longer runs
9 sometimes occurred.

10 Is this still the manner in which the
11 different grades of CMC are produced?

12 MS. GRUBER: Yes.

13 COMMISSIONER LANE: Okay. Can you tell me
14 just how dangerous it is to manufacture this chemical?
15 I would like to know how the July 9, 2009, explosion
16 and fire came about in the Netherlands plant, and CP
17 Kelco Netherlands is not here for me to ask. So I
18 thought you might know.

19 MR. PANICHELLA: I think the biggest risk in
20 this industry is around dust. And while, you know,
21 our -- these are powdered products. So the
22 accumulation of dust -- I think, you know, there was a
23 pretty significant dust explosion in a sugar facility
24 in Georgia within the past two years in the United
25 States, fatalities involved. So the biggest risk to

1 people and to the environment around cellulose
2 manufacturing is fugitive dust.

3 And while we didn't do an investigation in
4 the CP Kelco facility, the nature of that explosion
5 would lead you to believe that there was some kind of
6 primary and secondary dust explosion.

7 COMMISSIONER LANE: And are the levels of
8 dust regulated?

9 MR. PANICHELLA: Yes.

10 COMMISSIONER LANE: With that, I have no
11 other questions. Thank you.

12 CHAIRMAN OKUN: Commissioner Pearson.

13 COMMISSIONER PEARSON: Thank you, Madame
14 Chairman. In some industries, we learn that the
15 customer base likes to have some supply from a
16 domestic producers, and then perhaps balance that with
17 some supply from a foreign producer. And in other
18 industries, there is really a preference for sole
19 sourcing the supply.

20 Tell me about the customer base here. Do
21 they have a preference one way or another?

22 MS. GRUBER: Well, I think in follow-up to
23 Ms. Lane's question with the incident that happened
24 from CP Kelco, people do look for a secondary source
25 of supply.

1 COMMISSIONER PEARSON: Across all of the
2 products, or more for the regulated ones?

3 MR. PANICHELLA: I think it's pretty typical
4 that most customers -- anyone that had a single source
5 of supply after an explosion like Kelco, they no
6 longer have a single source of supply.

7 COMMISSIONER PEARSON: Fair enough. Point
8 well taken. So as a practical matter then, you share
9 a lot of your customers with some other supplier.

10 MR. WOLFF: Yes. One other comment I'd like
11 to make is some customers will approve an alternate
12 supplier, but won't necessarily buy from them. Just
13 in case they have an issue, that wouldn't shut their
14 facility down.

15 COMMISSIONER PEARSON: Let me anticipate a
16 question that may be raised by Respondents, and see
17 how you would respond to this. Would continuation of
18 the order be more likely to help Aqualon in its role
19 as an importer from all sources rather than as a
20 domestic producer? Another way of saying it, wouldn't
21 continuation of the order have the effect of giving
22 favor to some imports relative to others in a way that
23 potentially could be beneficial to Aqualon?

24 MS. GRUBER: No. I think that as we talked
25 about before, our goal is to service the local markets

1 with local production. So the impact of removal of
2 the order would negatively effect that.

3 COMMISSIONER PEARSON: Okay. If there is
4 more that might be said about that in the posthearing,
5 I would be glad to read it. Mr. Klett, do you have --

6 MR. KLETT: I'd just like to make one point
7 with regard to China being another import source,
8 because they're the biggest nonsubject import
9 supplier. And I don't think continuation of the order
10 would be to the benefit of imports from China versus
11 imports from the subject countries because they're
12 largely competing in different parts of the market.
13 China is primarily an oil field, and the imports from
14 the subject countries are primarily regulated and in
15 paper.

16 MR. LEBOW: And I'd like to add to that, if
17 I may. The issue with China isn't just that they
18 become GMP qualified at their production level. It's
19 that first customers have got to qualify them, and
20 second, customers have got to want to buy from them
21 and be willing to put Chinese product in American
22 food, given the history of problems with that in the
23 past few years, so that we just don't see that being
24 at least not a medium-term problem.

25 COMMISSIONER PEARSON: Right. But on this

1 record, we see that Aqualon is producing in each of
2 the market segments. And so it would seem to me that
3 the possibility of imports from China potentially
4 would either compete or substitute for products
5 produced by Aqualon for oil field use. Is that a
6 correct understanding, Mr. Klett or Mr. Lebow?

7 MR. KLETT: I mean, maybe Zissis can talk to
8 that. I don't think we're denying that there is
9 competition from China and Aqualon in the oil field.

10 MR. PAPPAS: Yeah. There is clearly
11 competition with the Chinese CMC for the oil field.
12 If you think about the approval process compared to
13 the regulated industry, the criteria is much lower.
14 It's for an industrial application versus a food or a
15 personal care application. So their ability to enter
16 that market is easier to accomplish.

17 COMMISSIONER PEARSON: Okay. Well, for the
18 purposes of the posthearing, perhaps you could
19 elaborate a bit on this, because I'm not sure exactly
20 what the Respondents will be claiming, but this
21 possibly could be an issue. Okay.

22 Mr. Panichella, this also will be at least
23 partly for posthearing. In your public statement, or
24 your opening statement, you had suggested that
25 elimination of the pricing disciplines provided by the

1 orders might have the effect of leading to a \$3
2 million drop in earnings. And the question is should
3 we find a decline of that magnitude to be material in
4 the context of Aqualon's CMC operating income?

5 Just looking quickly at the numbers, it
6 seems to me like a change of that magnitude is sort of
7 equivalent to normal year-to-year variation in
8 earnings, not discussing any specific numbers, which
9 obviously are proprietary. But, you know, how do I
10 see that as a material injury rather than just kind of
11 normal noise in the marketplace, normal variation?

12 MR. PANICHELLA: Just to clarify what I
13 said, to put some perspective around it for you, the
14 nine cents per pound that I quoted would be the
15 average that the dumping duty imposed, and that itself
16 was 3 million, okay? So if you look at then, you
17 know, whatever further price erosion, you know, that
18 you would have in that market, plus couple that with
19 what you lose in fixed cost coverage if you lose
20 volume, I think it's very significant, okay?

21 So it's not just the 3 million. Three
22 million is just kind of the impact of the duty.

23 COMMISSIONER PEARSON: Okay. Well, anything
24 more for the posthearing, I'd be pleased to see it. I
25 mean, you can understand why I would raise the

1 question because we do have to believe that material
2 injury will continue or occur within a reasonably
3 foreseeable time if we revoke the order. I'm just
4 trying to understand what is the potential for
5 material injury as compared to just, you know,
6 something that is --

7 MR. PANICHELLA: I think the way we kind of
8 look at it is you look at, you know, the performance
9 that we've submitted in our package. You can clearly
10 look at '04, '05, and understand what it was like
11 then. We've obviously benefitted from the order, and
12 you can see what it's like now. And there is no
13 question in our mind that if you remove the order,
14 we'll be back to '04, '05 within the next year or two.

15 And so you want to look at the material
16 injury, look at the difference between '04, '05, and
17 '09, and that's what it will be.

18 COMMISSIONER PEARSON: If nothing else has
19 changed, although we have indications that customer
20 service, customer attention is higher now than it was
21 in those years. So whether or not the effects would
22 be just identical is not clear.

23 Mr. Pappas, maybe this has been mentioned
24 earlier. But can you clarify which types of paper
25 use CMC? We know something about paper here at the

1 Commission, so I'm just trying to figure out which
2 product this gets into.

3 MS. GRUBER: I'll comment from the technical
4 side, in that it can be used in coated paper --

5 COMMISSIONER PEARSON: The coated free sheet
6 type, the magazine --

7 MS. GRUBER: The coated sheet --

8 COMMISSIONER PEARSON: Okay, yes. We --

9 MS. GRUBER: It can also go into tissue and
10 towel for a strength aid, but that's really not what
11 Zissis was addressing in his presentation.

12 COMMISSIONER PEARSON: Okay. Is it used in
13 thermal paper, the type for --

14 MS. GRUBER: The inkjet type or thermal --

15 COMMISSIONER PEARSON: Thermal like for,
16 you know, ATM machines, that sort of thing.

17 MALE VOICE: It's used primarily for the
18 coated sheet.

19 COMMISSIONER PEARSON: Okay. And so it
20 wouldn't be part of just copy paper.

21 MS. GRUBER: It can be part of a standard
22 paper, yes.

23 COMMISSIONER PEARSON: It can be, too? But
24 the volume is heavier in the coated paper.

25 MS. GRUBER: Sure.

1 COMMISSIONER PEARSON: Okay. Well, good.
2 Thanks. That was just one of those for the fun of it
3 questions. So I appreciate that. Madame Chairman,
4 with that, I believe I have no further questions.

5 CHAIRMAN OKUN: Commissioner Aranoff.

6 COMMISSIONER ARANOFF: Thank you, Madame
7 Chairman. Respondents argue in their briefs that if
8 revocation of these orders resulted in lower sales
9 volumes for Aqualon, you could simply shift to
10 producing domestically what you're importing, stay at
11 a high level of capacity without bringing in
12 nonsubject product, and end up just fine. Do you want
13 to respond to that argument?

14 MR. PANICHELLA: I think we clearly have
15 tried to communicate that the material that comes from
16 France -- I think that's what you're referring to --
17 will go away as we improve the capability of the
18 Hopewell plant. So our current practices and our
19 future practices are not to import from those
20 countries, and rather use the domestic production that
21 we have.

22 So we disagree with that approach and feel
23 that there would be a significant change.

24 COMMISSIONER ARANOFF: Okay. I wanted to
25 get that on the record. This is a product that's sold

1 both through contracts and also in the spot market.
2 Is there a particular type of customer that buys this
3 product as a spot purchase rather than through a
4 regular contract?

5 MR. PAPPAS: We see most of the spot market
6 business in the oil field market. Because of the
7 fluctuation in their demand, they rarely enter into
8 long-term contracts. And so they typically handle the
9 purchases on spot or through monthly purchase orders.

10 COMMISSIONER ARANOFF: Okay. So if you're
11 dealing with someone in one of the other end uses,
12 paper or personal care products or food, they're
13 almost entirely likely to be buying under some kind of
14 contractual arrangement?

15 MS. GRUBER: It's contracts. Some of them
16 are long-term duration, but some of them can just be a
17 gentleman's agreement that they continue to buy from
18 UPO to PO.

19 COMMISSIONER ARANOFF: Okay. When you are
20 dealing with large customers who are making
21 contractual purchases, does anybody use any kind of a
22 formal bidding process in this industry, or is it more
23 likely to be just an informal discussion?

24 MR. PAPPAS: It's very common in the paper
25 industry, the bid process. There are numerous

1 suppliers that participate in that, but that is the
2 only industry that I have responsibility for where we
3 see a bid process.

4 MS. GRUBER: And we see it for some of the
5 larger food business, as well as multinational oral
6 care business.

7 COMMISSIONER ARANOFF: And can you describe
8 to me in a little more detail in each of those areas
9 what the bid process is like? They put up some kind
10 of request for quotation, and you send in a formal
11 written bid? Or how does it work?

12 MR. PAPPAS: They'll typically provide, you
13 know, commercial terms around the proposal. They'll
14 provide the annual consumption of various grades of
15 products, and they'll give you a specified period of
16 time in which you need to respond on your price or any
17 other services that may be required. The process
18 could last, say upwards to 30 days. They'll give you
19 one month to respond. And typically, they'll be for
20 one year, but with language in the agreements for
21 adjustments if there is any material changes in the
22 market.

23 COMMISSIONER ARANOFF: Okay. Ms. Gruber?

24 MS. GRUBER: Yes. And the same for the
25 regulated side as well. You can have electronic bids.

1 It's not so common to have actual live bidding
2 processes anymore. It's generally a spreadsheet that
3 will come out with all of the product specifications,
4 and then you put in your offers for the various
5 locations and submit those back.

6 COMMISSIONER ARANOFF: Do purchasers tend to
7 come back to you and tell you that somebody else has
8 bid lower, and can you adjust your price?

9 MS. GRUBER: Yes.

10 COMMISSIONER ARANOFF: Do they usually tell
11 you who the lower bidder is?

12 MS. GRUBER: In most instances, no.

13 COMMISSIONER ARANOFF: And there are no
14 sources of public information that would allow you to
15 know precisely what offers you're competing against.

16 MS. GRUBER: No. You would have to be told
17 by the purchasing person.

18 MR. PAPPAS: And if you do lose that
19 business, you typically find out immediately who won
20 the business and what happened in the bid process.

21 COMMISSIONER ARANOFF: Are any contract's
22 price indexed to any sort of public pricing
23 information about input costs or anything else?

24 MS. GRUBER: Because this was asked before,
25 is there really a public index that shows your cost,

1 there isn't one because the specialty cellulose that's
2 used, and because of the monochloroacetic acid. So
3 typically, although customers do request that, it's
4 not something that we have done because we would have
5 to share our actual costs.

6 COMMISSIONER ARANOFF: Okay. In this
7 review, one of the things that the Commission is
8 really going to have to take a look at is the role of
9 nonsubject imports as we look at what would happen if
10 the orders were revoked. In particular, I don't know
11 if you're familiar with the Court of International
12 Trade's recent NSK decision, where they talk about
13 whether or not nonsubject imports might be an
14 impenetrable barrier to the reentry of subject imports
15 in significant quantities.

16 Is there any comment that you want to make
17 on that now? And alternately, I'll ask you to address
18 that in your posthearing brief.

19 MR. LEBOW: Clearly we do not believe that
20 nonsubject imports provide a non-penetrable barrier to
21 return of the subject imports, as we've discussed,
22 especially in the higher value added and regulated
23 fields. But we'll make specific reference to that
24 case in our posthearing brief.

25 COMMISSIONER ARANOFF: Okay. And in

1 particular, I guess I'd ask you, when you're looking
2 at -- I know we have a chart in the staff report that
3 shows all the global producers. If you could take a
4 look at which ones of the nonsubject producers you
5 think are competitive in each particular end use
6 category, particularly for the food grade and the
7 personal care, but maybe also for others, that would
8 just be helpful to us in sort of assessing what we
9 think the role of those nonsubject imports is and
10 potentially could be in the U.S. market.

11 MR. LEBOW: We will do that.

12 COMMISSIONER ARANOFF: Okay. Thank you very
13 much. With that, Madame Chairman, I don't have any
14 further questions.

15 CHAIRMAN OKUN: Commissioner Pinkert.

16 COMMISSIONER PINKERT: I just have one or
17 two questions. The share of U.S. shipments in the oil
18 field sector seems to be declining, at least if you
19 look at the 2009 information that we have. Is that
20 just a function of oil prices, or is there something
21 else going on that might be expected to continue?

22 MR. PAPPAS: I'm sorry. The share of import
23 volumes is declining?

24 COMMISSIONER PINKERT: U.S. shipments.

25 MR. LEBOW: I mean, I think there are

1 perhaps a couple of things there. One is the movement
2 in terms of overall demand in the oil field, and the
3 other is, of course, just good business management and
4 product mix. It makes sense to try to sell it to the
5 higher value added applications if at all possible.

6 COMMISSIONER PINKERT: Any other comments on
7 that?

8 MR. PAPPAS: No. That was a proper answer.

9 COMMISSIONER PINKERT: Well, with that, I
10 have no further questions. I look forward to the
11 posthearing, and in particular, Mr. Lebow, in your
12 answer to that question, the last question from the
13 last round from me, where you talked about a
14 particular customer in relation to Akzo. If you could
15 flesh that out in the posthearing submission, that
16 would be helpful. Thank you. Thank you, Madame
17 Chairman.

18 CHAIRMAN OKUN: Thank you. I don't think
19 there are any other questions from the dais, so let me
20 turn to staff to see if they have questions of this
21 panel.

22 MR. McCLURE: Jim McClure, Office of
23 Investigations. As I frequently say, staff has no
24 questions.

25 CHAIRMAN OKUN: Do those in opposition to

1 continuation of the order have any questions for this
2 panel?

3 MR. NEELEY: We have no questions.

4 CHAIRMAN OKUN: All right. Well, then this
5 will be a good time to take a lunch break. But before
6 we do so, let me thank these witnesses again for your
7 participation and for answering our many questions.
8 We look forward to the posthearing submissions as
9 well.

10 I would remind parties that the room is not
11 secure, so please don't leave any business
12 confidential information. And we will be in recess
13 until 1:00 p.m.

14 (Whereupon, at 12:03 p.m., a luncheon recess
15 was taken.)

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1 pleased to provide information today and in our briefs
2 demonstrating that there is no possibility that the
3 revocation of this antidumping order can possibly
4 result in any material injury to Aqualon, the sole
5 producer of purified CMC in the United States, and a
6 growing importer on its own right. Mexico occupies a
7 unique position in the marketplace today.

8 CHAIRMAN OKUN: I apologize for interrupting
9 but we're having a little problem with the audio. Can
10 you just pull that a little closer.

11 MR. NESSEL: Okay. Mexico occupies a unique
12 position in the marketplace today. Amtex has always
13 been a very small participant in the U.S. market and
14 has very little competition in the limited market
15 which it supplies. We should not be grouped with the
16 other countries subject to the order. Basically, we
17 followed a significant Mexican customer, Azteca
18 Milling, to the U.S. when it expanded its operations
19 from Mexico based on our experience producing the
20 specialized grade of purified CMC needed for the
21 tortilla flour manufacturing. Since the time of the
22 initial investigation, our presence has remained
23 unchanged, with the same low, single digit percentage
24 share of the total U.S. market and virtually
25 neglectable dumping margins in the four reviews

1 completed to date.

2 Aqualon does not compete with Amtex for the
3 vast majority of our modest sales volume in the U.S.
4 The imposition of the antidumping order on Mexico
5 provided no benefit to Aqualon and its revocation will
6 cause it no injury. There are good reasons why. The
7 global industry is now characterized by very high
8 capacity utilization due in both growing demand and
9 reduced supply in many markets. In light of current
10 high demand, the loss of approximately 12 percent of
11 global capacity with the destruction of the Kelco
12 plant in the Netherlands and the close of the Kelco
13 plant in Sweden has led to higher prices and very high
14 capacity utilization for the foreseeable future. In
15 addition, for Amtex, there are limits to our capacity
16 growth due to the high cost of new facilities and
17 insufficient infrastructure to support expansion.

18 As a result, there are no plans to expand
19 capacity in the future. Finally, Aqualon has become a
20 major importer in order to address its obvious
21 capacity constraints in the U.S. In fact, imports
22 from France are approximately twice the level of the
23 Mexican imports. Amtex continues to focus primarily
24 on its home market where it has an established market
25 in the food and personal care sectors. We encounter

1 less competition in the oil sector than in the United
2 States due to the absence of Chinese imports from that
3 portion of the Mexican market. Importantly, we do not
4 supply CMC for paper coating applications in any
5 markets since we are unable to produce a product of
6 sufficiently low viscosity that satisfy technical
7 needs of the market. Because the paper market demand
8 is very low in our home market of Mexico, we have no
9 incentive to make the significant investment required
10 to manufacture this grade of CMC for any market.

11 With respect to our market in the U.S., the
12 very small dumping margins found by the Commerce
13 Department for each of the last four years
14 demonstrates that the pricing in both the U.S. and
15 Mexico is equivalent. There is no basis to conclude
16 that the U.S. market is somehow more attractive to
17 Amtex. Rather, it is primarily an extension of a
18 single niche market which we supply on both sides of
19 the border. Finally, if the U.S. market had been as
20 appealing to Amtex as Aqualon suggests, we would have
21 supplied the U.S. market for the last five years with
22 nonsubject purified CMC from our related companies in
23 Colombia and Argentina. Instead, we have chosen to
24 sell to our established niche market and focus our
25 hemispheric production resources on the Latin American

1 markets. Aqualon has chosen to address its
2 overcapacity needs with its own imports into the U.S.
3 from France. Therefore, Mexico poses no threat to the
4 U.S. industry with or without an antidumping order in
5 place. Thank you very much, and I'll be happy to
6 respond to any of your questions.

7 MR. NEELEY: We'll turn next to Corrado
8 Piotti.

9 MR. PIOTTI: Good afternoon. My name is
10 Corrado Piotti. I am Vice President and Director of
11 Sales for Quimica Amtex. I would like to talk to the
12 Commission today about the position of Amtex in the
13 U.S. market and why I believe that the dumping order
14 is having no effect on Amtex's ability to compete in
15 the U.S. market, and why removal of the order will not
16 hurt Aqualon. First, Amtex has a very limited number
17 of customers in the U.S. By far, our largest customer
18 is Azteca Milling, which will testify in a few
19 minutes. Only about three customers make up almost
20 all of our sales in any year. Amtex sells only to the
21 food sector in the U.S. market, and then, only to a
22 limited part of the market. As I will discuss, we see
23 almost no competition from Aqualon, which sells in
24 very different parts of the market, either with regard
25 to its customer base or with regard to the sector of

1 the market.

2 The Commission has identified the different
3 sectors of the market as food, personal care, paper
4 and board, oil field and other. For technical
5 reasons, we do not compete in the paper sector of the
6 market anywhere in the world. Much of that
7 information is confidential and we have provided
8 details in our confidential brief. This is a major
9 part of the market for Finland and significant for
10 Aqualon, but nonexistent for Amtex. The oil field
11 sector, which is very important to Aqualon and is very
12 competitive in the U.S. because of Chinese
13 competition, is a sector in which we do not compete in
14 the U.S. This is a low end product without the
15 requirements of the food sector and it goes up and
16 down with the oil industry.

17 In Mexico, there is very little importation
18 of Chinese product and we do sell at high prices, but
19 in the U.S. we have no interest because it is not a
20 competitive product. Aqualon seems interested in
21 taking the rest of the oil sector but we are not
22 interested since we already have our small, but
23 stable, customer base in the U.S. In the personal
24 care sector I want to make a slight correction to what
25 we said in our brief. We discuss one of our customer,

1 Colgate, in the confidential part of our brief, but I
2 have decided to correct our statement publicly. We
3 had indicated Colgate had not U.S. production of
4 toothpaste. What we meant and should have said is
5 that Colgate has no U.S. production of toothpaste that
6 can use Amtex' purified CMC.

7 Colgate does continue to make one toothpaste
8 product in the U.S. However, that toothpaste requires
9 Grade 12 purified CMC which has a 1.2 degree of
10 substitution. Amtex has no technical ability to
11 produce this product and has never produced the
12 product above a one degree of substitution. Aqualon
13 can produce this, the 12 grades, as can Kelco. you
14 can see our inability to produce this product in our
15 recent bid for Colgate where we bid for the purified
16 CMC for several markets but did not bid on the U.S.
17 market at all because of our inability to make the
18 Grade 12. We can provide that bid to the Commission
19 so you can see what I referring to. I am sorry if our
20 original argument was not as clear as it should have
21 been about what is made and not made in the U.S. and
22 why we cannot compete in the U.S. for the Colgate
23 business.

24 By the way, at this time Aqualon is selling
25 the CMC Grade 12 to the Colgate Mexican plant because

1 Amtex has no technical ability to produce this grade.
2 The one sector that we sell into the U.S. is the food
3 sector. Azteca will testify in a few minutes as to
4 why they do not buy from Aqualon. Azteca constitutes
5 most of our sales in the U.S. The only customer where
6 we see any competition from Aqualon at all is a
7 company called Nitta Casing, but that customer has
8 been a small customer of ours for a long time and
9 continues to be. It is much too small to have any
10 effect on the profitability of Aqualon when there is a
11 shortage of capacity worldwide for purified CMC. I
12 also should mention another more significant customer,
13 TIC Gums, which has been our customer for 15, 20
14 years.

15 It originally came to Amtex because it had
16 been buying from a European supplier many years ago
17 and there was a production problem, but it had largely
18 stopped buying from Amtex because it was not happy
19 with the performance of our products with regard to
20 clarity. For many years it had been purchasing only
21 very high viscosity purified CMC which was not
22 available from Aqualon. However, recently the Tic
23 Gums did come back to us for some lower viscosity
24 product due to the shortage of capacity in the market
25 and its inability to obtain the product. I think that

1 the Commission will conclude that our position in the
2 market where we have been a small and steady supplier
3 despite having low dumping margin and having plants in
4 Colombia and Argentina show that our volume and price
5 are not going to change regardless of whether there is
6 a dumping order. Thank you for the opportunity to
7 testify, and sorry for my English.

8 MR. NEELEY: We will now turn to Eduardo de
9 la Fuente from Azteca.

10 MR. DE LA FUENTE: Good afternoon. Is it
11 clear there? My name is Eduardo de la Fuente, and I
12 am with in charge of quality assurance for Azteca
13 Milling, LP. I am based in Edinburg, Texas. I have
14 been with the company since 1991. Azteca Milling has
15 six U.S. Plants in Texas, Kentucky, Indiana and
16 California, employing approximately 800 employees.
17 Gruma, our parent company, also has 18 plants in
18 Mexico. The company's sole business is the production
19 of corn flour for industrial and retail customers.
20 The biggest segment of our business is corn flour for
21 use in the production of table tortillas. By table
22 tortillas, I mean the soft tortillas that can be
23 folded. This is the type of flour for which we
24 purchase CMC.

25 Azteca's Mexican facilities have been

1 purchasing CMC from Amtex since the late 1970s, and
2 when Azteca opened its first U.S. operation, first
3 plant, in 1982, it naturally turned to Amtex to supply
4 its U.S. operations as well. In 2000 we switched to
5 Aqualon for most of our CMC supplies. However,
6 quality issues forced us to switch back as Azteca
7 began receiving complaints from customers that the
8 tortillas made with our flour were hardening and would
9 crack when folded. After researching the problem, we
10 concluded that the CMC being supplied by Aqualon was
11 at fault and we approached Aqualon in hopes of working
12 with them to resolve the problem. However, the
13 company refused to work with us to determine how its
14 CMC was at fault and never worked with us to reach a
15 solution to the problem.

16 We had no choice but to stop buying CMC from
17 Aqualon the same year. Ultimately, the fact that
18 Aqualon's product was at fault was confirmed as the
19 problem disappeared once we switched back to using CMC
20 from Amtex. As a result of this experience, Azteca
21 has not purchased CMC from Aqualon since that time and
22 will not purchase CMC from Aqualon under any
23 foreseeable circumstances. We simply do not see them
24 as a reliable supplier given the quality issues with
25 their products, with regard to its application in

1 tortilla flour and the poor customer service. We also
2 purchase CMC from Kelco's plant in Holland before it
3 was destroyed, as confirmed by our questionnaire
4 response. We have never purchased CMC from Finland or
5 Sweden. We currently purchase CMC from Amtex in
6 Mexico and from Dow in Germany. We have not had
7 quality or technical support issues with either
8 supplier. Amtex has always supplied us with a quality
9 product and has worked with us to develop new
10 formulations in order to make the product better.
11 They supply CMC of consistent quality and provides
12 excellent customer service. Thank you for your time.
13 I'd be happy to answer any questions.

14 MR. NEELEY: I'd now like to address a
15 couple of issues very briefly: pricing and
16 cumulation. With regard to pricing, our position is,
17 having looked at the data and looked at the facts of
18 this case, that the pricing data in this investigation
19 seem to be of little probative value of any kind in
20 determining whether there would be a recurrence of
21 injury. As we've discussed, there are very few
22 customers of Amtex in the marketplace. What we also
23 see is that there is very little competition between
24 Amtex and Aqualon. Thus, if Amtex is not competing
25 head to head for customers of Aqualon, looking at the

1 prices in a vacuum seem to us to be of really no
2 value. It tells us nothing.

3 Whether there's underselling or overselling
4 for a particular quarter can be very useful
5 information at times for the Commission if the
6 companies are, in fact, meeting in the marketplace,
7 but here, where any price difference is basically
8 comparing totally different things that are going on
9 in the marketplace, we just don't see that this has
10 any value. We've heard from Azteca, for example,
11 which is by far our largest customer in the United
12 States, and for technical reasons, they are not buying
13 from Aqualon and they are buying from Amtex. I would
14 suggest that if you look at our pricing data a lot of
15 the pricing data, the bulk of our pricing data, is
16 because of sales to Azteca, which there is no
17 competition with Aqualon.

18 So what we would suggest to the Commission
19 is that while this is obviously a factor that the
20 statute requires you to take into account, that you
21 take it into account while keeping in mind the
22 conditions of competition and the segments of the
23 market in which we compete with Aqualon. We have also
24 discussed the issue of cumulation in our brief. Just
25 to very quickly go over our main points with regard to

1 that issue, we think that there is no discernable
2 impact, or there will be no discernable impact, from
3 importations from Amtex in the event that this order
4 is revoked. The Commission need go no further than
5 that, obviously, under the statute if it finds no
6 discernable impact. We think we are so small in the
7 market, given the situation with regard to our
8 capacity utilization, given our very strong home
9 market in Mexico, there's no reason to think that
10 that's going to change in the future.

11 In addition, what we see is that Amtex is
12 not primarily an export-oriented company, unlike some
13 of the other companies from some of the other
14 countries that are subject merchandise. The home
15 market of Mexico is huge. The home market of Mexico
16 is the primary focus of the company. It would be,
17 frankly, an insane business decision for Amtex to
18 abandon that market and to abandon a market that
19 frankly is much easier to sell into to come into the
20 U.S. market with all of the issues that it has that
21 we've talked about this morning, including increasing
22 Chinese imports into the U.S. market. In addition, as
23 we've testified, Amtex is not selling into the same
24 market segments as the other subject countries. Our
25 importations, our sales, are all in one segment in the

1 market and that is food, and within that food grade,
2 largely to the tortilla segment of the food grade
3 market.

4 I would also point out that the price levels
5 in the United States and Mexico are virtually the
6 same. In fact, the Mexican prices are shown to be
7 slightly higher. You don't have to believe us with
8 regard to this, you don't have to believe some sort of
9 vague and gross level of data on that issue. We can
10 turn simply to what the Commerce Department does every
11 year. Every year the Commerce Department has reviewed
12 the dumping margins of Amtex. The dumping margins
13 have been based on a comparison of the U.S. prices of
14 Amtex to the Mexican home market prices of Amtex. As
15 you can see from their conclusions, they're very small
16 dumping margins. What that means is on a very precise
17 basis the prices in Mexico are ever so slightly higher
18 than they are in the United States.

19 So our conclusion is that with the higher
20 market share that the other countries have, with all
21 the other issues that I've discussed with regard to
22 cumulation, with the fact that we have no dumping
23 margins that provide any competitive, let's put it
24 another way, dumping margins that in any way prohibit
25 us from competing in the United States with the

1 revocation of the dumping order, there would be no
2 real difference in the terms of how Amtex competes in
3 the United States market. So, with that, that is the
4 end of our testimony. I'll turn it over to the
5 representatives of Akzo.

6 MR. WEST: Madam Chair.

7 CHAIRMAN OKUN: Please proceed.

8 MR. WEST: Madam Chair, again, for the
9 record, my name is Matthew West, counsel for Akzo
10 Nobel. If I may just introduce our panel up here
11 today before we begin. To my right, Mr. Frank
12 Grootnibbelink who is the Finance Director for CMC
13 products at Akzo Nobel, Mr. Philip Raatjes who is the
14 Business Director for CMC products within Akzo Nobel.
15 We are also joined by Dr. Susan Manning from Compass
16 Lexecon, and today, in a silent, but highly supportive
17 role, my colleague, Jason Wilcox, joins us here as
18 well. So, with that, I will now turn it over to Frank
19 to begin our direct presentation.

20 MR. GROOTNIBBELINK: Good afternoon, Madam
21 Chairman, and other Members of the Commission. I'm
22 Frank Grootnibbelink, working as Finance Director for
23 Cellulosic Specialties, an operating business entity
24 of Akzo Nobel. I have been with Akzo Nobel for over
25 25 years and started working for Cellulosic

1 Specialties in 2007. SPU Cellulosic Specialties
2 includes all global CMC operations of Akzo Nobel and
3 is run by a global management team with full P&L
4 responsibility. In my role and responsibility, I am
5 involved in all key decisions concerning the CMC
6 business on a global basis. The Cellulosic
7 Specialties headquarters is located in the
8 Netherlands, and in the Netherlands we have one CMC
9 plant located in Arnhem. We are the only producer of
10 CMC from the Netherlands after the CP Kelco accident
11 and closure of their site in July 2009.

12 Akzo Nobel has two manufacturing sites for
13 CMC. One is located, as I had already mentioned, in
14 the Netherlands, in Arnhem, and the other one in
15 Italy, in Novara. Akzo Nobel is producing three
16 different product lines: cross-linked, purified and
17 technical. In the Netherlands, in Arnhem, our focus
18 is on cross-linked and purified, whereas in Novara,
19 Italy, we only produce technical. We did produce
20 technical in the Netherlands until the year 2008 but
21 only very limited after that, so almost none in the
22 last two years. It is more attractive for us to
23 produce cross-linked and purified in Arnhem as this is
24 in line with the plant design. Furthermore, the added
25 value reflected through higher prices for purified or

1 cross-linked products is higher than for technical
2 products.

3 This is logic as there is less manufacturing
4 steps needed to produce technical versus purified or
5 cross-linked, and costs associated with technical are
6 lower. In Italy, Novara, however, it is only possible
7 to produce technical. This is limited by the
8 technical design of our manufacturing plant there.
9 Also, we have no plan to make changes in the current
10 capacity and will not expand capacity in the
11 foreseeable future. In the period 2004 until 2010, we
12 have successfully grown our cross-linked volumes. We
13 actually doubled our cross-linked volumes in that
14 timeframe. We are expecting this to continue as we go
15 forward in the coming years. During the years 2004,
16 2010, we also had high rates of utilization and the
17 year 2010 actually was fully utilized, except for some
18 smaller standstill for technical reasons that are
19 normal for this kind of operations.

20 We have reported to the Commission the
21 capacity of purified CMC and I would like to mention
22 here that those numbers include, of course, all
23 purified CMC, as requested in the questionnaire.
24 However, this is not equal to the output of the
25 manufacturing plant because we have also produced

1 cross-linked and, as I mentioned earlier, until 2008,
2 also technical. The capacity output of cross-linked
3 and technical is not equal to the output of purified.
4 The point that I want to make is that the capacity
5 utilization through this combination of two or three
6 product lines has been high throughout the years and
7 there is no underutilization gap to fill. At Akzo
8 Nobel, it is important to deliver value and
9 consistently meet profitability criteria.

10 If performance is below those criteria, we
11 need to update our plants regarding the future to
12 ensure we meet the criteria as set by the Akzo Nobel
13 Board of Management. During the years 2005 until
14 2008, we did not always meet criteria set by the
15 company, and therefore, we developed a so-called road
16 map to reestablish the profit of the business for CMC.
17 The essence of this road map is that we have appointed
18 one global business manager for CMC who is Philip
19 Raatjes, the next speaker from Akzo Nobel, and the
20 other point is that we want to focus on products and
21 markets that deliver highest value to us. The before
22 mentioned expected development of our cross-linked CMC
23 means that gradually there will be less volume
24 available for purified CMC. This is in line with our
25 strategy to continue to focus on niche and high value

1 added products and markets. We expect CMC to further
2 develop into a more global business with a higher
3 relative share in emerging markets, like eastern
4 Europe, India and China. Also, we have no plans
5 whatsoever to expand capacity at our current base.
6 Thank you.

7 MR. WEST: We will now hear from Mr.
8 Raatjes.

9 MR. RAATJES: Dear Commission, my name is
10 Philip Raatjes. I'm like Frank, 25 years with the
11 company, mostly from the start in commercial
12 functions. I have been in CMC before and I rejoined
13 the CMC two years ago. In between, I have been the
14 Global Business Director for monochloroacetic acid
15 that is one of the two main raw materials to produce
16 carboxymethylcellulose. So you need cellulose and you
17 need MCA, monochloroacetic acid. So I have seen also
18 the business from the other side. I've been supplying
19 basically all CMC suppliers in the world with
20 monochloroacetic acid. I rejoined the business, as
21 Frank said, to fix it, so the financial performance
22 was not in the last years as it should be within Akzo
23 Nobel, and I can tell you, as Frank said, we are fully
24 back on track and we have a good record and the
25 company is very confident in our business for the

1 future, so we are, in fact, off the road map.

2 So there is, I think it was a nice
3 celebration we had on that. Maybe I want to refer now
4 to two slides that I have given you. There are two
5 slides with diagrams and that makes my speech a little
6 bit easier to explain. Referring to page 1, you all
7 got it?

8 MR. WEST: Just to be clear, these are two
9 slides. The first slide is two circles on it, the
10 second slide is four circles on it on a graph.

11 CHAIRMAN OKUN: Okay. Just to be clear, do
12 Petitioners have copies of the slides available?

13 MR. WEST: Yes. Madam Chairman, I believe
14 there was a reproduction issue. One of the pages was
15 missing in the reproduction done by the secretary.

16 CHAIRMAN OKUN: Okay. And that's available
17 back on the distribution table. Thank you. You may
18 proceed.

19 MR. RAATJES: Okay. May I continue? Yeah.
20 Now, maybe then I hold it up. So on this slide you
21 see two pies. One is a purified pie and the other one
22 is a technical pie. You see also two Xs. One is
23 mentioning the quality level of the CMC and the other
24 one is mentioning the price. You can imagine, here in
25 this corner it's low for both parameters. This is

1 more or less a traditional view of looking at the CMC
2 market. So we have purified and technical. When I
3 joined we said, looking at our capabilities of the two
4 plants, and our structure, our quality control, et
5 cetera, the whole set up of the plants, and looking at
6 the market, we said we should change our view on the
7 CMC market. So we changed it to a more higher value
8 added purified plus market and the purified market.

9 I don't want to touch on the technical side
10 because that's not an issue today. Looking at the
11 purified plus market, we see there three applications.
12 That's pharmaceuticals, healthcare and food
13 specialties. The purified pie mentions more or less
14 the industrial applications for purified CMC and
15 including, I call it food commodities. Where are we
16 with our business? We are solely in the upper right
17 corner of the purified plus. That is where we are,
18 with our complete business in Arnhem. What is the
19 driver for that? Why do we claim that? We have a
20 very big portion, a very big position in the
21 pharmaceutical CMC. I think we have a unique position
22 there. This position has even strengthened when the
23 plant from CP Kelco in Nijmegen in the Netherlands
24 unfortunately was, they had the accidents there. They
25 were making pharma grades as well. They are not

1 making pharma grades anymore.

2 So we, yeah, we had the wind in our back, as
3 we say in the Netherlands anyway, so we got that also
4 as a present, you could say. So that strengthens even
5 this pharmaceutical segment of the purified CMC plant.
6 That's really the driver of the plant in Arnhem. As
7 Frank already said, this business has really grown
8 double digit year after year, and it will continue to
9 grow double digit percentage. It's really a fantastic
10 business to be in. We see a lot of growth in the, we
11 call it within Akzo Nobel nowadays the fast growing
12 markets. In China, people start using pills.

13 Because, maybe I should address that. The cross-link
14 CMC is not used in food at all. It is not allowed to
15 use in food, it is strictly for the pharmaceutical
16 application. It is used as a tablet disintegrant. So
17 it's not used in food, I want to make that very clear
18 to you, and it will not be used in food.

19 According to the Code access, et cetera,
20 it's not allowed. Then about pharma. Then you see
21 that I have on the slide healthcare instead of
22 personal care. Personal care I would say is a lot of
23 personal care is in the *P* pie, so not in the *P* plus
24 pie. If you talk about toothpaste, we heard Aqualon
25 saying that there are bids on toothpaste, customers do

1 bids on that, so that business has been commoditized
2 completely. It is a pity because for toothpaste you
3 really need very specific CMC grades. It's not so
4 easy. If you change the color of the toothpaste, you
5 need to adjust the CMC. Unfortunately, it's very
6 commoditized. We are not in that business. We will
7 not go into that business until the prices are at the
8 right level. They are far too low. Where are we with
9 our business in healthcare? That is in medical
10 devices. That was not an application that Aqualon was
11 appointed to, but we have a good position there.

12 Then maybe to food specialties and food
13 commodities. The food commodity is the customer type
14 that buys thousand of tons of CMC to make, for
15 example, ice cream blends. That market is also
16 completely commoditized. There, it's not a
17 performance that is important, it's only the
18 specification of the CMC, so that everybody can make
19 that CMC. It is interchangeable. So they can, that
20 is not our market. We are not in that market at all
21 anymore. We are at smaller customers who value our
22 service level. What do I mean with service level is
23 they can, if they phone, they have it the next day.
24 This may be also an explanation that our stock levels
25 are relatively high of the purified CMC plant, because

1 that is how we operate. As long as the customers are
2 prepared to pay for that, we do that.

3 That's one of the service levels that I
4 think we differentiate from many competitors. Another
5 one where we differentiate is that a small customer
6 values the function of the CMC in the application.
7 Many times they use it but it doesn't function well.
8 What we then do, we offer them help. We have
9 application laboratories, we have big R&D facilities
10 worldwide as Akzo Nobel where we can make use of and
11 customers value that. Also, that is reflected in our
12 price level. Maybe another one that I should mention.
13 Yeah. Quality control. As a spinoff of the
14 pharmaceutical business, you can imagine what is
15 important there is a very high level of quality
16 control, a G&P plant.

17 So we have you could say an expensive
18 organization in quality control with a lot of people
19 running around. That has also a spinoff to this kind
20 of smaller food customers who sometimes need analysis,
21 additional analysis, and we can provide that, but they
22 have to pay for it, but they are prepared to pay for
23 it. As long as they do that, then it's fine. This
24 business concept. So we are basically not in the
25 purified pie. We are not active anymore. We have

1 some activity still in drilling. We are not active in
2 paper, we are not active in paint, we are not active
3 in food commodities. That is our business model. We
4 have been successful expanding this business model on
5 a global basis. It is a, yeah, you could say it's a
6 niche market approach. We have found our value
7 approach by going for niches, not for the big
8 accounts. That's not our business. Yeah. I think I
9 want to leave it by that. Thank you for your
10 attention.

11 MR. WEST: Next we'll hear from Dr. Susan
12 Manning.

13 MS. MANNING: Good afternoon. Conditions of
14 competition relevant to this inquiry have changed
15 significantly during the period of investigation.
16 These changes must be considered to properly determine
17 the probable effects of removing the order on CMC
18 imports from the Netherlands. The very nature of the
19 counterfactual analysis in a sunset proceeding is one
20 of predicting probable effects from an event that has
21 yet to occur. In this case, the revocation of the
22 antidumping order. This requires an explicit
23 understanding of the conditions of competition that
24 are likely to exist in the foreseeable future. If
25 these conditions are known to be different than those

1 that existed during the initial period of
2 investigation or the period of investigation following
3 the imposition of the order, then these changed
4 conditions of competition must be accounted for in the
5 counterfactual analysis.

6 As we know, at the time of the Commission's
7 original determination in 2005, the Netherlands had
8 two producers exporting purified CMC to the United
9 States, CP Kelco and Akzo Nobel. As we've discussed,
10 CP Kelco is no longer a productive factor in the
11 Netherlands, so this is a significant change in the
12 conditions of competition affecting the counterfactual
13 analysis. Imports from CP Kelco's Netherlands
14 operations during the period of investigation 2005 to
15 September of 2010 have no predictive value in
16 determining the probable volume and price of
17 Netherlands imports in the foreseeable future or their
18 effect on the domestic industry. In addition, the
19 pricing behavior exhibited by CP Kelco Netherlands
20 imports in the United States during this period also
21 was not relevant in the counterfactual analysis since
22 CP Kelco will have no ability to affect U.S. pricing
23 with Netherlands imports in the future.

24 So the only relevant volume and pricing
25 information on likely impacts of Netherlands CMC

1 imports is that of Akzo Nobel. For this reason, we
2 focus our analysis on Akzo Nobel's imports in the
3 United States and we exclude CP Kelco's Netherlands
4 imports. This is a position that I believe that the
5 Petitioners and the Respondents have consensus on.
6 Akzo Nobel's volume in imports and share of U.S.
7 consumption is insignificant and decreasing. Only a
8 small portion of Akzo Nobel's total purified CMC
9 production out of the Netherlands is exported to the
10 United States. During the period of investigation,
11 Akzo Nobel's volume share of U.S. consumption has been
12 very small, even in its highest year in 2007, and has
13 declined by half during the latter part of the period
14 of investigation.

15 Akzo Nobel's value share of purified CMC is
16 somewhat higher than its share by quantity but this is
17 because Akzo Nobel sells purified CMC in the United
18 States at a much higher average unit value price than
19 other sources of purified CMC in the U.S. market.
20 Akzo Nobel's change in market share during the period
21 of investigation actually declined relative to other
22 sources of purified CMC, while imports from Finland,
23 CP Kelco's Netherlands imports while they were in the
24 market, and imports from nonsubject countries actually
25 increased. So Akzo Nobel's share of purified CMC for

1 the largest end use, food, is negligible. Akzo Nobel
2 does not sell purified CMC in the United States for
3 use in oil field applications from its Netherlands
4 plant, and in the highly differentiated personal care
5 end use, as Mr. Raatjes has described, Akzo Nobel's
6 small volume of imports does not compete against other
7 subject imports and rarely does it compete against the
8 domestic product.

9 Akzo Nobel's U.S. shipments are almost
10 certainly not likely to increase should the Commission
11 decide revocation of the order against purified CMC
12 from the Netherlands is warranted. As I discussed
13 earlier, the portion of production which is exported
14 to the United States has decreased by half during the
15 period of investigation. Exports to other countries
16 have increased significantly and are expected to
17 continue to increase. Its key export markets for Akzo
18 Nobel's Netherlands plant has become Italy, China,
19 Canada, Brazil and Hungary, to name a few. Akzo Nobel
20 has purposely positioned itself in Asia, eastern
21 Europe and Latin America, and, to some degree, western
22 Europe, to take advantage of the expected continued
23 growth in the demand for high end purified CMC in
24 these markets.

25 Akzo Nobel has made the decision to commit

1 to these markets so that it can participate fully in
2 the expected increasing demand for this higher end
3 purified CMC and cross-linked product. In addition,
4 Akzo Nobel has shifted production to cross-linked CMC,
5 which is more profitable to produce than to sell.
6 That is not the subject of this investigation. Akzo
7 Nobel is experiencing significant growing demand for
8 this particular product in its global markets, as Mr.
9 Raatjes has indicated. On the pricing side, Akzo
10 Nobel's average unit values are the highest in the
11 U.S. market and have been increasing over the period
12 of investigation. Akzo Nobel primarily competes in
13 low volume niche purified CMC markets. This is based
14 on a global marketing strategy, and it no longer finds
15 it profitable to compete in low priced commodity type
16 CMC products which require very high volumes which at
17 this point Akzo Nobel is unable to produce.

18 This product positioning global strategy is
19 evident from the high average unit value of Akzo
20 Nobel's U.S. shipments. I urge the Commission to take
21 note of Akzo Nobel's unit values of shipments compared
22 with other sources of purified CMC competing in the
23 United States. As you would expect, these high unit
24 values translate into substantial margins of
25 overselling compared with the domestic product. In

1 the products for which the Commission collected data,
2 for Product 1, Akzo Nobel has had substantial and
3 consistent margins of overselling during the period of
4 investigation. In Product 2, there were only a few
5 quarters when Akzo Nobel incurred underselling
6 margins.

7 In fact, it had sales during 2008, 2009 and
8 2010, which we correct in our brief, but these sales
9 were made at large margins of overselling against the
10 domestic product and in quantities that were
11 insignificant. For Product 3, sales have been
12 negligible. Akzo Nobel's data shows very few quarters
13 of underselling. Its margins of overselling were
14 substantial and account for the vast majority of
15 quarters captured by the Commission's data. For
16 Product 5, Akzo Nobel had a few periods of
17 underselling but has reported no sales in this product
18 category since the first quarter of 2008 in keeping
19 with its strategy to focus on higher end, low volume
20 product.

21 For Product 6, Akzo Nobel's data has shown
22 consistent and substantial margins of overselling
23 during the period of investigation and there were no
24 reported sales during 2008 and 2009, and only one
25 quarter of sales in 2010. The underselling analysis

1 strongly indicates that imports of Akzo Nobel would be
2 highly unlikely to be sold in the United States at
3 prices which undersell those of the domestic producer
4 in any quantity that would lead to a depressing or
5 suppressing effect on the domestic prices should these
6 orders be revoked. With respect to the domestic
7 industry's financial and operating performance
8 improvement, that occurred immediately and
9 considerably since imposition of the orders against
10 the subject imports.

11 Aqualon appears to be very well-positioned
12 to withstand any impact from the Commission's
13 revocation of the antidumping order against subject
14 imports, particularly if that order is lifted against
15 Akzo Nobel's Netherlands imports which are sold at
16 average unit values substantially higher than those of
17 the domestic producer and at quantities that could
18 only be termed insignificant and in areas of the
19 market in which the domestic product does not compete.
20 In sum, I urge the Commission to consider the special
21 circumstances of imports from the Netherlands in its
22 revocation analysis. The low volume, high unit values
23 indicate that Akzo Nobel's CMC product is not
24 simultaneously present in the U.S. market with other
25 subject imports. It does not compete in the same

1 product positioning and should not be cumulated.

2 Thank you.

3 MR. WEST: Madam Chair, that concludes our
4 testimony.

5 MR. NEELEY: We welcome questions from the
6 Commission.

7 CHAIRMAN OKUN: Well, before we begin those
8 questions, let me take this opportunity to thank this
9 panel of witnesses, in particular the industry
10 witnesses who have taken the time to travel and answer
11 our questions. We very much appreciate your presence
12 here. And also just to note, if you could just
13 restate your name for the court reporter when
14 responding to questions, in particular for our
15 witnesses from Akzo Nobel. We can't see all of your
16 nameplates all the time, so just to make sure that we
17 get that accurate, that would be helpful.

18 And with that, I will turn to Vice Chairman
19 Williamson to start our questioning this afternoon.

20 VICE CHAIRMAN WILLIAMSON: Thank you, Madame
21 Chair. And I too want to express my appreciation to
22 the witnesses for their testimony this afternoon.

23 I asked this question this morning, and I
24 was just wondering. Are there any publicly available
25 economic series for each of the major end use -- of

1 the segments that we're following that you use to
2 track and forecast demand?

3 MR. RAATJES: There are definitely -- sorry.
4 Philip Raatjes. There are definitely public sources
5 available where you can find growth figures and
6 market. I think they are not very consistent with
7 each other. One of the things that is very
8 inconsistent, I have quite some knowledge about the
9 Chinese market because I've been supplying MCA to the
10 same three suppliers there.

11 But there is quite some inconsistency in the
12 Chinese data. I think that West European -- of the
13 Western data from the Americas and western Europe are
14 rather accurate. And also, growth figures are
15 mentioned there. I don't know if -- are you looking
16 for growth figures? Do we have growth figures?

17 VICE CHAIRMAN WILLIAMSON: I think just
18 figures that -- you know, demand is one of the
19 important considerations we have to take into account
20 here. So it's really -- yes, so it would be growth.

21 MR. RAATJES: Okay. To talk about
22 pharmaceuticals, the way -- what is public there is
23 double digit growth, 10 to 15 percent. It's India,
24 China. It's really very high growth, of course still
25 from a relatively lower volume, but it's a very high

1 growth area there.

2 Looking at food, I recall Aqualon has been
3 mentioning this morning, and I follow -- it's in line
4 with what Aqualon has mentioned this morning.

5 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.
6 If anybody wants to submit anything posthearing, that
7 will be fine on this topic. This morning I also asked
8 the Petitioners about the cross-linked CMC and the
9 role that it plays in the market and how we should
10 take its existence into account. And I was wondering
11 what your perspective is on this. This morning they
12 were talking about if someone wants to bring CMC and
13 cross-link, that might give them a competitive
14 advantage. I don't know what your views are on that.

15 MR. RAATJES: Philip Raatjes. What Aqualon
16 this morning mentioned is that cross-link CMC can be
17 used in food. That is not the case. It is not
18 allowed. So it's a separate market. It's dedicated
19 for pharmaceutical industry. It's not being used in
20 food.

21 VICE CHAIRMAN WILLIAMSON: Okay. So you're
22 seeing its use in pharmaceuticals growing, I take it,
23 though, just as obviously the production in
24 pharmaceuticals is growing rapidly.

25 MR. RAATJES: Can you recall the -- sorry.

1 I might have jet lag coming from --

2 VICE CHAIRMAN WILLIAMSON: No. I
3 understand.

4 MR. RAATJES: It's getting late for me, but
5 okay.

6 VICE CHAIRMAN WILLIAMSON: Well, the real
7 question, I guess, is the impact of the existence of
8 cross-link and its growing use have on the sales of
9 CMC itself.

10 MR. RAATJES: I would say no impact at all.
11 It's really a separate market. It's a pharmaceutical
12 market. It's used in tablets. So the pharmaceutical
13 application of cross-link CMC is solely used in
14 tablets as a tablet disintegrate. So it makes that
15 your -- if you swallow a pill --

16 VICE CHAIRMAN WILLIAMSON: Yes. I
17 understand, yes. Now, if a producer was using CMC and
18 cross-linked CMC, would he prefer to get both from the
19 same supplier, or would he --

20 MR. RAATJES: No. Basically, I would say
21 looking at -- we have a major customer for cross-
22 linked CMC here in the States. It's maybe not a
23 little secret.

24 VICE CHAIRMAN WILLIAMSON: Yes.

25 MR. RAATJES: And they indeed use, as

1 Aqualon was referring to, also a lot of CMC. We have
2 a 20 years -- next year we will celebrate a 20 years
3 celebration of partnership with this large customer in
4 the United States. They use it also at different
5 places, by the way, the cross-linked CMC, not only in
6 the United States. But they have consumption of CMC.
7 And since 20 years we talk with this large customer
8 also about CMC.

9 But looking at the price level they get it
10 for, it's ridiculous low. It's far too low. So we
11 are out of that business. The price level is that low
12 that we say this doesn't make sense. So we are not
13 supplying there. If that would be -- and even the
14 dumping duty of 9 percent doesn't make really a
15 difference. So the price level should be much higher,
16 will it be for us, for our type of business, because
17 the business portfolio we have today, it's much higher
18 priced.

19 So we don't need that volume. So we have a
20 good business without having this CMC volume.

21 VICE CHAIRMAN WILLIAMSON: Okay.

22 MR. RAATJES: And it is basically only
23 customer that has a combination of cross-linked CMC
24 and food-grade CMC in that portfolio.

25 VICE CHAIRMAN WILLIAMSON: Okay. Either now

1 or posthearing, can you sort of say who are you
2 competing with in this here -- what is it, the P-
3 plus --

4 MR. RAATJES: P-plus.

5 VICE CHAIRMAN WILLIAMSON: -- category?
6 Now, are there other producers in the world that
7 are --

8 MR. RAATJES: I can say that definitely
9 Aqualon -- Aqualon is a company that has also done a
10 lot on CMC in the past. They developed CMC. So there
11 is a lot of good things that Aqualon did in the past.
12 Aqualon is also in this P-plus area. But they are
13 more in the down corner. So we have the
14 pharmaceuticals, and that is really very high priced.

15 The price level of pharmaceutical grade is
16 way out of food grade, way out.

17 VICE CHAIRMAN WILLIAMSON: Okay. We won't
18 discuss why that is. That's another hearing. But you
19 are competing with Aqualon in that segment of the
20 market, that broader segment of the market, even if
21 you could say -- you know, you say, well, we have the
22 upper end, and they have the lower end.

23 MR. RAATJES: I would say that there is a --
24 we don't come across Aqualon really as a competitor,
25 hardly.

1 VICE CHAIRMAN WILLIAMSON: Okay.

2 MR. RAATJES: But there is some -- always
3 some competition. And I think that is good. There
4 should be some competition now and then.

5 VICE CHAIRMAN WILLIAMSON: Okay.

6 MR. WEST: And, Commissioner, we will in the
7 posthearing brief -- we can lay out a little more
8 fully exactly who we are competing with in the P-plus
9 and along the product lines that we're competing with
10 them.

11 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.
12 And I assume Petitioners might have a few things to
13 say about that, too, but --

14 MR. WEST: I would suspect so.

15 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.
16 For Amtex, I was curious. You talked about -- you
17 made the argument that you could have been selling
18 from Colombia or Argentina if you really were
19 interested in the U.S. market. I was just curious. I
20 know the duty in the U.S. is about 6 percent. Is this
21 a product covered by GSP, or would you have to pay the
22 duty if you were selling from Colombia or Argentina?

23 MR. NEELEY: Our understanding is that the
24 Argentine products are covered by GSP, and the
25 Colombian products are covered by the Andean

1 Preference. So they're both at zero.

2 VICE CHAIRMAN WILLIAMSON: Okay. So I just
3 wanted to make sure that I understood that part.

4 MR. NEELEY: Correct.

5 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.
6 And you indicate that there is only limited
7 competition between you and Aqualon. But in 2009, you
8 know, it was clear that the food segment was the
9 largest segment in the U.S. And doesn't this indicate
10 likely substantial competition in the future? I mean,
11 this is where the action is.

12 MR. NEELEY: I'll try that, and let them
13 jump in. I think, you know, you see our capacity
14 utilization numbers. You know, you can't crank out
15 anything more, so it has got to come from somewhere.
16 We think it would be, you know, rank speculation and
17 inaccurate to think that we would switch from our home
18 market customers who are long-time customers and to
19 the United States.

20 So that's why we think that's highly
21 unlikely to happen. I don't know if Mr. Nessel has
22 anything else on that.

23 MR. NESSEL: Yeah. The vast majority of our
24 sales are cross-linked, and that is around 60 percent,
25 which is a customer Aqualon does not compete for. We

1 are selling to some other total producer in the U.S.,
2 which is let's say our strong part regarding food
3 applications. Yes, we are selling for other
4 applications. We will find Aqualon in the market.
5 But until now, in the last five years, those weren't
6 more than the three customers they could come up with
7 here.

8 VICE CHAIRMAN WILLIAMSON: Okay. But I take
9 it probably the demand for the product is probably
10 growing. You know, it's a growth sector in this
11 country, I would think.

12 MR. NESSEL: Yes. But here is only so much
13 CMC we can provide since there is no plan to expand
14 capacity utilization. We do not foresee to sell to
15 different customers than we are selling now, which is
16 Azteca, and --

17 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.
18 My time has expired, and thank you for those answers.

19 CHAIRMAN OKUN: Commissioner Lane.

20 COMMISSIONER LANE: Thank you all for coming
21 this afternoon. I have a different question about the
22 Colombia-Argentina issue that Mr. Nessel talked about
23 in his opening statement. Would the transportation
24 costs make it -- would cost too much to actually bring
25 the product from Colombia to Argentina into the United

1 States, rather than shipping the product in from
2 Mexico?

3 MR. NESSEL: The transportation costs would
4 be a little bit higher because you would have to bring
5 that by ship. But now everything is on truck. And
6 the difference would not be that much higher. But the
7 Colombian plant serves basically the Andean market
8 from Chile up to Venezuela. Argentina has a strong
9 market in Brazil. So on the one hand, there is not
10 very much excess capacity that they could ship to the
11 U.S. if they wanted to. And Argentina produces one
12 special grade which is related to granulation. That's
13 the only thing they ever ship to the United States,
14 and that is about as much as they are going to do.

15 MR. NEELEY: I think our point, Commissioner
16 Lane and others, was that the Petitioner Aqualon had
17 made a point that they thought the American market,
18 the U.S. market was incredibly attractive. Our point
19 is it's not all that attractive. There are lots of
20 attractive markets out there. And the way that
21 they've organized their business is to stick mostly to
22 Latin America because that's really much more
23 attractive to them.

24 COMMISSIONER LANE: Okay. I was just trying
25 to make sense of what you said, that we would have

1 supplied the U.S. market for the last five years with
2 nonsubject purified CMC from Colombia and Argentina.
3 And I was just wondering from a business sense would
4 it make sense with the added transportation costs, as
5 opposed to just trucking it up from Mexico.

6 MR. NESSEL: If the U.S. prices were that
7 much higher that the market would be as attractive as
8 Aqualon apparently thinks it is, we could do that. We
9 would have, let's say, a 3 or 4 percent over-price to
10 bring in the product from Argentina -- from Colombia
11 versus Mexico. And it is not that interesting.

12 COMMISSIONER LANE: Okay. Thank you. This
13 is for Akzo and Amtex. Aqualon argues at page 8 that
14 record data supports a finding that purified CMC is a
15 commodity product. Do you agree?

16 MR. NEELEY: We think that that is an
17 overstatement. I think that the testimony of Mr. de
18 la Fuente from Azteca, which is by far our largest
19 customer, shows this isn't purely a commodity product
20 that can easily be substituted. There are technical
21 aspects to the sales that are very important.

22 COMMISSIONER LANE: So you don't think it's
23 a commodity product.

24 MR. NEELEY: We don't think it's purely a
25 commodity product, no. We think that performance and

1 technical specifications are extremely important.

2 COMMISSIONER LANE: Okay. You, sir.

3 MR. NESSEL: Yes. I might add to that. If
4 you see the Colgate bid -- and we bid for two of
5 the products -- we are unable to produce the third
6 one.

7 COMMISSIONER LANE: Okay. Thank you.

8 MR. WEST: Commissioner Lane?

9 COMMISSIONER LANE: Yes.

10 MR. RAATJES: I think that what I related to
11 with the P, part of the business in food --

12 COMMISSIONER LANE: Could you speak into
13 your microphone?

14 MR. RAATJES: Sorry, yeah. I think that
15 part of the business has been commoditized. So if you
16 really go for the large customers, their business has
17 been commoditized. There are bids, as we heard this
18 morning. And there are all kind of things there. So
19 CP Kelco and Aqualon compete with each other. We are
20 not in. But so for us, CMC is not a commodity at all.
21 It's really performance. We have the market niches.
22 But definitely, if this word is being used, it is
23 there. There is a commodity type of CMC where
24 everybody can do their bid. It's just extra
25 specification. And yeah.

1 COMMISSIONER LANE: Okay. Thank you. Now,
2 what is a typical contracting cycle? Aqualon suggests
3 that even for customers that require qualified
4 suppliers, it would be possible to replace existing
5 suppliers in one or two contracting cycles. Do you
6 agree?

7 MR. NESSEL: In most of the -- let's say the
8 bids and the contracts are not really binding. As the
9 colleague from Aqualon said, sometimes they're just
10 gentlemen agreements. So if they really wanted to
11 switch, they will just stop placing purchase orders.
12 In the rest, I'd say half a year would be, let's say,
13 the longest period you would be attached to one
14 supplier.

15 COMMISSIONER LANE: Okay. Thank you. In
16 its prehearing brief, at 92, Aqualon almost appears to
17 be suggesting that the Commission factor into its
18 analysis CP Kelco's nonsubject facility in China,
19 under the theory that CP Kelco can direct production
20 from its various global facilities where it chooses.
21 Is there a legal basis for us to do as Aqualon
22 suggests?

23 MR. NEELEY: I'll have to take a look at
24 what their argument is exactly. I think we should
25 probably address that in the posthearing brief and see

1 exactly what they're arguing.

2 COMMISSIONER LANE: Okay. Thank you. Are
3 you aware of any inventories of purified CMC produced
4 by Dutch producer CP Kelco either in the Netherlands
5 or elsewhere? In other words, is there anything to
6 indicate that there are still Dutch-produced CP Kelco
7 products that may have an effect on the U.S. market?

8 MR. RAATJES: Maybe I can comment a little
9 bit on that. It should be gone by now. So definitely
10 there was stock after the explosion. But I don't
11 think there is still stock there. It would surprise
12 me. It's very close by, by our plant. It's only 25
13 kilometers away. And the whole operation is closed.
14 So there is nothing anymore there. So the office,
15 everything is gone. So I would be surprised if there
16 were still stock there.

17 COMMISSIONER LANE: Okay. Thank you.
18 Aqualon asserts that the United States market is one
19 of the largest global markets. Do you agree? And how
20 do prices in the U.S. market compare with prices in
21 other markets?

22 MR. RAATJES: Maybe I can comment on that.
23 But if you look at the regulated industry and you look
24 at public data, then the food industry in the United
25 States is relatively large. But in China, it's much

1 bigger. So in China, the market for food is 60,000
2 tons. So it's much bigger than in the United States
3 today.

4 COMMISSIONER LANE: But what about the
5 prices? How do the prices in the U.S. compare to
6 other --

7 MR. RAATJES: Now, if you look at China, the
8 prices are very much lower. But it has to do, as also
9 Aqualon pointed this morning, with the purity level.
10 So basically, in the West, you need to have 99-1/2
11 percent purity at the minimum, whereas in China you
12 can sell also products with a 95 percent CMC content.
13 So the price level in China is definitely much lower.
14 But that's maybe an exception. I would say worldwide,
15 the prices are more or less the same.

16 It depends a little bit on the plant, and
17 you have some transportation in between. So there
18 might be some differences. But on an a works basis,
19 or income terms FCA basis, there is not so much
20 difference, I would say.

21 COMMISSIONER LANE: Okay. Thank you.
22 Madame Chair.

23 CHAIRMAN OKUN: Commissioner Pearson.

24 COMMISSIONER PEARSON: Thank you, Madame
25 Chairman. I'd like to welcome all of you,

1 particularly those who have traveled long distances.
2 I would observe that your English has been excellent,
3 far exceeding my capabilities in either Spanish or
4 Dutch, and so I thank you for that.

5 Those of you who practice before the
6 Commission know that I generally leave issues of
7 cumulation to my colleagues who are learned in the
8 law. But every once in a while, I can't resist, and
9 so I jump in, and this is one of those. Perhaps I
10 earned the right having been the only one to find a
11 way to decumulate a country in the original
12 investigation.

13 But at any rate, this will be largely for
14 counsel. Akzo's preliminary brief argues that imports
15 from the Netherlands should not be cumulated with
16 other subject imports. Amtex argues that it's imports
17 from Mexico should not be cumulated. Do both Akzo and
18 Amtex think that subject imports from all countries
19 should be considered separately?

20 MR. NEELEY: Yes.

21 MR. WEST: We would agree with that as well,
22 Commissioner.

23 COMMISSIONER PEARSON: Okay. So you're not
24 arguing that countries other than the one you
25 represent should be cumulated. You just want them all

1 separate, okay.

2 MR. NEELEY: That's correct.

3 COMMISSIONER PEARSON: Okay. You have made
4 a number of arguments about reasonable overlap of
5 competition. But they've tended to concentrate on
6 data from the period of review, not the original
7 investigation. Why wouldn't the factors that led the
8 Commission majority to find a reasonable overlap of
9 competition in the original investigation reoccur upon
10 revocation, especially given the change in the GMP
11 status of the plant in Finland?

12 MR. WEST: Commissioner, I'll speak for Akzo
13 Nobel first here. The most significant difference we
14 see why the conditions of competition have changed
15 really stem from the different business model that the
16 two gentlemen from Akzo Nobel explained.

17 In the original period of investigation, the
18 company was, as noted, sort of financially
19 unsuccessfully attempting to, we'll say, play in the
20 market with CP Kelco and Aqualon on a purely price
21 commodity, price drive basis. And that led them to
22 the pricing they were doing at the time.

23 But that was an unsuccessful strategy. The
24 addition of Mr. Raatjes to the business was
25 specifically because it was the case that Akzo Nobel

1 was not able to compete with those price levels of
2 CMC. Rather, as he points out, there are price levels
3 that can be paid, can be achieved, but on a lower
4 volume, higher value type of price.

5 So to say that the company would go back to
6 a model that not only raised issues of dumping, but if
7 this case had never been brought would have still been
8 a financial failure for the company down the road,
9 simply doesn't make sense. And what we have now is a
10 picture where the Dutch market, which was at the time
11 of the investigation populated by Akzo Nobel and
12 Kelco, Kelco having a different pricing model than
13 Akzo Nobel has chosen to follow now. They are really
14 competing, as Mr. Raatjes says, for different slices
15 of different P pies, P-plus versus P. And Quimica
16 Amtex is not a competitor in the P-plus pies that we
17 operate it.

18 So while during the investigation there was
19 overlap in the Netherlands, there were two producers
20 -- one of them had a common sales strategy of pricing
21 across three of the subject countries, that is now
22 limited to Finland. Netherlands has its own pricing
23 strategy for a set of the pies. Mexico has a
24 different strategy for its set of the pies. And I
25 think those differences are what now show that

1 cumulation is not something the Commission should look
2 into, especially, as Mr. Neeley noted, where if you do
3 not believe there is to be injury by the Dutch
4 imports, which are now only Akzo Nobel, not Kelco and
5 Akzo Nobel, or not injury by Amtex, that it is not
6 proper to cumulate Netherlands and Mexico with
7 Finland, where the Commission will have to make
8 determinations based on the information submitted.

9 And so because of those reasons, we feel it
10 is a materially different factual situation with
11 respect to cumulation.

12 COMMISSIONER PEARSON: Okay. Mr. Neeley?
13 Or Mr. Nessel.

14 MR. NESSEL: Yes. I may take that one. On
15 the one hand, let's say, the market is quite
16 different, and we are at high capacity utilization, so
17 nobody has to fight over clients. On the other hand,
18 in the original investigation, we were supposed to
19 sell into the oil drilling sector because of one
20 quotation Aqualon presented, which we did not feel
21 worth making an adjustment in that regard. And on the
22 other hand, we just thought we didn't come through
23 with the argument that Azteca is not a client willing
24 to buy from Aqualon, which also was understood by the
25 Commission differently in the original investigation.

1 So the facts are not that much different.
2 It's just maybe this time we can get -- makes
3 ourselves a little bit clearer.

4 COMMISSIONER PEARSON: Okay. Well, my
5 expectation is that the domestic industry will be
6 arguing in its posthearing brief that all three
7 countries should be cumulated, and you have laid out
8 reasons -- you know, a different point of view. So it
9 would serve the record well for you to elaborate
10 clearly in the posthearing what are those differences,
11 and why we should choose not to cumulate, if indeed --
12 well, obviously, that's the position you're taking.
13 Mr. McGrath.

14 MR. McGRATH: Yes. Commissioner, if I could
15 just add one point. In terms of the reasonable
16 overlap, I don't think we're saying there isn't a --
17 there is something -- there is a major difference in
18 terms of the possible theoretical overlap that exists,
19 especially in the food sector business. What we are
20 trying to communicate a little more clearly is there
21 has been an opportunity since that time in the last
22 five years to see if there truly is some overlap of
23 competition with respect to the food sector that
24 Mexico services its one large customer here.

25 There hasn't even been an attempt by Aqualon

1 to sell or deal with the technical problems with that
2 customer during the five years that the order has been
3 in effect. We think that you can take that into
4 account in trying to decide whether it is a
5 discretionary step for the Commission to decumulate.
6 Whether you can take that into account, we think you
7 should take it into account because it does account
8 for the vast majority of the sales from Mexico to the
9 U.S. It characterizes them.

10 So that different fact I think is important
11 in making your decision.

12 COMMISSIONER PEARSON: Okay.

13 MR. NEELEY: I would add just one more
14 thing, if I could, just very quickly, and that is
15 that, you know, we have had consistently the lowest
16 dumping margins of any of the countries. So there
17 were opportunities for Amtex, had it wanted to, to
18 sell into these other market segments, if that would
19 have been its intention, and it did not do so.

20 COMMISSIONER PEARSON: I recognize that.
21 The Commission did find that all countries should be
22 cumulated in the original, and so the things we've
23 learned since then that would indicate a different
24 outcome now are relevant. So those would be good to
25 focus on.

1 So a final cumulation question. In the
2 event that the Commission once again cumulates subject
3 countries and treats them as a group, what is the
4 correct outcome in this investigation? Affirmative,
5 negative?

6 MR. NEELEY: Negative. Are you surprised by
7 that answer?

8 COMMISSIONER PEARSON: No, I'm not terribly
9 surprised. But argue that as well in your
10 posthearing, if you could, and give us -- help us to
11 understand why it should be a negative on a cumulated
12 basis.

13 MR. NEELEY: We think that fundamentally
14 that the situation in the marketplace now, if you look
15 at the health of Aqualon, if you look at the capacity
16 utilization of Aqualon, and you look at the
17 profitability of Aqualon, all the factors the
18 Commission looks at, the issues that face the industry
19 today are supplying enough product right now. We can
20 see how Aqualon has responded to the marketplace by
21 importing from France, and that's perfectly rational
22 on their part. We see that continuing for the
23 foreseeable future. And if there are challenges to
24 the domestic industry, the primary challenge does not
25 even come from Finland, although that is the one that

1 has been mentioned. I understand why Mr. Lebow argues
2 that. But it comes more from the China side, we
3 believe.

4 COMMISSIONER PEARSON: Okay. Did you have
5 something more?

6 MR. WEST: Commissioner, I just would agree
7 that we also believe it would be negative, given the
8 health of the U.S. industry, health that it was able
9 to achieve over five years. But the rise of
10 nonsubject imports, the effect of nonsubject imports,
11 I think plays a significant role, particularly to the
12 extent that they have been able to capture any market
13 that -- opened any market share that may have opened
14 up during the period of relief. And we will address
15 that further in the brief as well.

16 COMMISSIONER PEARSON: Great, thank you.
17 Thank you very much for those answers. Madame
18 Chairman, my time has expired.

19 CHAIRMAN OKUN: Commissioner Aranoff.

20 COMMISSIONER ARANOFF: Thank you, Madame
21 Chairman. I want to join my colleagues in welcoming
22 the afternoon panel. We really appreciate your being
23 here.

24 Let me start by following up on something
25 that you said, Mr. Nessel, in your direct testimony.

1 You were mentioning that Amtex would not be likely to
2 increase its production or capacity. And I recall
3 that you said two things. One was that I think you
4 said the investment probably wouldn't be justified,
5 and the other was that there were infrastructure
6 restrictions. Can you explain what you meant by each
7 of those things?

8 MR. NESSEL: Yes. The first one is the easy
9 part. We would have to build a complete new line from
10 cellulose grinding to packing because whatever we've
11 got presently in Mexico is full. So you're talking of
12 an above \$10 million investment, which we do not have
13 the pocket to make.

14 The second part is for the industrial
15 clients, you will need a certain amount of services,
16 steam, cold water, electricity, all that stuff. And
17 so the present infrastructure is full, so we have no
18 additional infrastructure, no extra stream, no extra
19 water that we could put into a new line. So the
20 investment would be even higher.

21 COMMISSIONER ARANOFF: Okay. Well, I
22 understand those things. But we're in a situation
23 where we've got a global industry that from everyone
24 is saying today is everybody is operating at or close
25 to capacity. You've told us the market in Mexico is

1 very strong. The market in Latin America is very
2 strong. Why is nobody investing in increasing their
3 capacity? Or is all the investment going to China?

4 MR. NESSEL: Yes. China has increased
5 capacity quite a lot. And we have evaluated
6 investment in China and decided against it. Amtex is
7 a family business, and the shareholder is not willing
8 to expand capacity in CMC.

9 COMMISSIONER ARANOFF: And you think
10 fundamentally that's because there is a concern about
11 competing with capacity that is going up in China?
12 Because it is obviously not a concern with lack of
13 markets to sell the product.

14 MR. NESSEL: In Latin America, which is our
15 primary market -- and the most interest part is
16 Brazil. So if anything is added in CMC, that would be
17 certainly Argentina.

18 COMMISSIONER ARANOFF: Okay. Throughout the
19 testimony, Amtex has characterized itself as a small
20 and steady player in the U.S. market. And in doing
21 that, at least in your brief, you focus on evidence
22 from the period of review, so while the order has been
23 in effect. But if you look back to the original
24 investigation, I wouldn't argue that Amtex was an
25 enormous player in the U.S. market, but larger than it

1 is now, larger volume, larger market share.

2 If we're to conclude that Amtex is going to
3 keep the limited role that it had during this period
4 if the orders are revoked, I guess I need to know what
5 was in the other piece that went away. Are there
6 other customers that you were serving in the U.S.
7 prior to the orders that you're no longer serving?
8 Are there end use markets that you used to pursue that
9 you're no longer pursuing? Can you explain that?

10 MR. NESSEL: As you might say, during the
11 period of review, we have rather significant
12 fluctuations. And I again have to point in the
13 direction of Azteca. And if Azteca decides to work
14 with 100 percent of their consumption, which sometimes
15 they do and other years they do not, let's say that
16 would increase. The same goes for the other
17 customers.

18 The customer base as a head count is
19 basically the same. There are years where they
20 consume more than they do in others. And as we heard,
21 most of the time they prefer to have two or even three
22 suppliers for the same raw material. Depending on the
23 share you're getting from a specific client, that will
24 vary.

25 COMMISSIONER ARANOFF: Okay. So then there

1 are not U.S. customers that you had prior to the order
2 who stopped buying from you after the order went into
3 effect.

4 MR. NESSEL: No. It is basically a
5 reduction in the consumption. For example, take
6 Gump's, they're only buying the very, very high
7 viscosity stuff. In the medium viscosity, we lost the
8 business due to quality problems.

9 COMMISSIONER ARANOFF: Okay. Thank you. I
10 asked the witnesses from Aqualon this morning -- I
11 sort of quizzed them on what they knew about the
12 Chinese industry. And so I guess I'll quiz the
13 various members of this afternoon's panel about the
14 same thing. What can you tell me about the size of
15 the industry in China? And as I mentioned this
16 morning, I'm particularly interested in what parts of
17 the Chinese capacity are represented by global
18 companies versus startups that are just located in
19 China. Anyone want to jump in?

20 MR. RAATJES: Yeah, I can comment on that.
21 I think we should maybe mention also in the post-
22 briefing, give you some additional information. We
23 have a lot of information available on that, that is
24 our estimate. I just want to make a statement here
25 that looking at -- that's public data, and I can talk

1 about that. Everybody can look that up at the
2 Internet.

3 The export from China for CMC, they are
4 growing tremendously. They are -- really, it's almost
5 scary what is happening. So there is a lot going on
6 in China in CMC. The share just to -- there are maybe
7 200 CMC plants in China, and the -- type of CMC
8 producers, but are also the multinational producers.
9 And so Aqualon has a plant there. CP Kelco built a
10 plant. But also --

11 COMMISSIONER ARANOFF: Your company doesn't
12 have a plant in China.

13 MR. RAATJES: We don't have a plant in
14 China. And maybe I can say something to that. You
15 cannot make money in China with CMC production. We
16 have been looking extensively at that. You cannot
17 make money there with a CMC plant. It is a very low
18 price, with a very high competitive market. They buy
19 from each other. It's more or less a stock exchange.
20 So the prices can vary by day. And it's -- yeah, it's
21 a Chinese type of business that is very marginal. At
22 least it's too marginal for the company like Akzo
23 Nobel, where we want to have certain financial
24 standards we have to reach that, and we cannot do that
25 with the CMC production in China.

1 COMMISSIONER ARANOFF: Now, are you
2 competing with Chinese market in any of the specialty
3 end uses where you like to sell?

4 MR. RAATJES: No. So that is how we also
5 define our strategy. By having -- I think there is
6 still a big asset if you have -- the technology of
7 Chinese CMC production is 40 years behind the
8 technology of our production, like Aqualon has, and
9 Quimica, and we have. So there is still a big
10 difference in technology. That's one thing. Well,
11 one. I had two now, because I lost it.

12 MALE VOICE: Specialty products.

13 MR. RAATJES: Yeah. So but looking at --
14 that's why we defined it also this way. We think that
15 within five to ten years -- how far can you look ahead
16 today, in this very hectic world? It's ten years
17 looking ahead -- ten years is quite a challenge, I
18 would say. But we foresee that by having -- there
19 will not be competition because to get to the purity
20 level of 99-1/2 percent, it's quite a step change also
21 for the Chinese.

22 You see some, they claim. Some of the
23 Chinese -- real Chinese CMC producers claim that they
24 can do it. I can mention some names here. There is
25 also Welty Chemicals, for example. Dynesco has a

1 plant there. They claim that they can make 99-1/2
2 percent CMC. But I think if they can do it in an
3 economic way, that's a big question. So maybe their
4 cross price is that high still. So there should be a
5 major change in the type of technology of CMC, the way
6 to produce CMC to get to the level of the western
7 producers.

8 COMMISSIONER ARANOFF: Okay, okay. I
9 appreciate. I know, Mr. Nessel, you also wanted to
10 say something.

11 MR. NESSEL: Only hearsay, I cannot. So
12 maybe better not.

13 COMMISSIONER ARANOFF: Okay. Well, since
14 your company is selling into emerging markets in Latin
15 America, are you competing with Chinese product?

16 MR. NESSEL: Yes. Also, we know that Kelco
17 has a plant. We know that Aqualon has a plant.
18 Welty, Dynesco, and another plant we know of, San We,
19 which basically sells to toothpaste applications. And
20 I do not share the view of the colleagues that they
21 are so far behind in quality issues. We have seen
22 very good quality CMC also for food applications,
23 especially from Welty. So I do not think it is a very
24 farsighted approach to ignore them.

25 COMMISSIONER ARANOFF: Okay. That's all I

1 have, Madame Chairman.

2 CHAIRMAN OKUN: Commissioner Pinkert.

3 COMMISSIONER PINKERT: Thank you, Madame
4 Chairman. And I join my colleagues in thanking all of
5 you for being here today. Staying with that point,
6 Mr. Nessel, would you say that continuation or
7 revocation of the orders has more of a bearing on the
8 competition between subject and nonsubject imports
9 here in the U.S. market than it does on any other
10 competition with other entities?

11 MR. NESSEL: I'm not sure if I understood
12 that one.

13 COMMISSIONER PINKERT: Well, in other words,
14 is this really a battle over whether nonsubject
15 imports will be dominant in the U.S. market versus
16 other, for example, subject imports or anybody else?
17 Is that really what this whole case is about, in your
18 mind?

19 MR. NESSEL: Presently, I would say it has
20 become that kind of battle because Sweden is down.
21 The Kelco plant in Holland is down. And Kelco has
22 started to bring, as far as I know from the import
23 statistics, very substantial amounts directly from
24 China into this market. And so whether I think it is
25 or it is not, the figures seem to indicate that the

1 nonsubject imports are basically what are driving the
2 U.S. market presently.

3 MR. NEELEY: We would mention also, though,
4 that in the case of at least Amtex, because of sort of
5 the very few customers we have, that, you know, we
6 have not seen particularly, for example, with Azteca
7 -- you know, this is a client that obviously has very
8 specific issues with regard to the flour that they're
9 making, where we haven't seen that import competition
10 from the Chinese side.

11 Now, of course, we do, as Mr. de la Fuente
12 mentioned, you know, we have competition from the
13 German side. But so there is nonsubject in that
14 sense. So in some sense, it's all nonsubject. That's
15 the only people we face for certain of the products.
16 And for others, which are not made by Aqualon, the
17 competitors are all nonsubject, always have been,
18 always will be.

19 COMMISSIONER PINKERT: As you think about
20 this question for the posthearing submission, I would
21 modify my question a little bit and say is it your
22 view that the nonsubject imports represent the growing
23 segment of the U.S. market, rather than dominant
24 segment? I think that was perhaps overstating the
25 point a little bit. But as you think about it for the

1 posthearing, I'd appreciate your answer to that
2 question more fully developed.

3 MR. NEELEY: Thanks.

4 COMMISSIONER PINKERT: Now, turning to this
5 issue that is raised in Akzo's brief about disparity
6 in market power, given the reasons why cumulation is
7 often done when statutory factors have been satisfied,
8 does it seem to be the case that a disparity in market
9 power would be a reason for not cumulating when the
10 statutory factors have been met?

11 MR. WEST: Commissioner, to address your
12 question, I feel -- and we will explain this more in
13 the posthearing brief. We would raise a question if
14 the statutory factors had been met as an initial
15 matter. But to address your question, if they have
16 been -- we'll work on that assumption. I believe in
17 this case -- and we do feel that there is precedent
18 that has supported the Commission's decision to this
19 in the past, where the Commission has discretion to
20 look at whether cumulation is an appropriate
21 methodology, even where you have the statutory
22 factors; when you have something like a disparity in
23 market power; where you have a Akzo Nobel in
24 Netherlands that has a dramatically different place
25 and share of a market versus a CP Kelco in Finland.

1 There is discussion that needs to be made
2 about the statutory factors. But we feel that there
3 is sufficient precedent to allow the Commission to
4 look beyond the statutory factors to see if it is
5 really an appropriate method, given the facts of the
6 particular review at hand in a sunset proceeding.

7 MR. NEELEY: I might add, we didn't make
8 that specific argument. But I might add that, you
9 know, the Commission does look at whether there is no
10 discernible impact, and market power may have
11 something to do, whether there is no discernible
12 impact or not.

13 COMMISSIONER PINKERT: Thank you. Now, just
14 staying with the assumption that the statutory factors
15 have been satisfied for cumulation, and staying with
16 the assumption that there is a discernible adverse
17 impact with respect to the Netherlands, just for sake
18 of discussion -- and now we're talking about whether
19 we should exercise our discretion to cumulate or not
20 to cumulate in that situation. And I'm wondering,
21 when you talk about market power, is that the same
22 thing as talking about large companies versus small
23 companies, because at least the way that I've looked
24 at this issue in the past, large and small is not a
25 reason not to cumulate because large can be added to

1 small, or small can be added to large, and it would --
2 that would amplify the impact.

3 So I'm giving you an opportunity to respond
4 to that.

5 MR. WEST: Commissioner, I would say -- and
6 again, we'll reserve the right to expand on this in
7 our brief posthearing. But I would suggest that the
8 panel would not say to the Commission that Akzo Nobel
9 is by any means a small company. It is a significant
10 international company. But what we have here is a
11 small business, and not an insignificant business,
12 within Akzo Nobel that manages purified CMC.

13 Where we are talking market power is with
14 respect to particular the U.S. market, where the
15 company has a business plan and decision that does not
16 put it in the same sphere as -- particularly, we'll
17 just say, at Finland, in terms of how they are
18 grabbing the purified CMC market in the U.S.

19 So Akzo Nobel is a large company. CP Kelco
20 is a large company. But two companies that have very
21 different approaches and very different presence in
22 the U.S. market. And so therefore the influence of
23 one who has the smaller presence should not be seen to
24 be waiting, we would say, to the same -- that
25 influences on a larger presence. And so to cumulate

1 the imports from the Netherlands with Finland, for
2 example, leaving Mexico aside for the moment, you are
3 looking at companies that behave differently, sell
4 differently, sell different products. At a commodity
5 price level, Kelco is, we still will maintain, a
6 significant price setter. We are a price taker at
7 commodity level prices, which is why, as Mr. Raatjes
8 says, we don't participate in those sales.

9 So that is our contention with a small
10 presence, not that we are a small company, but that
11 our influence in the sphere that CP Kelco competes out
12 of Finland does not match our influence, and therefore
13 we believe it's important for the Commission to look
14 at these spheres of influence on their own merits.
15 And if you find that there is injury caused by the
16 Dutch imports, which we do not believe is the case,
17 but if you find that as a Commission determination, so
18 be it. But we do not believe that it is appropriate
19 to combine Finland with the Netherlands, as Mr. Neeley
20 I'm sure will say, with Mexico, which operates a
21 different model.

22 And as to the point of why did this happen
23 six years ago, it had to do where CP Kelco was. Six
24 years ago, Akzo Nobel was pulled into the case because
25 of CP Kelco and the Netherlands. The question would

1 be -- and it's only speculation, a guess, and I'm sure
2 Mr. Lebow would say he would still have pulled us in
3 -- would the Netherlands have been brought in six
4 years ago had CP Kelco not been there. I can't answer
5 that. It's only a guess at this point.

6 But there is significant difference in how
7 Kelco and Akzo Nobel price, and we would request the
8 Commission respectfully to honor and look at those
9 differences individually. Thank you, sir.

10 COMMISSIONER PINKERT: Thank you. Now, I
11 know I only have about a minute left in this round,
12 but I wanted to get the panel's view about the likely
13 future demand for the substitutes for purified CMC.
14 Can we get a quick answer to that? And then we can
15 come back to it in the next round.

16 MR. NESSEL: Yes. Depending on the price
17 levels, the substitutes will be incrementing.
18 Technical CMC has gone up in the amount, as has guar
19 gum for oil drilling applications, and also in food.
20 So we expect to see an increased demand also in the
21 substitutes.

22 MR. RAATJES: May I? Philip Raatjes. What
23 we see now -- also this morning Aqualon touched on
24 that, on the guar situation. I think at guar, we will
25 see structurally a higher price than before. The

1 harvest of guar is very good, so it's much higher than
2 last year. Normally, guar is a seasonable product,
3 and they can speculate with it. But the speculation
4 effect is almost out this year, and still the prices
5 are rocket high. So they are two and a half dollar at
6 the moment, so they are very high. And this will have
7 -- and the trigger is the amount in the drilling
8 industry, as also Aqualon was pointing this morning.

9 So what I expect that will happen is that we
10 will see an increased demand of CMC because guar -- we
11 see already food customers who use guar today, and
12 they get nervous. And the interchangeability of guar
13 and CMC is there. So you can replace in many
14 applications guar by CMC.

15 COMMISSIONER PINKERT: Thank you. Thank
16 you, Madame Chairman.

17 CHAIRMAN OKUN: Thank you for all of your
18 responses. Let's see. I think with respect to
19 cumulation, because we spent a fair amount of time, I
20 think I would just request posthearing that you pay
21 careful attention to those arguments. I appreciate
22 the difficulty for counsel since the commissioners
23 approach it somewhat differently. But to the extent
24 that there are cases where the Commission has
25 exercised its discretion not to cumulate based on

1 different conditions, if you would take a look at those
2 and point out the similarities or differences for your
3 respective clients, I would appreciate that, because
4 just noting for myself, there is no discernible adverse
5 impact while it probably works for Sweden for me, my
6 threshold has been fairly low. So I will look forward
7 to seeing that discussion in the posthearing.

8 But that did remind me, Mr. Nessel, I wanted
9 to go back just with respect to the home market in
10 Mexico. You had talked about your long-term customers
11 in Mexico, but then in response to another question
12 had talked about, you know, these aren't really cases
13 where you have long-term contracts, you know, that
14 people could get out of a contract should they so
15 choose to do so. And I guess my question is, in
16 Mexico itself, for your contracts there, do you face
17 competition for those contracts?

18 MR. NESSEL: Yes, we do.

19 CHAIRMAN OKUN: Okay. And so when you say
20 you have long-term customers, perhaps for posthearing
21 you could give us a sense of are those also -- you had
22 talked about the U.S. customers being ones where the
23 customer may not have changed, but the level or the
24 amount that you are requested to provide each year has
25 changed. If you can just talk about the similarities

1 and differences with your Mexico versus your U.S.
2 customers.

3 MR. NESSEL: The Mexican customers tend to
4 have not two or three suppliers. That is not that
5 much custom in Mexico. So basically, Mexico, when you
6 lose them, you lose them.

7 CHAIRMAN OKUN: Okay. So any information --
8 I don't want you to have to go into anything
9 proprietary here. But for posthearing, I'm just
10 trying to get a sense of how stable the home market is
11 for you, and whether it is a growing market or not,
12 and then also looking at the information that you've
13 provided with respect to your U.S. customers and how
14 likely it would be that you would gain or lose more
15 market share there. That would be helpful.

16 And then, let's see, there has been a lot of
17 discussion about the Chinese nonsubject. And I
18 appreciated the information that you've provided and
19 that you'll provide about that market. I did want to
20 get your reaction to the Petitioner's argument this
21 morning with respect to the nonsubject imports from
22 France because they did respond fairly specifically
23 about having added the capacity in the Virginia plant
24 to supply part of what had been imports from France,
25 and then they also talked about what they described as

1 a small non-GMO market.

2 And so I just wanted to get your sense of
3 the importance of nonsubject imports from France in
4 the future, to the extent you can comment on it. I'm
5 not sure you can, but just -- yes, someone, anyone.
6 Mr. Nessel?

7 MR. NESSEL: Yes. Maybe I might first
8 address the GMO issue. Solving GMO or non-GMO is as
9 easy as using a different type of cellulose, and there
10 is no cotton linter, pulp supplier that will guarantee
11 GMO freeness. Every wood pulp producer, on the other
12 hand, will. So there is absolutely no reason to
13 suppose that the facility here in the United States
14 could not produce GMO-free CMC, because I'm pretty
15 sure they do use wood pulp in their different
16 products.

17 CHAIRMAN OKUN: They had also, though,
18 commented on that being a very small segment of the
19 U.S. market. Is that also your understanding?

20 MR. NESSEL: Yes, because contrary to
21 Europe, the U.S. does not have any labeling
22 requirements for GMO food. So as far as I understand,
23 that is only a suggestion from the respective
24 administration. So the U.S. purchasers for food-grade
25 CMC tend to put a lesser emphasis on GMO freeness.

1 CHAIRMAN OKUN: Okay. And now I don't know
2 if anyone else could comment on the panel just with
3 respect to nonsubject imports from France, how
4 important they may or may not be in the market in the
5 future if the order were lifted.

6 MR. RAATJES: Maybe I should say something
7 that's also public information. It's import
8 statistics, and with a lot of detailed information on
9 the statistics. And what I note, that a lot of CMCs
10 being imported, not only on this GMO issue or for the
11 cross grades, whatever, because the grade names are
12 mentioned there. So we can bring this in in the
13 briefing if necessary, but it's public information.

14 But what is also noticeable is that a lot of
15 the CMCs being imported from France go to this famous,
16 big customer for cross-linked CMC. And as I already
17 addressed, it's very low price. So there are prices,
18 but the prices are not mentioned there. But it's
19 striking to see that it comes out of France, the
20 imports. So there might be in the future also coming
21 this type of food grade CMC for this very big cross-
22 linked CMC customer out of France.

23 CHAIRMAN OKUN: Okay. And I appreciate
24 those comments. And then if you will just elaborate
25 posthearing with respect to the statistics and what

1 they mean for our analysis with respect to nonsubjects
2 in the event the order were revoked.

3 Your mention of cross-links had reminded me
4 of a question that I had in listening to your
5 testimony today and understanding that you produce --
6 this is for the Dutch facility, that you produce the
7 purified, technical, and cross-linked CMC. And I
8 don't want to get into any confidential information,
9 but I also understand you obviously have reported your
10 questionnaire capacity data. And so I had a couple of
11 questions. One is how difficult is it to switch
12 between a production of the three different types of
13 CMC, cross-linked, purified, and --

14 MR. GROOTNIBBELINK: Frank Grootnibbelink is
15 my name. Generally speaking, it is not too difficult
16 to switch. But as I mentioned in my testimony before,
17 it is of course not attractive for us to produce
18 technical grades, and this is basically, yeah,
19 restricting the added value out of that operation from
20 the Netherlands. So we really prefer to have cross-
21 linked and/or purified volumes out of our factor in
22 the Netherlands because the plant design is equipped
23 for that. And, of course, related to that equipment
24 is the operational cost, and that's, well, basically a
25 strong economic reason to go for volumes and produce

1 purified and cross-linked, and not technical in that
2 factory.

3 MR. NEELEY: I would just add one thing so
4 we're very clear, and that is that substitution and
5 the bottleneck -- let's put it that way. The
6 bottleneck is at -- we make technical and we make
7 purified. The bottleneck is at the purified level
8 because purified is a further process than technical.

9 So while, you know, you can -- you can't
10 really switch back and forth at will. You're limited
11 by whatever your purified capacity is. So if we have
12 a whole lot of technical, and we're selling a whole
13 lot of technical, and we decide tomorrow, gee, it
14 would be nice to make some more purified, we can't do
15 it if we're at full capacity for purified. So I want
16 to be very clear about that. We cannot shift back and
17 forth at will.

18 CHAIRMAN OKUN: Okay. So just for
19 posthearing -- and it may be clear in your prehearing.
20 But just with respect to the questionnaire data and
21 the capacity report, if you could just make sure that
22 I have a good understanding of how that was calculated
23 and how I should look at the estimates, particular for
24 pure. And then also another question about capacity.
25 And again, I'm not sure how much market information

1 you have. But as you know, Aqualon in its brief and
2 today had taken issue with the capacity report for CP
3 Kelco's plant in Finland. They're of course not here
4 for me to ask this question. But I don't know that
5 any of the company witnesses here today have any
6 public information about the size of the facility in
7 Finland that you could share.

8 MR. RAATJES: There is no public
9 information, but we have very accurate information.

10 CHAIRMAN OKUN: Okay. I will look for that
11 posthearing. Okay. With that, my red light has come
12 on. I will turn to Vice Chairman Williamson.

13 VICE CHAIRMAN WILLIAMSON: Thank you, Madame
14 Chairman.

15 There have been some arguments made that
16 because exports didn't increase when margins were low,
17 revocation would have little effect on imports, import
18 volumes.

19 Other than, of course, the argument that
20 dumping orders still have a restraining effect because
21 of the administrative review process and the risk that
22 if you sell at prices that are too low you'll get hit
23 with that much higher rate in the next review, I was
24 wondering how actually I want to comment, if you guys
25 might want to comment on that, and what is their

1 perspective as how it applies to this case.

2 MR. NESSEL: I'm sorry, could you repeat
3 that? I didn't get it.

4 VICE CHAIRMAN WILLIAMSON: Okay. Some have
5 argued that, you know, because the margins are so low
6 in this case, that revocation would really have very
7 little impact on import volumes. You know, because
8 your margins are low.

9 But then I guess there are others who will
10 argue that any time you get under a dumping order,
11 there is some discipline on you because of the
12 administrative reviews, and you're running a risk that
13 you'll get hit with a high margin if a review shows
14 you're under-selling.

15 I was wondering if that has some
16 applicability because, you know, how one looks at that
17 might affect how we would vote on this case. I was
18 wondering if you would give your views as to how that
19 might apply to Mexico.

20 MR. NEELEY: Let me try it. First of all,
21 really the argument of Aqualon is this. If you have
22 high dumping margins, then they ought to continue the
23 dumping order. Because if they get rid of it, then
24 you're going to be selling because those high dumping
25 margins, you know, are preventing you from selling.

1 If you have low dumping margins, then you
2 should, you should continue the order because, it's
3 because of the discipline of the order. So you know,
4 heads they win, tails we lose, is basically their
5 argument.

6 What we would say is that the low dumping
7 margins that we have consistently gotten -- and this
8 is not like a one-off thing, this is a consistent low
9 dumping margin -- shows that if we wanted to, we could
10 sell substantially more in the U.S. market with very
11 little risk. And whether it's because we're just
12 really clever with the way that we, you know, do our
13 pricing, or what I really think is going on, which is
14 that the Mexican home market prices just happen to be
15 very close to the U.S. home market prices. So that we
16 can continue to have these low dumping margins.

17 Whatever the reason is, it's not, it has not
18 been an impediment to our selling into the U.S.
19 market. So I think it's a very good test. And I
20 think in some of the past cases, the Commission has
21 looked at it that way; that it's a very good test, if
22 you have consistently low dumping margins, that, you
23 know, it pretty much tells you what they would be if
24 they were zero. And you know, we're pretty close to
25 zero, and have been for a while.

1 VICE CHAIRMAN WILLIAMSON: So you don't see
2 any disciplining in effect here.

3 MR. NEELEY: I don't see any significant
4 disciplining effect. No, not at that low a level. We
5 obviously know how to sell without dumping, or with
6 very little dumping.

7 VICE CHAIRMAN WILLIAMSON: Mr. West, any
8 comment on that?

9 MR. WEST: Yes, Commissioner, thank you.
10 For Akzo Nobel, the disciplining effect, which for us
11 at that point really came through company financial
12 requirements for having productivity, and having the
13 returns on their businesses. As I mentioned earlier,
14 the company made a choice in a sales strategy that is
15 different now than it was during the period of
16 investigation. Because they, for their cost
17 structure, were not able to make money at the levels
18 that were being sold at a commoditized price.

19 And so I would commend to you, if you look
20 at the difference in price between what Akzo Nobel has
21 sold at in the markets that Mr. Raatjes has said they
22 are interested in now, and see going forward, versus
23 the different, versus the domestic price levels. And
24 consider that difference, and consider that difference
25 with respect to the nine-percent margin we have. Now,

1 it is one of the higher margins in this case, I will
2 concede it. In the scope of international trade it is
3 not that high, but it is one of the higher margins.

4 But the difference that we have in our price
5 that we're selling for now, versus domestic market,
6 that difference, I would commend to you, you will see
7 is likely greater than nine percent. And had Akzo
8 Nobel wanted to capture market share, or capture more
9 volume, it could have lowered its price; still have
10 been above the commodity pricings to pull in more
11 volume.

12 It chose not to do that. And one further
13 note just to comment, that with respect to the
14 disciplining effect, the nine percent assessed against
15 Akzo Nobel is not a reflection of, that it is pricing
16 nine percent above the domestic market. It is a
17 reflection that it is simply selling nine percent
18 cheaper in the U.S. than it does of the same,
19 comparable home products, under the Department of
20 Commerce Rules, in the Netherlands.

21 So the margin only compares how Akzo Nobel
22 is competing against itself in one country versus
23 another. It is not insightful as to how it competes
24 against the domestic industry. Which again, we would
25 say when you review the material, would suggest there

1 is significant room, that the pricing is not affected
2 by the margin.

3 VICE CHAIRMAN WILLIAMSON: Okay, thank you
4 for that. It's the board of directors as opposed to
5 the discipline, not the dumping policy. Okay.

6 For Amtex, you say there is a little Chinese
7 product coming to Mexico. And there's more, much more
8 competition in the oil sector in the United States.
9 And why do you think the Mexicans have not targeted
10 the Chinese market? I mean, why China has not
11 targeted the Mexican market, and could this change?
12 Is it the duty, for example, or any other factor --

13 MR. NESSEL: There is a certain amount of
14 duty on imports from, for Chinese CMC. And let's say
15 one of the reasons at least specific for the oil-
16 drilling sector is that the, the drillers buy, their
17 headquarters in the United States, they buy in the
18 United States, and export at reasonable prices to
19 Mexico, to transfer profits from Mexico, the Mexican
20 subsidiary, to the United States.

21 VICE CHAIRMAN WILLIAMSON: Okay. One reason
22 they are not coming to the U.S. market is the market
23 volatility in the oil market. And I was wondering,
24 why would not that indicate that, you know, there is
25 volatility in the Mexican market, too, in this

1 segment. And why wouldn't that indicate that you
2 might want to move to other markets in the U.S. if,
3 say, oil prices started going down?

4 MR. NESSEL: We do sell to the Mexican oil-
5 drilling industry. And the Mexican regulation on
6 that, on that product have changed recently. We are
7 still trying to adapt to the new regulations we have
8 in Mexico on that regard.

9 And the Mexican operation does not depend on
10 the sales to the oil-drilling sector. So it is not a
11 very substantial amount of our sales, not even in
12 Mexico.

13 VICE CHAIRMAN WILLIAMSON: Okay, thank you.
14 Okay, let's see. I was wondering, how useful are AUVs
15 for price-comparison purposes? Are we looking at a
16 significant difference in product mix among the
17 countries, or changes in product mixes, that you're
18 aware?

19 MR. NEELEY: We think, and that was what I
20 was trying to convey in part of my testimony, is that
21 AUVs are of very, of almost no use. Because we're
22 looking at, you know, very different products. We're
23 looking at technical specs. In the case of Azteca,
24 for example, we're looking at product 12, you know,
25 with regard to Colgate. And none of that is being

1 captured in those average unit values.

2 VICE CHAIRMAN WILLIAMSON: Okay.

3 MS. MANNING: I would, I would agree with
4 that. I think that the, particularly for Akzo Nobel,
5 the high prices that you see that basically of over-
6 selling, countries that they have positioned their
7 product in a different segment than the domestic
8 industry, and other subject imports.

9 So I do believe that there is this market
10 segmentation that the, particularly the under-
11 selling/over-selling analysis is not picking up. Like
12 to some extent, the averaging, cost averaging of
13 values is also not picking up.

14 But I think it does tell you something, if
15 you look at the Relics Commission, particularly with
16 respect to Akzo Nobel, because it is so significantly
17 higher, I think it is telling you something about the
18 fact that there is little competition between Akzo
19 Nobel and the domestic product. And to some extent,
20 the product positions of some of the other subject
21 imports, as well as non-subject imports.

22 VICE CHAIRMAN WILLIAMSON: Okay, thank you.
23 With that, I have no further questions.

24 CHAIRMAN OKUN: Commissioner Lane.

25 COMMISSIONER LANE: I don't have any more

1 questions. And thank you all for your answers this
2 afternoon.

3 CHAIRMAN OKUN: Commissioner Pearson.

4 COMMISSIONER PEARSON: Thank you, Madame
5 Chairman. Mr. De La Fuente -- and Mr. McGrath has
6 already spoken to this -- but I'd like you to clarify,
7 if you could, whether Aqualon has any interest in
8 resuming sales to Azteca Milling since they stopped
9 serving as a supplier.

10 MR. DE LA FUENTE: Not that I am aware of.
11 Me, personally, no.

12 COMMISSIONER PEARSON: Okay. And any idea
13 why there's not interest?

14 MR. DE LA FUENTE: No, I'm not sure. But we
15 stopped buying it from them because it created a big
16 problem with our customers.

17 COMMISSIONER PEARSON: I understand that
18 perfectly, perfectly reasonable, to switch suppliers
19 and have quality problems. Hard to address otherwise.

20 Mr. De La Fuente, this would be both for you
21 and Mr. Nessel. And it may be something that you
22 would answer more comfortably in the post-hearing, but
23 I'll put it out now, and you may comment if you wish.

24 Are the prices that Azteca pays in the
25 United States for CMC produced by, by Amtex related to

1 the prices that the same two companies have in Mexico?
2 You know, the Mexican business, is the price there
3 related to the U.S. pricing? Or is it entirely
4 separate?

5 MR. NESSEL: And related in the sense that
6 it is the same.

7 COMMISSIONER PEARSON: Well, the same plus
8 or minus some factor.

9 MR. NESSEL: No, one is not dependent on the
10 other. The price is set, and it is set for both sides
11 of the border in the same way.

12 COMMISSIONER PEARSON: Set in the same way,
13 but in separate discussions? Or in just one
14 discussion? You know, we will supply, we will supply
15 CMC to you in both your Mexican plants and your U.S.
16 plants basically at the same price.

17 MR. NESSEL: No, they have different
18 headquarters.

19 COMMISSIONER PEARSON: Oh, okay. So in
20 order to sell in the United States, you are, you have
21 salespeople who are coming to the U.S. headquarters of
22 Azteca Milling, and dealing with business managers
23 there.

24 MR. NESSEL: Yes, yes.

25 COMMISSIONER PEARSON: Okay. So the

1 relationship in pricing between the two countries
2 would be only as it relates to your costs of
3 production. So there would be some rough
4 relationship, but not any specific relationship.

5 MR. NESSEL: That's correct, yes.

6 COMMISSIONER PEARSON: Okay, thank you. In
7 this business, do you find that customers have a
8 preference for multiple sourcing from different CMC
9 suppliers? Or are some of them preferring to have a
10 sole-source supplier? Mr. Nessel.

11 MR. NESSEL: Our experience is that none of
12 the major accounts will stick to only one supplier.
13 In Colgate, in Azteca, there are always at least one
14 other supplier.

15 COMMISSIONER PEARSON: Part of the risk
16 management strategies.

17 MR. NESSEL: I would assume so, yes.

18 COMMISSIONER PEARSON: Mr. Raatjes, do you
19 see the same in your customers for the high-end niche
20 products?

21 MR. RAATJES: To a lesser extent. So yes,
22 to a lesser extent. Hardly, let's put it that way.
23 That's a better word, hardly. So we are, many of the
24 food customers had, we serve the network, and we are
25 the sole supplier there.

1 So the, the distributor also supplies -- to
2 that customer, so they rely 100 percent on us. In the
3 pharmaceutical side I would say we are also sole
4 supplier. So basically, we have very longstanding
5 relationship.

6 For example, in Canada we work already 35
7 years with the same distributor. And yeah, I
8 mentioned the pharmaceutical account, the big account
9 here, a 20-year celebration next year. We will do the
10 incident, by the way, and have a nice party.

11 COMMISSIONER PEARSON: We're not able to
12 accept the invitation.

13 (Laughter.)

14 COMMISSIONER PEARSON: It's the ethics
15 problems we have. Okay. This is a question for Akzo
16 Nobel.

17 Has the changing euro-dollar exchange rate
18 had an influence on your ability to sell profitably in
19 the United States?

20 MR. RAATJES: No. Most of our businesses,
21 looking at pharma business, we have euro prices. And
22 in many parts of the world, we work with euro, and not
23 with dollars.

24 Of course, in the United States we have
25 dollar-based pricing, but we adjust to the currency.

1 So that's also one of the reasons that we have higher
2 prices today, much higher in the United States than
3 dollars.

4 COMMISSIONER PEARSON: Right. And one of
5 the advantages of serving the high-value customers, if
6 you're able to.

7 What's the case for Amtex? Has the change
8 in the dollar-peso relationship influenced the pricing
9 possibilities for Mexican CMC coming to the United
10 States?

11 MR. NESSEL: The peso did devalue at the
12 end of 2008. But the pricing policy was not really
13 that much affected by it, and prices adjusted rather
14 quickly on one side and the other side of the border.

15 COMMISSIONER PEARSON: Okay, thank you.
16 Then, a final question. This is for Akzo Nobel again.

17 There was discussion this morning about the
18 possible cause of the explosion at CP Kelco in the
19 Netherlands. And dust was mentioned as a likely
20 cause.

21 If you know anything more about that that
22 you might want to say for the record, I would be, I
23 would be curious. It's not crucial to how we would
24 decide this case, but I'm familiar with facilities
25 that have dust problems. And so I'm just wondering

1 what you think about it.

2 MR. NESSEL: It was not related to dust.
3 Maybe that was an accumulation, but the initiative was
4 the purification section, where they work with
5 alcohol. So there was the, you could say over a
6 longer period, they didn't really have right
7 consciousness on safety levels. So they had for many
8 years the same auditor, and he was getting a little
9 bit blind on safety levels. And it had to do with the
10 alcohol-water mixture in the purification section.
11 And they said there were wrong calculations. So then
12 the explosion originated.

13 And then maybe it was also good
14 housekeeping. You need, in CMC plants you need to
15 have good housekeeping. We are used to that for the
16 pharmaceutical industry. You shouldn't have dust in
17 your plant. It's very important. But the initiator
18 was ethanol.

19 COMMISSIONER PEARSON: Okay, thank you. And
20 I realize, since I said that was the last question,
21 that I had another one that was written down
22 someplace, set aside. So from memory, let me ask it
23 this way. This is also for Akzo.

24 You had explained that much of your business
25 is in the P-plus category, and some of it in the P

1 category. For purposes of the post-hearing, could you
2 provide us with specific lists of customers and
3 products that would fall into the P-plus category, and
4 also into the P category? So that we might understand
5 the differences.

6 And then to the extent, if you know, because
7 you may or may not know, is Aqualon a competitor for
8 certain customers and certain products in the two
9 groupings?

10 MR. NESSEL: For the record, we would be
11 happy to provide that in the post-hearing,
12 Commissioner.

13 COMMISSIONER PEARSON: Okay, good. Because
14 that would give some specificity to somewhat general
15 categories that I've only become familiar with this
16 afternoon. So anything you can provide there would be
17 helpful.

18 MR. NESSEL: We'd be happy to provide that
19 in the detail. Thank you.

20 COMMISSIONER PEARSON: And with that, Madame
21 Chairman, I'd like to thank this panel. I think I am
22 now done with my questions.

23 CHAIRMAN OKUN: Commissioner Aranoff.

24 COMMISSIONER ARANOFF: Thank you, Madame
25 Chairman. This morning the witnesses for Aqualon said

1 that they were able to pick up a little short-term
2 business when the culture plant in the Netherlands
3 experienced their fire. But that in the long run, CP
4 Kelco has been able to serve all of its prior
5 customers now from its plant in Finland, and so
6 there's really no business for other people.

7 Is that also your impression?

8 MR. NESSEL: What happened in our case, and
9 the Netherland plant of CP Kelco was the second
10 supplier for Azteca, we got around that portion that
11 the Netherlands were providing. And we suspect, we do
12 not know, that the same thing is happening, that they
13 were buying from the Netherland plant of Kelco; and
14 that we got part of that business back. And because
15 of the lack of supply in the market, we did not gain
16 any additional customers due to that.

17 COMMISSIONER ARANOFF: But Kelco has not
18 come back and competed the business back away from you
19 from their plant in Finland.

20 MR. NESSEL: No, but now the Germans are
21 serving the volume.

22 COMMISSIONER ARANOFF: Okay. How about for
23 Akzo?

24 MR. RAATJES: Maybe I address it already a
25 little bit, definitely in the pharmaceutical sector,

1 where CP Kelco was in the Netherlands. They don't
2 supply the market any more. So we had that luck, you
3 could say, of the accident, but that's life.

4 COMMISSIONER ARANOFF: Okay, thank you. Is
5 costly CMC a proprietary product?

6 MR. RAATJES: Now, you've already asked me.
7 I don't believe so. I don't think so.

8 COMMISSIONER ARANOFF: There are multiple
9 producers who make it?

10 MR. RAATJES: Oh, that's what you mean.
11 Yes, there are more. So there are, yes, three or
12 four. If you want to have more information, we can
13 provide, that's no problem. I don't want to disclose
14 the names.

15 COMMISSIONER ARANOFF: Okay. I'd be happy
16 to have confidentially who the other producers are,
17 and about what you think the size of the global market
18 for that product is.

19 MR. RAATJES: Yes, we can provide.

20 COMMISSIONER ARANOFF: Okay, thank you very
21 much. Also, this morning, and I know this has come up
22 this afternoon too, but I asked Aqualon about
23 substitute products. And they were quite dismissive.
24 Their testimony was they really, they hardly ever
25 compete with Guar or some of the other products that

1 were listed as substitutes in various applications.

2 And some of you have alluded to the
3 contrary; that some of these substitutes are
4 significant forms of competition.

5 So I guess I would like to ask you, and
6 indeed ask Aqualon as well, for purposes of post-
7 hearing, if you can document any specific, you know,
8 volume of sales where you've competed directly with a
9 substitute product, or lost an account to a substitute
10 product. Sort of any other way that we can really
11 quantify the extent to which substitute products are
12 competing in this space.

13 MR. NEELEY: Yes, we'd be glad to do that.

14 COMMISSIONER ARANOFF: Okay, thank you. I
15 think with that, I have finished all my questions. So
16 I do want to thank you all again for your testimony
17 today.

18 CHAIRMAN OKUN: Commissioner Pinkert.

19 COMMISSIONER PINKERT: I just have a few
20 questions. I try to avoid saying I just have one
21 further question, because I never know for sure.

22 For purposes of cumulation, what should we
23 know about the structural features of the Finnish CMC
24 industry? Other than the fact that it may have more
25 market power than other industries.

1 MR. NEELEY: A couple comments from our
2 point of view, as submitted in our brief. One, it's
3 extremely export-oriented, much more than Mexico is.
4 Two, it is in almost every sector of the marketplace,
5 unlike Mexico. Three, it's much bigger than Mexico
6 is. We agree with that, it's the biggest plant
7 around.

8 COMMISSIONER PINKERT: Anything else?

9 MR. RAATJES: And maybe I can give some
10 input as well. The paper market is a big market for
11 CP Kelco also in Europe. And that market is declining
12 for paper coating, it's declined three percent per
13 year. And a big market is in Finland for paper
14 application. And that market is difficult to judge,
15 but quite some volume might be done there.

16 So yes, they might have volumes available.
17 There is a drive for CP Kelco to export more, I would
18 say, even than in the past.

19 COMMISSIONER PINKERT: Thank you. Mr.
20 Neeley, just a quick follow-up on your answer to that
21 last question. Are you suggesting that large player
22 in the U.S. market versus small players would be a
23 reason not to cumulate, once the export factors have
24 been satisfied?

25 MR. NEELEY: What I'm suggesting is that if

1 you have a very large layer in the market, and Mr.
2 Lebow was talking about what the potential excess
3 capacity is that you have to look at it much harder.
4 And it may be that they have a different situation
5 with regard to excess capacity than we do in Mexico.
6 And I think the Commission traditionally takes that
7 into account as one of the things they look at with
8 regard to cumulation.

9 COMMISSIONER PINKERT: Thank you. With
10 that, I have no further questions. I appreciate all
11 of the information that you've given to us today, and
12 I look forward to the additional information that
13 we've requested for the post-hearing submission.

14 CHAIRMAN OKUN: I think I also have a few
15 more questions. Dr. Manning, I wanted to go back to,
16 just in terms of the counter-factual analysis and how
17 to evaluate pricing behavior. In terms of you had
18 talked about the pricing information we have on the
19 record during the period of review, which I usually
20 tend to see as not as probative as the pricing
21 behavior before the order.

22 But you had made some arguments. I just
23 wanted to ask you about that again. Like, what do we
24 see on this record that, that should tell us about
25 pricing behavior if the order were revoked?

1 MS. MANNING: I think this is a situation
2 when pricing behavior in the period, the original
3 period of investigation, is not informative as to what
4 the pricing would be if there's revocation of the
5 order. And this is with respect to Akzo Nobel.

6 Akzo Nobel has taken, as we've described
7 today, it reevaluated its position with respect to
8 this industry around the time of 2004/2005. It
9 realized that the pricing strategy and the positioning
10 of its products at that time was not something that
11 was profitable for the overall company. And that's
12 one of the reasons why it brought in Mr. Vargas, to
13 reevaluate that.

14 And what they decided was that with the
15 increasing commoditization of some portions of the
16 market, it was not a profitable strategy for them to
17 engage in on a global basis. And they made the
18 decision to look at a different type of product
19 positioning. And that product positioning took them
20 to a different area of the market. And that is one
21 that is characterized by more niche products, ones
22 that have more value added.

23 And their whole strategy in the last five
24 years has been directed towards implementation of
25 that, that strategy. That strategy on a global basis

1 has been extremely profitable for them. And since
2 they have moved to that new strategy, there is really
3 no reason why they would move back to the position of
4 high volume of imports at low prices to compete with
5 non-subject imports in the U.S. market with the
6 domestic product. Because this will not get them the
7 same profitability as their current strategy.

8 They are in a nice position, globally and in
9 the United States, where they are actually able to
10 couple the value-added of their product and the
11 specialization of the services that they provide to
12 very small customers, to be able to command a
13 particular price, and a premium price, for that.

14 To move away from that strategy as a result
15 of a dumping order would simply not be in their best
16 interest.

17 CHAIRMAN OKUN: Okay. And also a question
18 for Akzo Nobel, which is -- and you may have addressed
19 this is some of your other responses about the global
20 nature of the product -- which is, are there any
21 customers where you must be able to supply in the U.S.
22 market to get an account.

23 MR. RAATJES: Thank you for addressing that.
24 In fact, we have some accounts in the United States
25 where we supply who we supply on a global basis. So

1 they have also facilities in Europe and in South
2 America, for example.

3 CHAIRMAN OKUN: Okay. And this might have
4 also already been provided, but if you can identify
5 those accounts and just note the price, what the
6 pricing is, to the different accounts, also post-
7 hearing, I'd appreciate seeing that.

8 MR. RAATJES: Okay, we'll be happy to do
9 that.

10 CHAIRMAN OKUN: Okay. And then Mr. Neeley,
11 to come up to you with respect to pricing. Because I
12 think you have argued that for Amtex, the pricing is
13 not very probative in the period of review. And you
14 went through kind of your list of what the different
15 products said.

16 And so going back to the period of
17 investigation or prior to the order, the pricing
18 event, how should we evaluate the differences we see
19 there, or similarities, in what would be likely if the
20 order were revoked?

21 MR. NEELEY: Again, I think it's not very, I
22 think it's really difficult, let's put it that way, to
23 start with what was going on before the period, the
24 original period of investigation, in the period of
25 review. Because it's not just the dumping order that

1 you have to sort out.

2 I mean, if you're going to do this in a way
3 that makes economic sense, it seems to us that you'd
4 have to also take into account what's going on with
5 costs. You'd also have to take into account what's
6 going on with supply and demand. If you can control
7 for those things and separate out in some way the
8 dumping effect, so to speak, the dumping pricing from
9 everything else, then I guess, you know, you could
10 have a test.

11 I don't know exactly how you'd do that. I
12 think it's virtually impossible. Because the real
13 driver in the market has nothing to do with the
14 dumping order. They have to do with supply and
15 demand, they have to do with cost. That's the
16 reality.

17 CHAIRMAN OKUN: Okay. You had noted in
18 discussing -- it was probably you, Mr. Nessel, or it
19 might have been, it might be Mr. Piotti. I've
20 forgotten. It's late, you know, I forget.

21 But in terms of your customers and the
22 pricing in the U.S. market, one of the questions or
23 one of the issues raised in your briefs that you
24 acknowledge the prices of imports in Mexico are lower
25 than the prices of U.S.-produced purified CMC in the

1 majority of quarterly price comparisons with the order
2 in place, but that they had no adverse effect on
3 Aqualon.

4 Explain to me again, why would they be
5 priced lower now? As you say, if your margin is so
6 low that it's just consistent with what your pricing
7 was prior? I'm just trying to make sure I understand
8 the -- and if it's confidential, you could do it post-
9 hearing. But I'm just trying to understand the,
10 again, how we evaluate pricing if the order were
11 revoked.

12 MR. NESSEL: So the question would be what
13 kind of pricing would be expected from Amtex once the
14 order was revoked? I mean --

15 CHAIRMAN OKUN: Right, keeping in mind that
16 you've already acknowledged that your prices are lower
17 even with the order in place. So again, the
18 Petitioner is arguing that if your prices are lower
19 and the order is in place, then without the restraint
20 or the discipline of the order, you will price lower
21 and take more business.

22 MR. NESSEL: I have the disadvantage that I
23 do not see the direct price comparison you have access
24 to. And I can't really imagine what customers they're
25 talking about. Because the only place where we have

1 encountered competition with the Petitioner are the
2 ones we have talked about. So, our prices in that
3 regard have been pretty stable. And if you look at
4 our confidential data, I think that will be confirmed.

5 And I do not know why the Aqualon prices
6 still trade so much. So if, sometimes we're above,
7 and sometimes we're below. And being as constant. So
8 that is not really a question I can give an answer to,
9 because I don't know what the Aqualon prices still
10 trade so much.

11 CHAIRMAN OKUN: Okay, that's good. And Mr.
12 Neeley, just for purposes of the post-hearing, if you
13 could just elaborate on your pricing argument with
14 respect to --

15 MR. NEELEY: Sure, we'll be glad to.

16 CHAIRMAN OKUN: Okay. And then, well, I
17 think that's enough on the pricing. And I have no
18 other questions, and I don't think there are other
19 questions from my colleagues.

20 Let me turn to staff to see if they have
21 questions for this panel.

22 MR. McCLURE: Madame Chairman, Jim McClure
23 from the Office of Investigations. We have no
24 questions.

25 CHAIRMAN OKUN: Do those in support of

1 continuation have questions for this panel?

2 MR. LEBOW: No, Madame Chairman, we do not.

3 CHAIRMAN OKUN: Okay. And for the court
4 reporter, there was no questions.

5 Before we turn to the closing statements, I
6 want to take this opportunity to again thank the
7 witnesses for being here. We wish you safe travels,
8 and very much appreciate your participation today.

9 And I will review the time remaining. Those
10 in support have a total of 32 minutes, 27 minutes left
11 from direct and five for their closing. Those in
12 opposition have a total of 21 minutes, 16 from direct
13 and five for closing.

14 It's been our practice to just combine those
15 times, if there's no objection from counsel, so that
16 you could just give your closing and your rebuttal at
17 the same time.

18 All right, then, we'll take a couple minutes
19 to let this panel go back to its seats, and bring the
20 closing statements up.

21 (Recess.)

22 CHAIRMAN OKUN: You may proceed.

23 MR. LEBOW: Thank you. Again, for the
24 record, I am Edward Lebow of Haynes and Boone,
25 representing Petitioner Aqualon Company.

1 You know, the Commission is really in a
2 position where you're asked to treat past as prologue.
3 The trouble is you don't know which past to look at.

4 There are some, Petitioners presumably, who
5 say look at the past before the order was put in
6 place; and there are others who say look at the last,
7 more recent period.

8 We contend that, on balance, there is still
9 more information to be gained from the pre-order
10 period, because that was a kind of commercial state of
11 nature. The benefits of the anti-dumping order and
12 its influence on the market were not yet in place.

13 After the order, it does make sense that
14 Respondents would change their behavior, and maybe
15 even change their entire marketing strategy.

16 The U.S. remains a large and rich market.
17 There is a reasonable overlap in competition,
18 particularly in the high-value-added food and
19 pharmaceutical sectors, with all the Respondents. And
20 non-subject imports really have a limited impact in
21 this business. And I'm going to touch on, just on the
22 three different categories.

23 First, the Chinese imports are focused on
24 the oil field and industrial areas, and not on the
25 high-value-added areas.

1 Second, we've been talking rather loosely
2 about growth from China. But actually, if you look at
3 the import statistics, they've been kind of up and
4 down, with the oil demand.

5 And with respect to France, as we stated,
6 Aqualon has improved its production process in
7 Virginia, so that the great majority of the imports
8 that have been coming in from France will no longer
9 need to for the coarse particle-sized product. And
10 that will really have a very, very small impact on the
11 overall demand situation.

12 And as for substitute products, again,
13 there's a difference between Respondent and
14 Petitioner. But we contend that in the oilfield
15 sector, Gwar is used in a product in which pure CMC is
16 not used. Gwar is used in fracturing product, and CMC
17 is used in drilling muds.

18 In the food industry there is a little bit
19 of substitution at the margin, but there are many
20 formulations which take some Xanthum, some Gwar. One
21 is a thickener, one is a suspension agent. There's a
22 little bit back and forth. But again, the substitute
23 products really haven't had much of an impact.

24 We talked in great length about this, I
25 think, in 2005, at the first hearing. And there was a

1 lot more of that made by Respondents at the time. We
2 said then it didn't have a big impact. It didn't; it
3 still doesn't.

4 We've also heard very clearly from
5 Respondents that, you know, contracts, well, they're
6 not really contracts in this industry. People can
7 move pretty quickly to get a better product, or a
8 different product, or a product at a lower price.

9 Respondents have talked a lot about what's
10 gone on recently. I didn't hear much from them, nor
11 see much in their brief, about the staff report, which
12 is a very objective collection of information about
13 what's going on even in the current market. We've
14 quoted extensively and cited extensively to the staff
15 report, because we think that it and the market
16 conditions support our position.

17 Now, turning specifically to each of those
18 major Respondents if I could. First, with Akzo. I
19 think there has been a little confusion about
20 crosslink.

21 Crosslink CMC is not a substitute for, nor
22 does it compete directly with, purified CMC. Our only
23 point is that there is one particular customer in the
24 United States which buys many millions of pounds of
25 purified CMC, that already is buying crosslink from

1 Akzo. And the Akzo purified is qualified there. So
2 that if the order were revoked, we think that there
3 would be a very great likelihood that Akzo would be
4 back into that product.

5 We think that the dumping order has had a
6 clear impact on Akzo's U.S. sales of CMC. They have
7 gone down a great deal, although it has maintained
8 relationships with some of its customers.

9 Akzo tells you that they've changed their
10 business strategy. Now, I don't know anything about
11 their profitability before 2005; at least, if I did,
12 I've long forgot. But it may be that the reason they
13 changed their business strategy is that there was a
14 dumping order put in place, and it made the U.S.
15 market a lot less attractive to them. So they could
16 have been changing the strategy with that in mind.

17 We do know that before the order was put in
18 place, they were selling large volumes, very
19 competitively, into the United States.

20 They also showed you that chart with P and
21 P-plus. And I just want you to know, and we'll put
22 this in detail in our post-hearing brief, Aqualon
23 sells throughout P-plus. We sell in pharma and the
24 healthcare and the specialized food industries, and
25 definitely are not excluded from that high-value-added

1 segment of the market. In fact, like any rational
2 company, that's a segment we'd like to be more into.

3 The Commerce Department predicts a return to
4 dumping over 13 percent by Akzo if the orders are
5 revoked. Even now their margins are nine percent. So
6 their contentions that they're only going for the
7 higher-priced customers, and don't want to dirty their
8 hands with anything that looks like large customers in
9 the United States, would be belied by that.
10 Otherwise, why are they willing to pay the U.S.
11 Government nine-percent duty? That's on top of, I
12 guess, the 6.4-percent normal Customs tariff.

13 As for Amtex, their story is different.
14 Their story is that they've stayed the same, rather
15 than they've pulled out of the market. They still,
16 however, in order to make their sales, have been
17 dumping. And before the order was put in place, they
18 were dumping at 12 percent. And again, the Commerce
19 Department suggested they could go back to that if the
20 order were revoked.

21 My client has also asked me to say something
22 very specific to you about the tortilla business. I
23 think they are offended by the charge they can't make
24 a good tortilla. And the truth is that they now are
25 selling CMC to a company called Mission Foods. And

1 they said use the name in public. It is, I
2 understand, part of the same group of companies as
3 Azteca.

4 And the tortillas, what I've heard from
5 Mission Foods, are fine. And in fact, our folks have
6 made a presentation, as of June 2010, to the, is it
7 the Grooma Group? The Grooma Group that controls both
8 Azteca and Mission Foods. So it's not that we're
9 throwing up our hands and walking away from the
10 tortilla industry.

11 We've also pointed out to you that there
12 have been several attempts made to entice other
13 customers on the basis of price, very recently, by
14 Amtex, one where, we mention in our brief, where we
15 lost the customer. And competition at other
16 facilities, including Colgate, which has been
17 mentioned. And then also Amtex's shipments to the
18 United States have gone up pretty markedly in the
19 second half of 2010.

20 But I'd like to conclude where I began, and
21 that's with CP Kelco. Because again, they're not
22 here, and I'm afraid that out of sight might mean out
23 of mind.

24 We don't know why they decided not to be
25 here. Perhaps they were trying to show some kind of

1 subliminal-interest message of a lack of interest in
2 the U.S. market.

3 But meanwhile, CP Kelco has the world's
4 largest plant. It has, we believe, substantial unused
5 capacity. And it has continued to dump significant
6 quantities of CMC during the period of review. Its
7 dumping margins have been significant. It can produce
8 all grades of CMC for all markets, including for
9 regulated markets. And we heard this morning that,
10 due to a decline in the paper market in Finland, they
11 are having a greater, not a lesser, export orientation
12 going forward.

13 We really are concerned at Aqualon that the
14 lowering of price by the amount of recent dumping
15 alone would force Aqualon to reduce its own prices to
16 hold share, or see a decline in share and an increase
17 in per-unit cost. This would result in immediate loss
18 of revenue and profit.

19 Though we believe that the conditions of
20 competition and the incentives exist to cumulate the
21 impact of imports of CMC from all three subject
22 countries, we urge you in any event to find that
23 exports from Finland comprise a real threat of a
24 recurrence of material injury to the domestic CMC
25 industry within a reasonably foreseeable time.

1 Thank you.

2 CHAIRMAN OKUN: Thank you.

3 MR. WEST: Again for the record, my name is
4 Matthew West from the law firm of Baker Botts,
5 representing Akzo Nobel.

6 We'll just take a few minutes here, by no
7 means the entire time that remains for our side, to
8 review what the Commission has heard today in regards
9 to purified CMC from the Netherlands.

10 We all heard about the changes in the
11 production market for purified CMC that has led to
12 differences in how Dutch purified CMC competes against
13 purified CMC imported from Finland and Mexico.

14 Six years ago, Dutch CMC consisted of two
15 very different products produced by different
16 companies. Today, Dutch CMC is synonymous with CMC
17 from Akzo Nobel.

18 And we have heard that there is no
19 substantial meaningful overlap between the sales of
20 purified CMC from Finland, Mexico, and the
21 Netherlands, and the U.S. market that would require or
22 support the Commission reviewing the purified CMC
23 imports from each of these countries, on a cumulated
24 basis, as was done in the original investigation.

25 We have also heard how Akzo Nobel is

1 pursuing a different sales strategy. And this, as the
2 witnesses stated, this is not a sales strategy that
3 had been motivated in a meaningful way, in real part
4 by the anti-dumping duty order. I believe it was
5 Commissioner Williamson who really capsulized it, who
6 said it was more to do with the boardroom than an
7 anti-dumping duty order.

8 The sales practices of Akzo Nobel during the
9 original period of investigation were a losing
10 proposition for the company. They acknowledged that;
11 that was not the way they could compete. They cannot
12 compete in a commoditized price market. So they had
13 moved to a global sales strategy that looks at higher
14 value, higher-priced CMC products, where they are
15 respected for the services they can bring to
16 customers; and accordingly, are able to command a
17 higher price than those that are in the commoditized
18 industries.

19 And we have provided data, and will provide
20 additional data, to the Commission that supports and
21 evidences that this change in strategy over the last
22 three years has made sense to the company fiscally,
23 and is not a strategy that they are looking to abandon
24 if a nine-percent duty is removed off their purified
25 CMC products.

1 We believe that in consideration of the
2 testimony that has been heard today, combined with the
3 full range of information that the Commission has been
4 able to review and will receive in the post-hearing
5 briefs, that the Commission should and will come to a
6 conclusion that imports of purified CMC from the
7 Netherlands, particularly CMC from Akzo Nobel, will
8 not lead to a continuation or a recurrence of material
9 injury to Aqualon in the foreseeable future, if the
10 order is revoked.

11 Thank you very much for your time.

12 CHAIRMAN OKUN: Thank you.

13 MR. NEELEY: Jeffrey Neeley from Amtex. I
14 want to touch on a few issues here.

15 We were a little bit surprised to hear some
16 of the arguments of Mr. Lebow, and frankly some of the
17 arguments that were made by Aqualon throughout this,
18 this particular hearing.

19 Aqualon seems to be ignorant of certain
20 things that are going on in the market, which frankly
21 surprised us a great deal. Let me start with France.

22 The French argument that they've made to you
23 is basically, as I understand it, that they're
24 bringing in the coarse product. And they're claiming
25 now that they're bringing it back into the United

1 States. Which is fine, but that suggests to us that
2 if, you know, unless they're expanding capacity
3 somehow in the United States, you're just substituting
4 swapping out one for the other.

5 And so, you know, I guess our question is,
6 there still seems to be a situation, according to my
7 client, since the first day I talked to them, that
8 Aqualon has, is really running at pretty much full
9 capacity, according to my clients and everything that
10 they hear. Prices are very high. So if they are
11 bringing stuff back into the United States, it means
12 that certain other things are being foregone. I mean,
13 unless they are increasing their capacity.

14 I'm not quite sure what that French argument
15 is. As we said at the outset, we have no problem with
16 them rationalizing their production and going to
17 France. But to somehow suggest that there is
18 something going on here that, you know, the Commission
19 can kind of ignore, is something that we find to be a
20 quite strange argument. It seems like they've given
21 up on the non-CMC argument pretty much. But with
22 regard to the coarse, I'm not quite sure where that
23 argument goes.

24 We hear from Aqualon, for example, that they
25 are not concerned with the Chinese product from food.

1 Well, fine, neither are we. We don't really see it in
2 the few customers that we have.

3 But they are concerned about it in the oil
4 sector, or they see them in the oil sector. And that
5 is exactly what we said in our brief. That is a major
6 sector for Aqualon; it is a sector we do not compete
7 in in the United States. So as I said at some point
8 during the colloquy today, the fact is if there is any
9 problem on the horizon, that's where, that was where
10 it is for Aqualon. It's a very volatile sector of
11 the, of the industry, with commission originally with
12 the oil sector from things like drill pipe and a lot
13 of other gauges, OCTG, we know how volatile it is.
14 And the same is true with regard to the CMC segment of
15 that market.

16 We have shown, we think, quite conclusively
17 that we are in separate segments of the market, with
18 very specific customers, very limited customers. We
19 have shown, we think, that there is, I wouldn't say
20 no, that we'd never say never or no, head-to-head
21 competition, but very, very limited head-to-head
22 competition with Aqualon.

23 We've heard testimony from Azteca. There
24 should be no question, I think, on the part of the
25 Commission, that Azteca, for technical reasons, and

1 purely technical reasons, is not purchasing from
2 Aqualon. And that has been the case for many years,
3 and will continue to be the case, regardless of what
4 the Commission does in this particular case. And that
5 is by far our largest customer, as the Commission
6 knows.

7 Colgate. Any allegations with regard to
8 Colgate being lost in the United States is just flat-
9 out wrong. We will provide you with any information
10 that we have with regard to the bids on those. There
11 is nothing that we have done with Colgate in the
12 United States. We do not produce that product, and
13 will be glad to provide you with information on that.

14 TIC Gums, which is another company that was
15 mentioned by Mr. Piotti, is a very limited customer.
16 We have gotten a few orders recently, as he talked
17 about; but it's simply because of the shortage in the
18 marketplace of capacity. And we had some things that
19 they could use, and they bought a little bit from us.

20 In terms of pre-order, post-order, obviously
21 we'd argue that the most relevant period for the
22 Commission as far as looking at is really what's
23 happened since the order.

24 Let me tell you a couple reasons why we say
25 that. First, if we only look at pre-order, we're

1 looking at a period of time where things have changed,
2 and changed utterly. Changed, for example, with
3 regard to substitute products.

4 We will provide the Commission in our post-
5 hearing brief very specific instances of substitutions
6 of products that we think shockingly, apparently,
7 Aqualon thinks they lost to subject merchandise. It
8 wasn't even subject merchandise.

9 There's a lot of substitution going on, and
10 I will give you at least one very major example and
11 try to clarify that issue.

12 Secondly, before the order, there were no
13 Chinese in this market, to speak of, not as much as we
14 have now. That is a very major change in this market,
15 that makes going back to 2004 or 2005 we think the
16 wrong approach. Because the Chinese have had an
17 effect on this market, particularly in places like the
18 oil sector.

19 Third, there were no importations from
20 France. The importations from France, as we said, are
21 primarily because of the high-capacity utilization.
22 But that was not the case if you go back five years
23 ago. And as I said, there was a very different
24 situation with regard to capacity utilization
25 worldwide.

1 Since the order, what we have is low margins
2 on the part of Quimica Amtex. We have really no
3 increase of imports from Mexico. It's been very
4 stable, very flat; it's gone up and down a little bit,
5 as Mr. Nessel pointed out, based on what a particular
6 client might order in a particular year, or depending
7 on how the economy is doing. But it's been very
8 stable.

9 And there have been no increases from
10 Columbia or from Argentina, which, as we mentioned at
11 the outset, we could have done, had we really been
12 interested in being in market share at any cost.

13 Finally, my favorite issue: tortillas. I
14 talked to Mr. De La Fuente, who whispered to me about
15 the final point that Mr. Lebow made with regard to
16 Mission Foods.

17 Mission Foods, what he's talking about is a
18 wheat tortilla. As some of us -- I like corn
19 tortillas myself, okay. What Mr. De La Fuente
20 testified to was, it was corn tortillas where they had
21 the problem, not wheat tortillas. Yes, Mission Foods
22 may be buying certain CMC for wheat tortillas, but Mr.
23 De La Fuente assures me that every single corn
24 tortilla that that company is making has CMC from
25 Amtex. And that was our point. At least for those

1 particular types of tortillas, there is no substitute.

2 Thank you very much.

3 CHAIRMAN OKUN: Thank you. Post-hearing
4 briefs, statements responsive to questions, requests
5 of the Commission, corrections to the transcript must
6 be filed by February 28, 2011. The closing of the
7 record and final release of data to parties is
8 April 1, 2011, and final comments are due on April 5,
9 2011.

10 With no other business to come before the
11 Commission, this hearing is adjourned.

12 (Whereupon, at 3:51 p.m., the hearing was
13 adjourned.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Purified Carboxymethylcellulose from Finland,
Mexico, Netherlands and Sweden

INVESTIGATION NOS.: 731-TA-1084-1087 (Review)

HEARING DATE: February 15, 2011

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: February 15, 2011

SIGNED: Raymond M. Vetter
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: Tammy Brodsky
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: Kyle P. Johnson
Signature of Court Reporter