In the Matter of: )

XANTHAN GUM FROM AUSTRIA ) Investigation Nos.:
AND CHINA ) 731-TA-1202-1203 (Final)

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THE UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of: 
XANTHAN GUM FROM AUSTRIA AND CHINA

Investigation Nos.: 731-TA-1202-1203 (Final)

Thursday,
May 23, 2013

Main Hearing Room
U.S. International
Trade Commission
500 E Street, N.W.
Washington, D.C.

The hearing commenced, pursuant to notice, at 9:31 a.m., before the Commissioners of the United States International Trade Commission, the Honorable DANIEL R. PEARSON, Commissioner, presiding.

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On behalf of the International Trade Commission:

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DIDIER VIALA, Vice President of Innovation & Capabilities, CP Kelco
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COMMISSIONER PEARSON: Good morning. On behalf of the U.S. International Trade Commission, I invite you to this hearing on Investigation No. 731-TA-1202-1203 (Final), involving Xanthan Gum from Austria and China.

The purpose of these investigations is to determine whether termination an industry in the United States is materially injured or threatened with material injury by reason of less than fair value imports of xanthan gum from Austria and China.

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 directed to the secretary.

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

If you will be submitting documents that contain confidential business information, your request should comply with Commission Rule 201.6.

Mr. Secretary, are there any preliminary matters?

MR. BISHOP: No, Mr. Chairman.

COMMISSIONER PEARSON: Very well. Let's begin with opening remarks. MR. BISHOP: Opening remarks on behalf of Petitioner will be by Matthew L. Kanna, Arent Fox.

COMMISSIONER PEARSON: Good morning, Mr. Kanna.

MR. KANNA: Good morning, Mr. Chairman, Commissioners, and also Commission staff. My name is Matthew Kanna with the law firm Arent Fox. I'm here today on behalf of Petitioner in this investigation, CP Kelco.

Let me begin by stating what we believe is obvious. Substantial evidence on the record of this investigation demonstrates that the U.S. domestic industry has been materially injured by subject imports from Austria and China. Substantial record
evidence also indicates U.S. domestic industry is threatened with material injury due to the currently available production capacity in the subject countries, the fact that they are export-oriented, and the significant increases in capacity that are in progress as we speak.

The data the Commission staff has diligently compiled in the final phase of this investigation establishes material injury on its face. Much of that data is confidential, but the overall trends are clear. In a rapidly growing market, subject imports have taken the lion's share of growth, using pervasive underselling as their primary tool. That same underselling has prevented the domestic industry from raising prices enough to cover their cost of production.

This dynamic has turned the reinvestment economics for the domestic industry upside down. As the U.S. market grows, domestic producers have been forced to cannibalize their production capital because reinvestment at this time makes no sense. It is clear from the staff report and the questionnaire responses gathered by the Commission that the U.S. domestic industry has been in decline. This decline can be directly attributed to the massive quantities of
subject imports sold into the United States at below fair market value.

The changes in subject imports market share, underselling that is both significant in quantity and degree, and statements contained in the questionnaire responses received by the Commission from purchasers and importers all corroborate the causal link between subject imports and the material injury inflicted on the domestic industry.

Moreover, that connection between subject imports and material injury they have caused is corroborated by improvements in the U.S. market for xanthan gum since the filing of the petition in June 2012.

You will hear testimony today from CP Kelco personnel who have been intimately involved in the production and sale of xanthan gum during the tumultuous time that subject imports have battered the domestic industry. Our witnesses will speak to the changes in the market and what filing the petition has meant to CB Kelco.

We would like you to hear directly from the people who have been fighting to make sure that xanthan gum production in the United States remains an ongoing viable and profitable concern, one that
provides good, high paying jobs for American
scientists, engineers, technicians, and managers, jobs
that provide for both families communities.

You will also be hearing today from counsel
and representatives of Jungbunzlauer, the Austrian
producer, and Deosen, the second largest Chinese
producer of xanthan gum and also the second largest
producer in the world.

Whom you will not be hearing from, however,
is Fufeng, the largest Chinese producer, and also,
coincidentally, the largest producer in the world.

Imagining why Fufeng declined to appear before the
Commission today can barely be imagined as
speculation.

Fufeng makes very clear in its public 2012
annual report that from the year 2011 to 2012 it
increased its already massive production capacity of
97 million pounds a year to 130 million pounds a year,
a 34 percent increase. Fufeng's 2012 annual report
goes on to state that Fufeng is in the process of
installing production lines in Phase II. They further
claim this increased capacity will allow them to be
more competitive and leverage their cost advantage
over their competitors.

These are difficult public statements to
reconcile with the idea that subject imports are not causing material injury to the domestic industry and will not continue to do so. I ask you to keep this in mind during all of the testimony you hear today from both sides.

Fufeng's absence creates a significant gap in the record of this investigation and its absence cannot be ignored. To do otherwise would reward Fufeng for its decision to ignore the Commission, as well as reward those here today who are opposed to this petition.

CP Kelco is one of a handful of industrial biotech pioneers in this country, and whether it will continue to exist as a manufacturer of xanthan gum in this country now depends on an affirmative finding of material injury by the Commission.

I will leave my remarks there. Thank you for your time and your attention.

MR. BISHOP: Opening remarks on behalf of Respondents will be by Daniel L. Porter, Curtis, Mallet-Prevost, Colt and Mosle.

COMMISSIONER PEARSON: Good morning, Mr. Porter.

MR. PORTER: Good morning, Mr. Chairman.

Good morning, Commissioners. For the record, I am Dan
Porter with Curtis, Mallet-Prevost, Colt and Mosle.

I've been asked to present the opening statement on behalf of the Chinese and Austrian Respondents.

With your indulgence, I ask that you look at some tables and graphs while I'm talking so that I can illustrate some critical facts without disclosing confidential information. The tables and graphs are in this handout here. Now, let's dive right into the evidence.

Volume effects. I ask that you look at chart entitled No Volume Effects No. 1. The evidentiary record before you does not support a finding of adverse volume effects. Yes, subject imports did increase over the period, but only in response to rising total market.

Even more telling is what happened in the oilfield segment in the market. For this, I ask you to look at the chart entitled No Volume Effects No. 2. When looking at this chart, please remember that the overwhelming majority of subject imports were for this segment of the market, the oilfield segment.

Commissioners, I submit that this market share data demonstrates the absence of adverse volume effects.

Price effects. Domestic prices were
generally increasing during the period, contradicting any claims of price depression. Petitioner announced repeated price increases and the pricing data collected by the Commission staff confirms that in most segments most of the time domestic prices were increasing over the period.

I ask that you look at the chart entitled No Price Effects No. 1. As you can see, the Commission staff compiled product-specific pricing data for 14 different product distribution channel combinations, and for 12 of the 14 pricing series, domestic producers were higher at the end of the period than they were at the beginning.

Now you just heard counsel for Petitioner cite the evidence of subject import underselling. Yes, the data show some underselling; however, this underselling did not have significant adverse price effects. In some key segments, the domestic industry was able to raise its prices even in the face of the underselling. In other key segments, the domestic industry actually undersold subject imports, again contradicting any inference of an adverse effect from those imports.

For this last point I ask you to take a look at the chart entitled No Price Effects No. 2 which
presents the Commission staff's underselling data for
the oilfield segment. We respectfully submit that
this data seriously undercuts Petitioner's claims of
significant price effects.

Moving on to impact, for virtually every
statutory factor, domestic industry has done well,
either with stable trends or increases over the
period. Domestic production is up, domestic shipments
are up, domestic market share is stable, domestic
employment is up, domestic capital expenditures are
up, and the domestic industry was profitable in every
year.

The only apparently negative trend is that,
operating income and some measures based on operating
income. The trends in operating income, however, do
not demonstrate any adverse impact by reason of
subject imports.

First, the trends in operating income do not
correlate with subject import trends. Neither the
volume, nor the pricing trends of subject import
explain the trends in the domestic industry operating
income. Subject imports did not gain significant
market share, and all prices have been generally
increasing over the period.

In contrast, the trends in operating income
do correlate quite closely with other things happening in the market that were unrelated to subject imports. Specifically, the changing product mix and changing supplier mix provide a much better explanation of changes in domestic industry profitability over the period. This point is worth emphasizing because it is completely supported by the data.

The apparent decline in domestic industry operating profit can be explained by the simple fact that over the period a higher proportion of the domestic industry's total sales were made to the rapidly rising oilfield segment, which historically has always had much lower operating margins than other xanthan gum segments. If the domestic industry shifts more of its business to a segment with lower profits, not surprisingly, the domestic industry's average profit margin will fall.

This has nothing to do with subject imports, as the large difference in operating margins between oilfield and other xanthan gum segments completely predates the increase in subject imports. Needless to say, subject imports cannot be blamed for the dramatic increase in demand for oilfield xanthan gum.

In addition, the trends in domestic industry operating income also correlate quite closely with
certain internal business decisions by the domestic industry that had nothing to do with subject imports, and so we ask that you render a negative determination in this case. Thank you.

MR. BISHOP: Will the first panel, those in support of the imposition of antidumping duty orders, please come forward and be seated.

Mr. Chairman, all witnesses have been sworn.

COMMISSIONER PEARSON: As you're getting settled, allow me to extend my welcome to all of you.

One of the things I underappreciated when I became a Commissioner years ago was how many interesting products I would have the opportunity to learn about. This is the first look I've had at xanthan gum and it's been eye-opening.

The chairman, Chairman Williamson, is necessarily absent today. He had asked me to extend his regrets that he's not able to be with us. He will be participating fully in this investigation, so don't think that he's ignoring this by any means.

So, with that, are you ready to proceed?

MR. CLARK: We are. Thank you, Mr. Chairman. We appreciate that Chairman Williamson will participate fully.

To begin our testimony we are going to show
you a short video that was produced by the Discovery
Channel several years ago as part of a series of
productions it had to show what we do with corn in the
United States.

Their first chapter happened to focus on
what, I agree with you, really is a fascinating
product. I think it will be instructive. It's only,
it's just a little under three minute long. It's
available on YouTube and on the web. Very much made
in advance of this proceeding, certainly. It will
give you some additional insight into this product.
Then we'll begin our testimony with the president of
CP Kelco, Mr. Don Rubright.

So I'll ask my colleague Nancy Noonan to
launch that video.

(Whereupon, a video was shown.)

MALE VOICE: Xanthan gum is born in
Okmulgee, Oklahoma, and it all begins with corn or
corn syrup. The syrup is a kind of liquid corn
starch, sweet viscus, and loaded with energy. It's
used in sodas, and syrup, and sweeteners, and it's the
ideal food for xanthomonas.

At CP Kelco's 95 acre facility, fully
loaded, 110 ton railcars pull into the yard every
week. Each sealed car contains 20,000 gallons of corn
MALE VOICE: Takes about six hours from the pumping station to pump it over into a holding tank.

MALE VOICE: From there, chemists inside the plant's lab inoculate the corn syrup with the xanthomonas bacteria and start to mix.

MALE VOICE: The agitator is like a big shaker table. The agitation causes friction and the warmth of the room causes the bacteria to begin to grow.

MALE VOICE: In this sugary environment bacteria replicates fast. One bacterium cell can spawn 100 trillion identical cells in just 48 hours.

FEMALE VOICE: From a little, tiny, tiny amount of stuff, it turns into 40,000 gallons.

MALE VOICE: After a few days, the bacteria has consumed the carbohydrates in the corn and excreted a gooey residue, xanthan gum, ideal for a variety of commercial uses.

MALE VOICE: Xanthan gum choose where they want to have a uniform suspension. It goes into applications where water needs to be controlled so that when your toothpaste is squeezed out it doesn't run out of the tube but is actually squeezed out onto your toothbrush.
MALE VOICE: But what is it about this corn-powered slime that's so vital to hard rock oil drilling? It turns out that xanthan gum has a unique ability to lubricate and suspend rugged materials deep under ground, properties that are key to the roughnecks working the drill.

FEMALE VOICE: If you can imagine, when you're trying to drill an original hole there are a lot of particulates, a lot of rocks, a lot of dirt, things that we don't want to have included in the end product, being oil.

MALE VOICE: The benefit of the xanthan gum is it allows it to suspend the particles as you're drilling that hole to clean out the whole so that you get a uniformity drilling zone.

MALE VOICE: Keeping a hole uniform doesn't just make drilling easier, it helps prevent deadly accidents called blow outs.

MALE VOICE: You're punching a hole into an area that's going to come out. It's like punching a hole in a balloon, but it's in the ground so the pressure's squeezed out and it comes out this hole. So any little spark, it will ignite and catch on fire.

MR. CLARK: Thank you. Now we'll begin our direct testimony with Mr. Don Rubright, the President
MR. RUBRIGHT: Good morning to all the members of the Commission. I'm Don Rubright, President of CP Kelco. I have served as the president of CP Kelco since 2006. Prior to that I was president of Huber Engineered Materials. Both CP Kelco and Huber Engineered Materials are part of the J.M. Huber Corporation, which is a family-owned corporation, and it has been that way for 130 years.

I will emphasize three key points in my direct testimony. First, I will review the recent history of CP Kelco's competition with low priced imports of xanthan gum from Austria and China in the U.S. market. In that discussion I will review the commercial actions we took to deal with those dumped imports.

Second, I will describe the impact that dumped imports have had on CP Kelco and the decisionmaking process that led to the filing of the petition in this case.

Finally, I will discuss the impact this case has had on our xanthan gum business since its filing and what it implies if fair pricing is restored to the U.S. market.

When I became president of CP Kelco in 2006
there were four U.S. producers of xanthan gum: CP Kelco, ADM, Tate and Lyle and Merck. Today, there are but two, CP Kelco and ADM. Imports of xanthan gum are the reason the industry has shrunk and why, if fair pricing is not restored, the U.S. industry will continue to decline.

The United States is the world's largest xanthan gum market. Imported xanthan gum had a marginal presence in the U.S. market in the late 1990s and early 2000s, but in 2005 large volumes of very low priced xanthan gum from China began entering the U.S. market.

At first the Chinese product was concentrated on the least regulated segments of the market. China used the low price strategy to enter and dominate the growing oilfield segment. By the end of 2006 we were forced to terminate a tolling agreement we had with Merck for producing xanthan gum at its plant in Pennsylvania, costing CP Kelco $25 million. The Merck facility eventually ceased production of xanthan gum altogether.

Tate and Lyle was the next victim, ending xanthan production in its Decatur, Illinois plant in late 2009. In this timeframe, Austria also adopted competition, with pricing similar to the Chinese. The
onslaught of low priced imports required a response. We knew there was no point in trying to compete just on price in our plants in San Diego and Okmulgee. The Chinese were selling below our production costs.

To meet this new, aggressive price competition, we made a series of decisions. First, we decided to focus our efforts on developing differentiated xanthan gum to deliver greater value and use to our customers in all market segments. We developed products with higher value and use that targeted oilfield, industrial, food, consumer, and pharmaceutical applications. We continued to innovate for our industry. We focused our U.S. plants on these efforts.

Our second action to respond to Chinese and Austrian competition was to compete in kind. In 2005, CP Kelco purchased a xanthan plant in Wulian, China, and set about upgrades to meet CP Kelco global standards. In all candor, we imagined that with a low cost plant in China on par with Fufeng and Deosen we could compete in the U.S. oilfield and food markets. We thought this approach would allow us to respond in the oilfield segment, while our two U.S. plants focused on developing and producing higher value, more demanding food, consumer, and farmer products.
Finally, we knew that even if the high value differentiated xanthan strategy succeeded, that approach would not support all the capacity we were carrying. In 2008 we closed our xanthan plant in Moseley, England and committed to serve the U.S., the European Union, and Asian markets from our two plants in the U.S. and our plant in China.

In summary, our response to low priced imports was to streamline production, focusing our U.S. assets on developing high value end use products for the most demanding segments of the market and try to match low priced imports in the oilfield segment by acquiring a low cost plant in China.

This brings me to the second aspect of my remarks today, the impact of low priced imports on our business, including the decision to bring this case.

The first direct impact of low priced imports of our business hit our plant in Okmulgee, Oklahoma. When the plant was commissioned in 1977, it had a 10,000 metric ton capacity. Our xanthan business was performing well in 2004 and 2005, and projecting a future need for additional volumes. CP Kelco began planning to significantly increase the facility's capacity. Then came 2006 and the first major wave of low priced imports.
Because of the rapid decline in price in 2006 and subsequent volume losses in 2007 and 2008, we had to cancel the Okmulgee expansion. Low priced imports basically destroyed the investment economics in our xanthan business, in particular in the oilfield segment, and we could no longer justify an investment exceeding $100 million. As we moved into 2009 and 2010, the situation became worse. By late 2009, CP Kelco had been largely pushed out of the oilfield segment by the surge of dumped imports.

We have long been a primary supplier of drilling mode ingredients to the oil and gas exploration industry, and xanthan gum is just one of the several products that we make and sell into those sectors.

I read with interest the comment that our injury is self-inflicted. The result of reducing our presence in the oilfield segment in 2009 was not self-inflicted. Let me assure you this was not a matter of choice. Chinese imports were selling below our manufacturing costs here, in the U.S., and even in our China plant. We shifted out of the oilfield segment because low priced imports made it uneconomic to stay in the market for any but the most demanding high priced products.
In 2006 Chinese imports also accelerated in their penetration of the food segment of the market. In a repeat of what we saw in the oilfield segment, aggressive price offerings also followed. Because the Chinese were now encroaching on the food segment, we started to see JBL offering its products as an alternative to Chinese imports, but at a price point below ours.

Production volumes in both the San Diego and Okmulgee plants began to drop and margins fell. In late 2009 we had to close line one of the San Diego plant, reducing the plant's xanthan capacity by 33 percent. We concentrated production in Okmulgee and continued to focus on the goal of providing customers superior value and use. Even our plant in Wulian, China became noncompetitive as delivered prices offered by Fufeng and Deosen fell below Wulian's cost of production. Without our specialty focus and export successes, our Okmulgee facility would have been sharply curtailed or possibly shut.

In late 2011 and early 2012 three factors came together. First, we lost sales from a major oilfield customer we were supplying with a highly specialized xanthan gum formulation. That volume was lost to Fufeng on price. Second, we lost an important
consumer account for dental applications to Chinese imports, again on price. Finally, we learned that after JBL expanded in 2010, both Fufeng and Deosen were planning expansions of their facilities in China. All this in an environment of rising costs and ever lower price demands coming from our customers based on quotes they were receiving from Fufeng, Deosen and JBL.

When these events converged we knew that if rational pricing was not established, that our U.S. business would be lost so we decided to file this antidumping case. It was not an easy decision to make, but there was really no option. Imports were offering delivered prices below our cost of production and were attracting increasing volumes in food and consumer segments of the market.

Now my final point. The future of the U.S. xanthan gum manufacturers and the industry can be very different than the recent past based on the market response to just the filing of this case. Prices have stopped falling and new orders have come to CP Kelco. We have restarted line one in San Diego this past January, and we have added workers. In Okmulgee we have taken steps to optimize production, and we hired new production workers in late 2012 to handle the up
tick in customer orders. Most important, because of
the increase in orders and solid pricing, we have
board authorization to begin planning the expansion of
Okmulgee that was shelved five years ago. We have
already engaged plant engineers, industrial designers,
and equipment manufacturers so that we can begin a
series of expansions this year.

In addition to line one reopening in San
Diego, we are planning a 2,200 metric ton
debottlenecking investment in both San Diego and
Okmulgee for the near term, and a capacity expansion
in Okmulgee of up to 10,000 metric tons to be in place
by 2016. The total cost of these expansions is
approximately $100 million, for an estimated capacity
increase of about 15,000 metric tons.

In short, the last nine months have shown
that in a fair price environment there is a place for
U.S. production of xanthan gum. That performance has
been sufficient for me to lay the groundwork to commit
more than $100 million of capital to our business.

To finish the job I need you to recognize
what our experience confirms. That dumped imports of
xanthan gum from Austria and China have caused, and
will continue to cause, material injury to CP Kelco
and ADM, and that an antidumping duty order on those

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imports is the only thing that will bring some measure of price stability to the U.S. xanthan gum market and ensure the continued investment in the industry.

Thank you for your time and attention. My colleague Didier Viala, our Vice President of Innovation and Capabilities, will now give some additional perspective and detail on xanthan gum and its uses in industrial and consumer applications.

MR. VIALA: Good morning. I'm Didier Viala, Vice President, Innovation and Capabilities, for CP Kelco. I have 22 years of experience in the biogums and xanthan gum industry. I have been working with CP Kelco since 1991 in various roles, from field technical support to sales management, marketing, and business development.

As vice president of innovation and capabilities, I'm currently primarily responsible for product and process technology, customer service applications and support, new product formulations, quality, and regulatory affairs. My direct testimony will focus on the functionality and production of xanthan gum.

Xanthan gum is a biotechnology product manufactured through a process of fermentation. The single-most important point of that process is
carefully developed and maintained, that is the
strains of xanthomonas campestris bacterium.
Production strains of xanthomonas are developed over
many years through a process of selection and
carefully controlled mutation.

At CP Kelco we employ microbiologists, food
scientists, and engineers. The scientists and
engineers develop and maintain our production strains,
control and test product quality, and innovate new
products and applications. The scientists in research
and developments that are the foundation of our
xanthan business are located here, in the United
States.

The fermentation process lies at the heart
of our xanthan gum process. It takes place in large
capacity stainless steel fermenters and highly control
environments to maximize the performance of the
bacteria. Xanthan gum therefore is a highly capital-
intensive manufacturing process. That capital is in
the form of machinery, plant equipment, and also in
human capital. Scientists and technicians working in
near clean room conditions are the foundation of our
success.

So what is xanthan gum? It's a
polysaccharide, meaning a long, complex chain made
only of sugars. Xanthan gum is one of the members of 
a larger family of product called hydrocolloids which 
when mixed into a solution with water develops 
functional properties.

Hydrocolloids include lots of products, such 
as guar gum, carboxy methyl cellulose, or CMC, 
carrageenan, and pectins. I want to highlight that CP 
Kelco produces several hydrocolloids, so for us it's 
key to have a deep understanding on what functional 
properties xanthan gum brings versus those other 
hydrocolloids.

Of hydrocolloids, xanthan gum is really 
unique and that's due to the combination of a unique 
rheology, which includes viscosity and suspension, how 
it thickens, how it flows, how it suspends. It has a 
unique functionality, but also a unique stability, and 
that's why it can out perform any other hydrocolloid 
in the industry in end use applications.

The use rate of xanthan gum is very low 
compared to other hydrocolloids. Typically in an 
application you only need .1 to .3 percent xanthan gum 
concentration. Some applications are even lower than 
.1 percent.

A key property of xanthan gum is that it 
provides viscosity, or thicken, when the solution is
at rest. However, if you apply a force to the solution, for example, you pump it, you spray it, or you pour it out of a bottle, you are applying what is known as a shear force to the solution. When that happens the viscosity drops dramatically so it's much easier to pump, spray, or pour. We call this shear thinning.

I want to use some of the demo kits here to highlight what I said. In here, starting from your left to your right, you have a solution of .3 percent xanthan gum, a solution of xanthan gum with 10 percent salt, a solution of guar at .54 percent, and a solution of CMC at .84 percent. All the solutions are there and you have a bead at the bottom, the same bead for all of them.

If we now, we turn the demo kit, you will see what I mean by viscosity and what I mean by suspension power. You see that in the xanthan gum solution the bead is suspended while in both guar and CMC, even if those are double or three times the concentration, the bead falls immediately.

What does it mean? You all eat salad, you all have salad dressings. So when I have a salad dressings, I want to suspend herbs and I want to make sure that the oil droplets kind of go and coalesce
together so that the dressing separates. That's what xanthan gum does in your salad dressing.

Now, in a salad dressing you have salt, you have enzymes coming from spices sometime, or you have acid coming from the vinegar, so it's quite important that this key rheology or viscosity of xanthan gum remain stables to salt concentration, enzymes, or acid.

In here, in this tube you see the salt and the stability and the same properties. We got demos with acid or we got the same with other enzyme stability.

Now, very thick, but when you want to pour your salad dressing you want to have a nice, smooth flow out of the bottle and you don't want to have what I will call blobbing flow or really gel that you would need to push out of the bottle. We all try to do that with ketchup sometime. In a salad dressing, you want it to flow, right?

So I want to illustrate on another demonstration what we call by the shear thinning properties. You got the same solutions here, in there, but when I will turn it there is a small hole at the bottom of the tube and you will have a very high shear at the bottom of this tube. You see that
the flow properties of xanthan gum -- again, from the left, two solutions of xanthan gum, water, and salt, and to the right, your right, guar, and CMC -- you see that the way the solutions are pouring actually are almost the same speed, meaning that it's easy to pour because of the shear thinning properties of xanthan gum.

So again, to your right you see that the beads are still suspended while the solution has been pouring through the tube already. That's what xanthan gum is, and that's what we sell in all applications. You see that it's dramatically different from CMC or guar.

Now, as soon as you recover, as soon as you pour the dressing out of the bottle, you want the viscosity to recover, for orbs to be suspending again, for the emulsion to be stable again and oil to be separated out of the water. Xanthan gum viscosity will recover immediately, and that's the property we're selling and that's what we wanted to illustrate with this model demonstration here.

So as soon as you start the shear force, the viscosity recovers. What this means is that when you spray a solution with xanthan gum and it thins out, but as soon as it's out of the nozzle, the solution
will recover viscosity and cling to the support or stabilizes the emulsion, and that does this immediately. This is a very, very unique functionality of xanthan gum. No other hydrocolloids have the same functionality and the same level of ferments.

You may hear that some others, such as CMC, are known to have the same characteristics, but CMC solutions do not recover at the remarkable speed of xanthan gum that you just saw and cannot perform in the same sterile environment.

I have some other demos that we can show at the break. If we take solutions of CMC or guar in a 10 percent salt environment, those solutions will not be uniform and you see some gels and precipitations in the bottle. So as soon as you enter harsh conditions and the right rheology, then xanthan gum is far superior.

Why is this important? Some products have a low pH because they contain acid, such as certain cleaners. The acid in the cleaner can solubilize the lime or the calcium carbonate so that it can be easily washed away. Xanthan gum brings viscosity to the cleaners so that it clings to the bath, or the tub, or the toilet bowls, and when the acid can do its works...
and dissolve the calcium carbonates.

There are other hydrocolloids, for example, guar gum, that are known to be stable, but again, nothing like xanthan gum. Other hydrocolloids break down in low pH environments or high salt environments, thus limiting their applications.

We refer the Committee to the combinations of rheological characteristic that xanthan gum brings to a solution as a structural function. We use that phrase because of the relationship between the structure of the molecule and the functionality it brings.

Different molecule or molecules, structural, brings a different functionality. Whether it's an oven cleaner, or toilet cleaner, in a draining fluid, in a salad dressing or low calorie beverage, toothpaste, pharmaceutical products, xanthan gum provides this same functionality because it uses the same molecule.

For example, pharmaceutical, consumer, or food and beverage grade xanthan gum could be used in industrial or oilfield applications. However, while we sell in industrial, and often market segments, could not be used in higher value applications like food and beverage because of limits on microbiological
contamination.

The functionality would be the same, but as you move up to higher value end use, the xanthan has met higher and higher regulatory limits on contamination. Meeting those higher requirements means more processing steps and higher failure rate. So that's for the technical part.

Now, historically, the different market segments from xanthan gum form a value pyramid. You see on this slide the different layouts of it, from oilfield and industrial oil, up to food and beverage, consumer, and pharmaceutical applications.

When moving up and, you increase the regulatory constraints in the specifications. Again, you cannot substitute from the bottom to the top. However, downgrading products from the top, pharma, consumer, or food and beverage, into oilfield or industrial applications is possible because, again, this is the very same functionality. So we can move down this ladder, and we need to add some stringent specification to move up the ladder.

Now, when you want to move from oilfield up into farmer, there are limited costs of manufacturing premium moving up because, again, this is fundamentally the same process, the same molecule, and
the same recovery and extraction that you saw on the video.

So up to 2005 there was a perception in the United States that Chinese-made xanthan gum maybe was not as consistent quality or had performance of the U.S. or European manufacturer. That perception has changed dramatically over the past few years as Chinese producers have increased the quality and reliability of the products, and also simultaneously massively increased their production and reduced their prices.

Some customers stopped using U.S.-produced xanthan gum and went directly to Chinese xanthan gum. Other actually tested Chinese products, but somehow were still I would say hesitant to buy. They were still attracted by the lower price, so the customers went to low priced Austrian product. For customer with bottom price, whether they went with Chinese or Austrian product depending on the level of risk those customer were willing to take in order to get that low price.

But in every market segment that the Chinese have penetrated, again using price to open the door, we actually saw Austrian product following up the value pyramid and offering their own generic low
priced alternative. You say you don't want Chinese product, but you like the price. I got Austrian Western-made product and it's still less expensive than U.S.-made product so to speak. That's the dialogue that we had at our customers. That started in industrial and oilfield market and we saw that going up the pyramid, and now it has reach as high as the consumer product segment.

In summary, the xanthan gum sold into the oil and field and industrial market and the higher markets are not different products because they have different structure function or use a different molecule. It has to do with the purity, regulatory compliance and specifications, like total plate count, yeast and molds, and foreign material.

The xanthan gum from China and Austria is identical to the product produced in the United States. The only difference that we see is in the price.

I thank you for the opportunity to appear this morning, and I would like to introduce Mr. Charles Bowman, Vice President, Global Marketing, for CP Kelco.

MR. BOWMAN: Good morning. For the record, my name is Charles Bowman. I'm the vice president of
marketing for CP Kelco. I've held this job since 2007. I've been working in the hydrocolloid industry for the last 24 years, all directly related into the biogum business.

I'd like to expand on Mr. Rubright's statement by focusing on what happened into the U.S. industry from the period of 2011 up to when we filed the petition on June 5, 2012, and then with the period after that until today. What I think you'll find is the impact to the domestic industries has been quite positive since we filed this petition. In fact, I think you'll see two different periods, one of contrast, of darkness, and one of sunshine.

I'll start by taking us back into the darkness before the petition was filed. The price competition in the U.S. was fierce. In fact, in 2011 we saw prices fall to levels we thought were unimaginable.

As Don mentioned in his testimony, during this time we were told of a strategic oilfield customer that would be awarding us zero percent of their annual requirements because both Chinese manufacturers were now approved to supply their products. The product of choice was the highly sophisticated value added product xanthan gum that was
almost one-fourth of the price of CP Kelco's which was sold the year before.

The technology to produce this grade was pioneered by CP Kelco and is in the foundation of our food, pharmaceutical, beverage, consumer business. Now these markets had become under threat and CP Kelco's market shares declined.

While we attempted to maintain prices at levels which covered our cost, we even attempted to raise prices in conjunction with rising cost. These increases did not significantly materialize in the marketplace because lower priced competition continued winning more and more volume by offering lower and lower prices, ultimately resulting in lower market share for the domestic industry.

For example, in the oilfield service markets all major producers of xanthan gum had been qualified over the years and are given an opportunity to bid on a set of volume for each tender, thus leaving only price as the sole criteria to win or lose the bid. Price has become the deciding factor on winning or losing the business since all major xanthan gum producers have been qualified to bid on a set volume. So as Respondents were qualified, they continued dropping pricing, winning bid after bid and gaining
market share at the expense of the domestic industry. Unfortunately, for the first half of 2012 these negative trends continued as market prices for xanthan gum eroded further in Q1. Thus, with no foreseeable future or change in these dynamics, Don Rubright and the CP Kelco board gave me the permission to file this antidumping petition in Q2 of 2012 as a last resorts to restore fair market prices in the world's largest xanthan gum market.

Now let me take you into a sunshine, the period after the petition has been filed. After June 12 we witnessed a significant change in the marketplace. Customers who had not done business in years with CP Kelco began calling, asking for price quotes and options to supply their needs. Some customers inquired because Deosen and Fufeng had changed their terms of sale, shifting the burden of potential antidumping duties and any critical circumstance duties to their customers, and refused to take responsibilities as the importer of record.

By late third quarter and early fourth quarter 2012 we began to see an increase in demand. The petition was having a positive effect into the marketplace and the U.S. xanthan gum manufacturing
industry. Therefore, in October 2012 we made the decision to increase the production and run our plants at full speed in anticipation of higher demand for U.S.-produced xanthan gum.

We shifted our production mix to maximize our production volume and to supply all market segments. We moved temporary and part time employees to full time employees and hired additional full time employee staff at both facilities.

In summary, by the end of 2012, sales from our San Diego and Oklahoma facilities had increased 16 percent in xanthan gum over our May 12 forecast. That was the last forecast we conducted before we filed the petition. The positive impact of this petition was happening.

Now five months after the provisional measures were set in June 2012 we had numerous discussions with customers about what was happening in the marketplace in terms of supply and to dispel many of the myths regarding this tariff and what was really happening up here, in Washington, D.C., and why we filed the petition.

Many of our customers approached us for supply in the second half of 2013 after their contracts expired, while others stated they were in a
wait and see mode to wait and see how the Commission ruled.

I'd like to take a moment to address the comments that have been made throughout this hearing. There is no question CP Kelco's commitment to supply the U.S. xanthan gum market with xanthan gum at fair market prices. I'd like to remind everyone CP Kelco invented this industry and is a leader in biotech technology that started right here, in the United States.

Since filing the petition in June 2012, CP Kelco has moved quickly to prepare our facilities to maximize production. In fact, CP Kelco released a press announcement in the fourth quarter announcing investments in San Diego and dramatically increasing our capacity. This investment was made months prior to the provisional measures that were put in place into the U.S. Department of Commerce.

We placed a bet by investing first in San Diego and are prepared to invest further, as Mr. Rubright highlighted, in Okmulgee to increase supply to meet the U.S. demand.

Also, prior to the U.S. Department of Commerce imposing the preliminary duties, the mere possibility that Chinese or Austrian producers would
come subject to threat and have to raise their prices to fair market value resulted in many purchasing agents re-evaluating their supply chain options and change their supply chains to a domestic producer.

If the Commissioners choose not to act against unfair traded Chinese and Austrian xanthan gum into the U.S. market, many of the customers that are now on the sidelines or the new customers that have come on board will revert back to purchasing low price options from the Respondents.

The positive impacts in the marketplace which have occurred since the petition was filed will quickly erode and be reversed. Prices for xanthan gum will fall again and now, as foreign competitors will seize market share without fear.

Furthermore, there is no reason to believe that history will not repeat itself and that Fufeng will lead in dropping prices to gain market share from the domestic industry. They'll leverage their scale, combined with their low price strategy that was previously published in Fufeng's annual reports. Right behind them will be the other Chinese manufacturers and the Austrian manufacturers all dropping prices to gain market share and the price war will begin again, all at the expense of the domestic
industry.

So I hope you maintain these trade actions against China and Austrian manufacturers which have resulted in positive impacts to the U.S. domestic industry and can be directly attributed to the petition filing date.

Finally, I'd like you to hear the positive impacts that's happened at our Okmulgee, Oklahoma facility. I'd like to introduce my colleague Russell Casey, Jr.

MR. CASEY: Good morning, Commissioners and Commission staff. For the record, my name is Russell Casey, Jr. I first began at CP Kelco in November of 2004. I'm a second generation CP Kelco employee. I graduated from Oklahoma State University in Okmulgee in 2002 with Associate's degrees in both electrical engineering technology and industrial electrical technology. I'm currently an electrical and instrumentation technician, and also a union steward for International Union of Operating Engineers, Local 351.

Over the past three years, the lowest point for morale was midway through 2010 when CP Kelco centralized the control room for our facility. 2009 had been a terrible year. San Diego plant had shut
down line one and the rumors were that the entire San Diego plant was going to shut down. If that plant shut down, we thought that Okmulgee would be next. The rumors were that lay offs were going to start anyway. Although those lay offs never materialized, people were let go through attrition and not replaced as we tried to make fewer people cover more positions. We lost four out of 18 leads that way.

The first time I can remember a manufacturing excellence team coming through our facility to make equipment improvements was in late 2009. The rumors were that the improvements were going to be made to our utilities department, like modifying our boiler system to low pressure steam and improving our distillation. Those changes also never materialized.

Starting in the summer of 2011 when we negotiated our new union contract we saw a shift to hiring more temporary employees who are less expensive than full time employees. Since December of 2012, CP Kelco has shifted to hiring full time employees. Currently, there is only a fraction of the temporary employees that we used to use.

Part of being a union steward is that I get to hear grievances and complaints from our union
members. There is a learning curve associated with training new temporary employees. Before fourth quarter 2012, my union members' biggest complaint was why do I have to keep training new employees? Why don't they hire someone permanently?

Since fourth quarter 2012, despite hiring a significant number of new full-time workers, now I hear complaints about having to work too much overtime because production in our facility has increased significantly.

In my position as an electrical and instrumentation technician there is now a lot of emphasis to really keep everything running all the time. There's always been a priority for maintaining equipment, but because our production has increased so much, permanent repairs must now be made more quickly.

I've seen morale at our plant steadily improving over the course of the past two years. In late 2011 and early 2012 we were hearing about customers we were losing, and now we're making as much product as possible.

2013 has been a good year. We're hiring more full time people and we're getting lots of overtime. There's a big push on production and a big push on quality repairs, and in just the past few
months I've seen the manufacturing excellence team
return to evaluate our plant for increasing capacity.
I was told that we're planning on increasing the
number of fermenters and C tanks. Right now our plant
is set on a trajectory for success.

My colleague Terri McConnell can speak to
her experience over the past few years working
directly in production.

MS. MCCONNELL: Good morning. For the
record, my name is Terri McConnell. I started working
with Kelco in March 1991 as a helper, helping out
wherever needed. Since then I've held several
positions with the company, including Operator 2 in
the packaging department, supervisor of the packaging
department, as well as an Operator 1 in recovery.

I have had the position of Operator 1 in
recovery for the past 18 years. The recovery process
is what happens between the fermenter and before
packaging. Those steps include precipitation, drying,
taking samples for lab testing, as well as milling.

The two things that I'm most proud of at
Kelco are its commitment to safety and its commitment
to quality. Kelco is committed to the safety of
workers, like me, and to the making of a product that
is safe for our customers. Kelco is committed to
quality. Kelco helps its workers be the best they can be through cross-training opportunities so we can understand all aspects of the production process and also by reimbursement of education expenses. I now have a business degree that is a Bachelor's. Thanks to Kelco I was able to accomplish that with their help.

We produce a quality product that we are all proud of. Our product goes into Children's Tylenol, prepared foods, and many other products that are consumed by people, including us.

When I lay down at night, I know I gave Kelco my best and that I helped produce a high quality product that is safe. It is very fulfilling to know that what is going out the door is the best that you can possibly make. As an Operator 1 in recovery, I see every pound of xanthan gum that is produced.

In 2009 I started to become worried about my job, as well as the company, because I saw production slowing down. Overtime was suspended in 2009, in 2010, and 2011. Any overtime that was worked had to be preapproved by management. The plant was only running two out of four lines in 2010 and 2011. Our warehouse was filling up to capacity. No trucks was backing up to the door to take our product.
In 2010 we asked management what was going on and we were told that we had lost customers and there was not much demand for the product. It got worse in 2011 and the first half of 2012, and I was scared.

At the same time we were going through this slow down from loss of customers, the doctors gave my husband a death warrant basically. I apologize because it's so fresh still. The clouds was hanging low at Kelco and it was pretty dark at home.

My managers came to me and asked me to take time off work so that I could take care of business at home, because, you see, Kelco would not sacrifice quality or safety for anyone. Yes, they care about us as employees, but they also care about every person that xanthan goes into their bodies, so they will not sacrifice that.

They assured me that if everything was still okay at Kelco once I got through my storm at home, that I could return to work. I thank God that I was able to return to work, and my husband is doing fine now.

At the same time, in October 2012, management held a town hall meeting and told us that things were picking up and we would be getting back up
to capacity soon. Everyone was told to roll up their sleeves and push hard on production.

Now, in 2013, I have seen that increase in production. The company lifted the hiring freeze and made new hires. We're running all four lines continuously. Now overtime is back to normal, according to our normal operating procedures.

Not only did the clouds pass over at my house, the clouds have passed over Kelco. The sun is shining again, and because that sun is shining, I can smile again, as well as every colleague that I work with. Thank you.

MR. CLARK: Mr. Chairman, that concludes our direct testimony, and we'd like to reserve the balance of our time for the closing statement. And the panel will be delighted to respond to any questions that the members of the Commission or the Commission staff have.

COMMISSIONER PEARSON: Okay. Thank you for that presentation. I would just like to say to the witnesses from Oklahoma that all of us are holding in our hearts the families of Moore, Oklahoma, who have been so devastated by the tornado. Some of us come from the center of the country, and we know what that can be like. So we're glad you're able to be here...
with us today.

We will begin the questioning this morning
with Commissioner Pinkert.

COMMISSIONER PINKERT: Thank you, Mr.
Chairman, and I thank all of you for being here today
to help us to understand these issues. I want to
begin with some questions that reference segments of
the U.S. market, and I can't get into a lot of detail
about those segments without talking about proprietary
information, so I'm not going to do that. But will
reference segments, and you can then share with me
whatever you think is appropriate.

My first question is do Austrian and Chinese
imports compete in different segments of the U.S.
market?

MR. VIALA: We see Chinese and industrial
imports and competition in all of those segments in
the pyramid. Historically, it started from the bottom
of the pyramid, but as we explained, they moved up,
and we now see them in each and every layer.
Pharmaceutical may be the one where we do not see a
lot of Chinese products probably yet. And Austrian,
yeah, being somehow moving up. We see Austrian
product in most segments now.

COMMISSIONER PINKERT: Mr. Bowman, do you
want to add to that?

MR. BOWMAN: Yeah, I'll add to Mr. Viala's comment. What we've seen over the years as an industry, a new manufacturer comes onboard. They start at the bottom of the pyramid and move their way up. And as Didier expanded, we're seeing on web sites and in literature that the entire industry and everyone that is at this table and at the tables behind us that can participate in all the markets -- where we see sales right now and approve of the sales -- and the pharmaceutical market may be the one that's exempt. But outside of that, we see Austrian manufacturers participate in all these segments the way you've highlighted it out. We also see the Chinese manufacturers participate and proclaim that they can be in those segments, even major customers, which we can handle off the record into those consumer and pharmaceutical that sit right in the middle have approved them as suppliers.

COMMISSIONER PINKERT: In the industry, is there commonly referred to a Chinese low-cost segment of the U.S. market?

MR. BOWMAN: I'm sorry. Could you repeat that?

COMMISSIONER PINKERT: Just in common
parlance in the industry do folks talk about there
being a Chinese low-cost segment of the U.S. market?

MR. BOWMAN: Allow me to start. What I
think you see is there is a perception that because
it's made offshore, not in the United States, it's
cheaper. And China does have a stigma with it as
being a low cost. But we have a manufacturing
facility in China in which we produce the same quality
as we do in our Okmulgee or San Diego facilities. We
have a one CP Kelco-quality standard because many of
our customers will purchase a product in the U.S., but
then export it, or some of the larger multinational
companies want to buy a product and then be able to
ship it where there is different regulations for food,
non-food quality.

Those regulations have to meet a certain
standard. So if you're supplying the multinational
companies, regardless of where they're at, you have to
meet that standard quality. So to me, there is a
quality standard which is in the industry. And each
segment has its area there. I don't see it directly
that there is a cheap Chinese alternative to
everywhere. In fact, sometimes we see some prices
pretty high.

COMMISSIONER PINKERT: Any other comments on
that issue, Mr. Clark?

    MR. CLARK: Commissioner Pinkert, I think
the record shows, without going into confidential
information, product from China and from Austria being
present in overlapping market segments, and they're
even being overlapping customers. So the record shows
that the product is simultaneously contesting all
segments of the U.S. market. It's certainly
geographically present in the U.S. market, competes
with our product, and competes with other domestic
product.

    We see the product from Austria and China
competing in all of the consumer food and beverage,
industrial, and oil field markets beginning to
penetrate in the sense of being offered in the
pharmaceutical market as well for both China and for
Austria.

    MR. DOUGAN: This is Jim Dougan from ECS, if
I may add one thing. The purchaser perceptions as
well, there is data that are in the public staff
report that can be discussed. And according to
purchase responses, when asked to compare imports from
Austria and China, whether they're, you know, superior
or comparable or inferior, they were reported as
comparable in a very high majority of the cases, 151
out of 222 responses.

So the perception of the purchasers in the market broadly is that the Austria and the Chinese merchandise is broadly comparable.

COMMISSIONER PINKERT: Staying with you, Mr. Dougan, what about pricing? Is there a distinction between Chinese pricing generally speaking and Austrian pricing?

MR. DOUGAN: Without getting into anything that's confidential, I would say that it would -- that would vary based on the segment, and that the pricing within the segment -- and in other words, an overall import average unit value would be determined by product mix. And I'm trying to be very careful here.

COMMISSIONER PINKERT: You can always supplement in the posthearing.

MR. DOUGAN: I certainly will. I think the thing to say is that the comparisons within particular market segments would certainly be closer than perhaps an overall import average based on the various weights of the segments that the different countries participate in.

COMMISSIONER PINKERT: That's a helpful answer, and I'm sure that you can supplement that in the posthearing.
MR. VIALA: If I may, and that will not be any confidential information, having been in the marketplace, what we saw is Chinese coming where it's very low pricing, and those prices being matched most of the time by Jungbunzlauer from Austria. That's from a market sales perspective. We saw that happening.

COMMISSIONER PINKERT: Thank you. Now, and I'm going to be very careful about how I phrase this next question. I've checked with staff, and I'm trying to avoid any business proprietary information. But is the increase in U.S. shipments of Chinese imports in the oil field segment largely a function of expanding U.S. demand?

MR. RUBRIGHT: I would say that demand in the U.S. market probably has been growing. But our inability to compete there means a disproportion of that is going to Chinese imports or JBL imports. So it's not just a matter of the market expanding. The pricing does not allow us to participate in that expansion.

MR. CLARK: Just to elaborate on picking up on one of the points that Mr. Rubright made earlier, one of the critical factors that precipitated the company's decision to come forward with the petition
was actually a late 2011, early 2012 loss of an extremely demanding xanthan gum oil field specification.

So even though you heard the characterization earlier that oil field is a chronically low-margin segment of the market, in point of fact, as you saw in the video, xanthan gum plays a critical role. There are some very demanding specifications for some very demanding customers. CP Kelco had been providing a very demanding, very expensive product to meet that need, and we lost that business, ad we lost that business for just a little over one-fourth of what had been the prevailing price in the previous two years.

So in the oil field segment, I think it is fair to reiterate Don's point, which is, yes, the oil field market demand has certainly increased. But if we take a situation where we were the pioneer, we had a premium product, demand for which was also growing, we lost even that product to low-priced offerings coming out of China.

COMMISSIONER PINKERT: And finally, looking at the market segment data in our report, were some domestic producer shipments diverted from the domestic market to export markets over the course of the POI?
MR. RUBRIGHT: Our strategy back in -- when we saw the price competition that was going on in the business, was to go to high-end differentiation. The high-end differentiation was more broadly accepted in some export markets than it was in the U.S. market, as Chinese prices just drove down even the margin rate and the difference between highly differentiated product and standard product.

So just in terms of survival, we went to the markets that were willing to pay the price for the cost of manufacturing at higher differentiated grade.

MR. VIALA: I may add an additional point. We also, as was in Mr. Rubright's testimony, closed down a plant in the UK, and obviously also redirected some of the capacity from domestic into serving our customers over there. And probably in the posthearing documents, we can give you more details about some of the programs and differentiation and targeting markets that we had so that we could maintain our -- or try to maintain our margins in a really broad capacity from low-cost, low-price here competition onto the more profitable markets for us. We can provide more details on that.

COMMISSIONER PINKERT: That would be very helpful. Mr. Clark, do you have a final comment?
MR. CLARK: One final comment. I was actually going to extend an invitation to Mr. Bowman to comment because your question was -- you used the word "divert," which implies a conscious decision to not meet domestic demand in favor of export demand. And Mr. Bowman is in a good position to speak to the question of whether there were customers in the U.S. that we said we're not going to supply you, we're not going to quote you. We're too busy selling to export markets.

Since he's global marketing and sales, he's well-positioned to address that.

COMMISSIONER PINKERT: Very briefly, Mr. Bowman, since I'm post the end of my round.

MR. BOWMAN: Okay, yeah. What our product is, is really this high quality, safe, consistent product that we sell out into the marketplace. What we found is that outside of the U.S., we would service customers outside. The same customers inside the U.S. had actually turned and went to the Respondents at these low prices that they were getting.

Many of the multinational products that -- multinational companies that would buy from us outside the U.S. were not buying from us in the U.S. because of the prices in this market. We saw that in a number
of cases within -- across all of those segments that
are up there, which we can represent, with the
exception of the pharmaceutical. I think it
exemplifies that the product was there, it was
available. The offering wasn't taken.

COMMISSIONER PINKERT: Thank you very much.

Thank you, Mr. Chairman.

COMMISSIONER PEARSON: Commissioner Johanson.

COMMISSIONER JOHANSON: Thank you, Mr. Chairman. I would also like to thank all of the
witnesses for being here today, and in particular
those of you who came a long way from Oklahoma. And
once again, I know the situation in your state has
been very difficult, and we've all been thinking about
is happening there.

Mr. Viala, you did a very good job of
describing differences in different types of xanthan
gum and comparing that to guar. And I personally
enjoyed looking at the exhibits before the hearing
started along with Commissioner Pinkert, and we were
able to witness firsthand, of course, the differences
in viscosity, et cetera.

Given the different types of xanthan gum --
and this is a very basic question. But do you
consider xanthan gum to be a commodity product?

MR. VIALA: I would say the functionality of xanthan gum is the same wherever the product comes from, whatever the producer is. Now, you heard Mr. Rubright talking about differentiation of products, which will go against the commodity approach. But let me elaborate a bit.

I would say that there is a baseline for xanthan gum, and the typical functionality of xanthan gum, and there is differentiation from this baseline. What we try to do at CP Kelco is to work with customer, differentiate the product according to their needs, and then obviously charge a premium for that differentiation.

However, the premium is only from the baseline. So when the baseline collapses, either our price goes down or customer says, okay, the differentiation that you are providing is not worth the huge premium anymore, so I will revert to the commodity-like standard grade xanthan gum. I'd rather call it standard grade xanthan gum than commodity.

But still, let me give you an example. To stay on the salad dressing example, when you go to those plants, you've got very large plants, and people needs to make a solution of xanthan gum so that it can
go into the process. How you get the product into the water can be tricky because you don't want to make any lumps. We have grades that will allow you to do that without any lumps. There are grades that will go faster into solution so that your batch cycle time is lower, and you don't need to have a huge plant, so you save on capital.

We have grades that protect workers when you empty a bag to not generate any dust. We have grade that will flow, the powder will flow very well before you put it in solution so that you can have air adductor and actually blow the product from the emptying line onto the production line.

All of that has a value for the customers, and you can have a premium which is, let's say 5 or 10 percent. Now, if your price difference become $3, $4, $5 a kilo, then producers will say, okay, for such a difference, I can't even invest in a new plant or a new tank, or I don't need -- or I can put masks on my operators. I don't like that, but I can do this.

So I would say that this premium would vary very much with the baseline. Therefore you have differentiated xanthan gum from standard ones, but the pricing element of it, they are linked.

COMMISSIONER JOHANSON: When you're
producing xanthan gum, let's say I go into your plant in Okmulgee, Oklahoma. When you produce in a batch, do you specifically designate that as going to oil field applications, food applications, pharmaceutical, et cetera, or at the beginning? Or at what point does that separate out?

MR. VIALA: In CP Kelco, we scale production for the end product. So we target a specific product, stock-keeping units for us. That's how we do in CP Kelco. I don't want to go in specifics for the others, but sometimes you may have a large volume of more commodity grade xanthan gum, and you produce this large volume, and then you can test and look at specifications that you have. And if you're lucky, you may have from batch to batch variability. You may end up with a specific batch that will show better specifications, and you can then lot sell it or cherry-pick from this big pie.

That works if you have a large commodity-like baseload in your plant and some process variability, if you will. For us, we have optimized it in a different way where we target specific SKUs so we know what it is. Sometimes we fail, but we try to have a very good first pass success rate.

COMMISSIONER JOHANSON: Do any of you
believe the U.S. might have an advantage pricewise over imports, given the large U.S. corn supply? The U.S. is the largest corn-producing country in the world, from what I understand.

MR. VIALA: Anyway, it will depend. As you understood in I think everyone's testimony in CP Kelco, quality and safety matters a lot, and that's including food safety. And right now we produce actually domestically in the U.S. and even China. We tend to buy the highest standards raw materials and quality, and when dealing with our suppliers, we're asking for very high standards, whatever the product we're making.

We all hear about food safety scandals. That's not for us. We don't want to go that way. So I would say that we almost put ourselves in a disadvantage because we have those high quality standards, and we accept to pay higher price for those. But we also provide safe products for our customers.

So domestically, there is a lot of corn and corn syrup, and we try to add that. Now what we know is that in some other part of the world, some people are not as demanding in terms of quality and may offset the advantage that we have in the corn in the
COMMISSIONER JOHANSON: But do you think that would impact the prices of production?

MR. VIALA: If we were less demanding, we would definitely have cheaper raw material costs. But that's what we went into as well.

COMMISSIONER JOHANSON: Okay. Thank you.

MS. NOONAN: Commissioner, if I can.

COMMISSIONER JOHANSON: Yes, Ms. Noonan.

MS. NOONAN: Thank you. If I can add, we did have some significant increases in the price of corn that's reflected in the staff report in section 5-1.

COMMISSIONER JOHANSON: Has that been worldwide, though? I know in the U.S. it's a commodity product, so I assume it's affected around the world. But I just don't know.

MR. RUBRIGHT: I would think you would classify corn as a global market, not a local, geographic market. Whether we're pricing for corn syrup, say in Europe versus the Americas, there is very little difference normally in global pricing.

COMMISSIONER JOHANSON: That's what I would think, although in the United States we have such a pull into ethanol at this point in time, which is not
reflected in all other markets, or most other markets probably.

MR. RUBRIGHT: I think the large supply of corn in the U.S. that is exported globally -- I'm not sure of the ethanol. I believe it has an impact, but on the global pricing schematic, it's going to level out.

COMMISSIONER JOHANSON: Okay. That makes sense. I've looked at corn figures a lot in the past, but not recently. So thank you for your responses there.

This next question deals with likely price effects. When purchasers were asked to rank purchasing factors as very important, somewhat important, and not important, more purchasers ranked availability, delivery time, product consistency, quality and reliability as very important, then price. Does this suggest that other factors are more important than price in purchases?

MR. RUBRIGHT: I think our experience has been if you look at the major applications, especially the large applications on the bottom of that triangle you're looking at, that basically all suppliers have met those other requirements in the eyes of the buyer. So the one thing that is a differentiator at
the end of all that is price.

COMMISSIONER JOHANSON: Yes, Mr. Bowman.

MR. BOWMAN: I'd like to expand upon Mr. Rubright's comments. I think what you'll see is the functionality that Mr. Viala highlighted here has to be there. The product has to work, otherwise the function that you're bringing into the product is not going to be in your end product.

So I think that's one of the areas that's a given. The dynamics of these markets, there is not a lot of new food applications that comes on in like the U.S. They change new product lines, but the same major food companies are there. And over time, they have the ability to bring on several different manufacturers to get people to approve on certain specs.

What we would see is that those -- over time, those specifications in all these segments, with maybe the exception of pharma, are available, and then folks will have the ability to bid one or two different suppliers off of each other, in some cases five or six, and therefore that's what impacts the pricing area.

There is a quality that you have to meet, otherwise you wouldn't -- you would lose the benefits
of the xanthan gum. As Mr. Viala said, whether you're
in a pharmaceutical suspension or whether you're
suspending rock in an oil field, xanthan gum from the
Xanthomonas campestris, the way it was produced will
give you that suspending qualities. It's those price
points that have been in the dynamics with the
purchasing folks. That's the way I would see it.

COMMISSIONER JOHANSON: All right. Thank
you. Apparent consumption of xanthan gum has
increased substantially during the period of
investigation. We know that to be the case. But
could you all possibly discuss the impact of the
recession on purchases of xanthan gum? Was your
industry heavily affected, in particular in your food
and beverage areas?

MR. BOWMAN: Could you repeat the period
just one time?

COMMISSIONER JOHANSON: During the period of
investigation, which is 2009.

MR. SCHKADE: 2009? The recession had some
impact, not as much on the food and the beverage
industry, but more so in the lower pyramid here, in
the industrial and oil field side, because again what
happened is we lost an accelerated pace of market
share, and that was due purely on price. We were told
that our price was too high, and so therefore we lost virtually the vast majority of all of our business in the U.S. during that period of time.

COMMISSIONER JOHANSON: Thanks. Of the many products in the U.S. economy, it appears that yours, due to what is happening in the oil and gas industry, is coming back very strongly. So --

MR. SCHKADE: Yes. You know, as far as coming back, there are several different indicators showing an increase in demand, our count is. But actually, if you take a look at actual wells drilled, they did increase, but actually in 2013, those wells drilled are predicted to be down anywhere from 4 to 5 percent versus 2012.

COMMISSIONER JOHANSON: Okay. All right. My time has expired, and thank you for your responses.

COMMISSIONER PEARSON: Commissioner Broadbent.

COMMISSIONER PINKERT: Hi. I wanted to thank the witnesses for coming. We appreciate you taking the effort to come and describe these things to us. It's a real education. We haven't looked at a product like this before.

Mr. Rubright, I wanted to pick up a little bit on your statement that it was sort of a difficult
decision to file this petition. How do you make such
a decision among your board? What are some of the
factors that you weigh on one side and the other?

MR. RUBRIGHT: As I mentioned before, the
owner of the corporation is a family by the name of
J.M. Huber. They are strategic owners. They are not
people that look to optimize buy-sell companies. When
they normally buy something, they hold it for many
generations.

This business under examination of long-term
competitive sustainability is something that we look
at on a regular basis. In 2006, when I came into the
business, we had owned this business for
approximately, you know, a year, year and a half at
the time. And the business was performing quite
poorly, especially in the xanthan gum side of the
business, and was trending downward. And this is about
the time when all these imports were coming into the
U.S. market.

And perhaps we were naive. Maybe we had
more confidence in our ability to innovate our way out
of that competitive onslaught coming out of China,
which is why we made the moves we did in 2006 and 2007
in response to this. As we innovated our way up into
those top tiers that you're talking about, the Chinese
in particular grabbed so much more of the market down in the oil field space that when Mr. Viala was talking about you can lot select specifications to a product to go to that next level, the bigger that base becomes at the bottom in the oil field and industrial sector, the more they can lot select and attack your competitive barrier that you have on innovation in those higher segments.

When that actually happened to us in the 2011-2012 time frame, we more or less saw the writing on the wall in terms of what is our sustainable competitive position here. And while we had shut plants, if you think of that bottom tier as a huge bell curve of production, what we did to innovate was tighten the bell curve and shift it to the end of the tail.

What they were doing is taking that huge bell curve and lot selecting and attacking our innovation that we had worked so hard to isolate on the upper end of the spectrum of the processing capabilities. When we saw that and saw that this insidious erosion of the market share and grabbing all of the growth going on in the lower field -- lower end of this spectrum we're talking about, they had a more -- a larger and larger base of which to lot select and
continued to move upscale against us.

So when we sat down to talk about this, as you know, we were on the other side of this with the CMC business, and we saw the impact that it had on us, and at least, you know, giving us pause as to are we operating effectively here and properly in the international markets.

We think that pause is needed here, and we think that we need to send -- we needed to send a strong message that these practices that are in this insidious spiral in terms of attacking a marketplace, and even offsetting the millions of dollars we are spending on innovation in the process, convinced myself and the board that this is an action we should consider, and after a very strong debate decided to take.

COMMISSIONER BROADBENT: What were the import levels from China when you bought the business?

MR. RUBRIGHT: I'm not sure of the numbers. We can check that in the post-discussion brief. But it was just starting to ramp up in 2006. And the reason -- the thing that I remember most significantly was the impact on profitability in 2006, where we priced to maintain share and saw that even maintaining share, we were losing -- starting to lose money. So
our overall margin rate in the business before selling
in general, before R&D expenses, and all that
innovation that we were spending money on was barely
in double digits. And our SG&A and R&D spend was
higher than the margin on the product that we were
making, even after we decided let's go compete and see
what we can do, and maybe push productivity in the
operations. We just couldn't get there.

COMMISSIONER BROADBENT: Okay. In terms of
trying to set up the correlations that we need to look
at as we make our determination, is your sense that
the prices were depressed throughout the period of
investigation -- when did the price depression start
to occur?

MR. RUBRIGHT: We saw the price depressions
start in 2006 and then accelerate. And we saw a real
aggressive competitive positioning between Deosen and
Fufeng in 2011 and into 2012, almost to the point of
they were trying to out-low price each other's, the
best way we could see it. But we did not have the --
we could not compete at those numbers.

COMMISSIONER BROADBENT: The two Chinese
firms.

MR. RUBRIGHT: Yes.

COMMISSIONER BROADBENT: Okay. And then
what the Austrians doing at that point?

MR. RUBRIGHT: They were matching -- we believe they were matching the Chinese in order to take and maintain share, and they took some share from us in the food.

MR. BOWMAN: If I may to add to Mr. Rubright's comment, what we saw in the period back to 2009 when we filed the petition, we saw the rapid increase in supply from the Chinese manufacturers. And when prices were starting to fall, what we saw is that the market started falling with it. And then the economy collapsed in 2008 and came back. A lot of inflation occurred because supply chain dynamics got disruptive. What we saw was prices continuing to fall down, literally on order to order, versus what we had had with contracts. And normally you would have a chance to recoup some of that inflation, like we talked about with corn, energy, even the raw materials supplies.

And so what we found, both Austrian -- and Chinese manufacturers started it. Specifically Fufeng was the first to take it down. And then as Deosen and other manufacturers came on board and the spiral continued, JBL followed down as an alternative. It's we like Chinese prices, but western quality. So they
pushed it down to the part, and that's when we saw the prices pretty much start collapsing.

And then as Mr. Rubright said earlier, we had a highly sophisticated product tailored to a customer, a product that has the same attributes in the technology, what we do in the plants, that could be right up in the pharmaceutical, but it is sold in the oil field for that specific need. And they have now been able to crack that code and come in at just over a fourth of the price. And that was when I approached Don and the team and said we have to make a move.

COMMISSIONER BROADBENT: Okay. I'm just trying to piece this together. We have a staff report that has a lot of public statements there were Kelco is saying that they're increasing prices in 2012, December 20 -- I mean, excuse me, July 2010, December 2010, July 2011, November 2011. So did you feel comfortable raising your prices at that point. And it seems to me you're raising prices throughout the period of investigation.

MR. BOWMAN: That's right. Most of those, if not all of those, price increases, my name is on them. What we do is we do a global price increase when we come through. We do it for our complete
portfolio. And you'll see I have a magnitude. I think it was something said that the prices would go up 47 or 48 percent if I rounded it up. And I think you'll see our numbers are nowhere near those magnitudes of price changes from the start of this to the end.

What you will see is we now have price increases up to or to not exceed a certain number, and it expands across our complete portfolio, and that portfolio would include three grades of pectin, two grades of CMC, three grades of carrageenan, a microparticulated whey protein, a number of biogums that aren't in xanthan gum, which will be three, and xanthan.

So when you see those press announcements, a lot of times to protect ourselves we'll place that in, but it covers our complete portfolio. But our numbers are on the record. You can see the magnitude of price increases we were actually able to maintain when these things went through.

What we were finding is we were trying to recoup some of these raw materials and shifts in the materials while our competitors were rapidly dropping prices and gaining market share at the expense of the domestic industry.
COMMISSIONER BROADBENT: Okay.

MR. CLARK: Commissioner Broadbent, if I might interject one small -- we talked about this in our prehearing brief, and you will see it also in the posthearing brief, and you can deduce it from what is in the staff report.

If you take some of these segments and break them out and overlay market share with price movements, while it is certainly true that there were in the different segments, critically industrial, food and beverage, and consumer, modest increases far below the ones that come from the advertised public statements.

Now, you will see a precipitous decline in share associated with that, and that is the effect of imports penetrating those markets, even as our costs are going up and we're trying to cover the cost of innovation and reinvestment in the business.

COMMISSIONER BROADBENT: Okay. I'll stop there. Thank you.

COMMISSIONER PEARSON: Mr. Kanna, Mr. Clark, do we have on the record the information that Mr. Bowman has been providing about the lost sale in the oil field sector of the high-spec product?

MR. CLARK: Yes. That is -- that was
featured as one of the lost sales in the preliminary phase and is on the record here as well.

COMMISSIONER PEARSON: Okay. But do we have in the type of detail that he has been providing?

MR. CLARK: We will provide it from -- in the level of detail he is describing so you that you have an appreciation for the quality of that product, the specific customer, some of the detailed information that was shared with us for why we lost that business.

We will provide that. You have the instances in the record. The greater detail we will provide in the posthearing brief.

COMMISSIONER PEARSON: Okay, good, because it would be nice to put that into context more. Okay.

Mr. Rubright, you've discussed challenges faced by the industry dating back to more or less 2005. Of course, in this investigation we're constrained to look at the record from 2010 to 2012. From Mr. Porter's opening remarks, you may have deduced that there is an alternate view of the record relative to the one that you have been providing us.

So there may well have been injury in those past years that we aren't looking at. What should we look at on this record for injury? And, of course,
you are constrained and not able to see the
confidential data, so, Mr. Clark, Mr. Kanna, if it's
better for you to answer, that would be fine, but you
can see what I'm trying to say, Mr. Rubright.

MR. RUBRIGHT: I do. I think our largest
cconcern is not just what happened to us, and if there
is a period of what looks like no injury to us because
of the data, I think the deeper you dig into that
data, you see that the trends are the same.

So while we can't put what happened prior to
that period in the record, the same thing that
happened there is in the process of happening again.
And so as they move upscale, the fact that we've gone
from four to two manufacturers and that we were having
difficulty in this market, as well as ADM in this
market, just leads us to the conclusion that more of
the same is coming. And if this antidumping exercise
is not successful, the tariffs are not put in place,
then it will totally reverses what any progress we've
seen in the last six months or so, and that trend will
continue downward.

So I don't know how the '12 data impacts
your viewpoint on whether there has been damage done
or not. But I would ask you to look closely at what
happened in '12 in that data to see what was the trend
prior to the antidumping being filed. We saw a
significant change in attitude in the marketplace, and
we saw customers that we had lost, you know, several
years ago, in '06 and '07 and '08.

So if they were lost by the time we got into
this period of review, then that damage was already
done, and for the most part that's when the damage was
done. We gave ourselves some breathing room through
our innovations efforts and spending millions of
dollars on repositioning our business. We learned a
hard lesson in China that if you're going to have a
global standard on safety, if you're going to have a
global standard on environmental control, if you're
going to have a global standard on food safety, and
you implement those, you cannot hit those price
points, or at least we could not.

Maybe they are better than us at the low
end. I don't know. But we just find it hard to
understand. We saw some serious problems in a plant
that we bought that was built the Chinese way that
simply wasn't sustainable, and frankly dangerous. And
we'll be glad to go into some of those specifics, but
we will not sacrifice those principles just to compete
on price. And I think that whatever those trends were
back prior to the period of review, our biggest fear
is that those trends get reinstated and continue.

COMMISSIONER PEARSON: Okay. Now, Mr. Dougan, Mr. Kanna, and Mr. Clark, based on the forward-looking nature of Mr. Rubright's comments, should we look at this more as a threat case than a present injury case?

MR. CLARK: Commissioner Pearson, we would say no, that this case needs to be viewed as you typically do, in equal parts, present injury and then also future injury.

The reason to provide some of the historical context is really to try to as best we can take the Commission into the thinking of the company and our view that the past here is prologue.

So if we look at what was experienced in the late 2000s, 2006 to 2009, for the industry as a whole -- and by the way, 2009 we'd argue is a component of the record in the sense that the calendar year was included in the preliminary phase investigation and the information, significant parts of it, are reflected in the staff report.

But nevertheless, there was a pattern. The industry's, the domestic industry's, response was to meet competition with competition. As we move into the current period of investigation, 2010, 2011, 2012,
we see that pattern of competition based on price continuing. Mr. Porter fairly characterized the underselling in the case as being extensive. We think when you correct or recognize level of trade, you'll find that it's much more than extensive. That pattern now had gone from the environment that existed in the late 2000s. So as we move into '10, '11, and '12, now we see traveling up the pyramid. So the part of the markets, those segments were the U.S. industry could play a significant role and capture margin, even the high end of the oil field, were now under assault in a way they had not been under assault in '06, '07, '08, and '09. In '10, '11, and '12, we see a difference. We're losing business in '10, in '11, in '12. You heard Ms. McConnell refer to what was happening at the plant, what she was seeing, and she saw every pound of xanthan gum that went through the plant. And now we have a proof of concept. We've seen what has happened in the wake of the petition being filed. That is evidence of current material injury, and it speaks, as does quite elegantly, the capacity additions by Fufeng to the threat that is also part of this analysis.

COMMISSIONER PEARSON: Mr. Dougan?
MR. DOUGAN: Just to build slightly on what Mr. Clark has said, you do see -- and as we've presented in our prehearing brief, which I can't entirely get into -- you do see the trend of current material injury, and you do see declines in key indicators. Again, I'm trying to be very careful.

What we also see, certainly from the testimony of Ms. McConnell and Mr. Casey, is, as Mr. Clark said, what has happened since the petition was filed. Customers who, you know, were lost long ago coming back, the production increasing -- these are not coincidences. They very much are the result of the filing of the petition.

So in a way, that could almost be viewed as a photo negative of a lost sale that, you know, isn't on your record, but occurred prior, but this is a customer who wasn't calling them before June of last year, and now all of a sudden they are again. So in a way, that change in behavior also indicates the behavior that had -- or the injury that had occurred and was occurring, and that they were subject to over the period.

COMMISSIONER PEARSON: Right. Mr. Bowman of course had referenced darkness versus light in his discussion of he post-petition effects in the
marketplace.

In the staff report, do we see evidence of this? Because, I mean, it's not unambiguously clear that things have gotten better for the domestic industry following the filing of the petition, unless -- there may be exhibits in your posthearing submission that you would direct me to. But help me with this one, if you could. Mr. Kanna?

MR. KANNA: I think that the issue there is the way that the data has been aggregated, of course, is on an annual basis. And in this investigation, you have a petition that was filed in the middle of the year. So although the numbers as aggregated may not tell exactly the same story, what we've provided you today in our testimony and can provide more of in our posthearing brief is evidence demonstrating that the filing of the petition had a major impact on this market. And as Mr. Clark said, it's a proof of concept in a sense, and it also speaks to the causality of the injury that the domestic industry was experiencing prior to the filing of the petition.

That kind of change has only become more dramatic since the provisional measures were put in place. And there is no reason to think that the advances in the market for the domestic industry will
do nothing but reverse if those provisional measures are removed and there is not an order put in place.

COMMISSIONER PEARSON: Okay. Well, it's not

-- Mr. Clark.

MR. CLARK: Commissioner Pearson, let me try to just point to just a couple of things that might be indicative. It is a little bit challenging because we are dealing with calendar years. But I think you will observe if you look at the reporting of the numbers on production-related workers that you will see a difference in 2012 than you will see in 2011 or 2010.

If you compare the domestic industry's production and the movement of the production numbers, but more importantly the movement of inventory numbers. In particular looking at 2012, what you will see is inventory is being consumed far in advance of the rate of progression, even though as Mr. Bowman testified, production is up quite significantly in the second half of the year.

That's indicative of very rapid movements in the market, the market immediately taking up product and having instant demand. That uptick is really reflected in the second half of the year. Because we don't have partial-year data, we can't do a first half/second half analysis. But if you take today's
testimony and look at those couple of considerations, 2012 versus '10 and '11, you can see the effects of acceleration through 2012, and you could fairly ask yourself what is the difference, primary difference, between 2012, 2011, and 2010. There is a significant event in June of 2012.

COMMISSIONER PEARSON: Okay. Thank you for those answers. My time has expired, so allow me turn now to Commissioner Aranoff.

COMMISSIONER ARANOFF: Thank you, Mr. Chairman. Thank you to all of this morning's witnesses for being here today.

You've given a lot of testimony this morning about improvements that you've seen in the market since the petition in this investigation was filed. Deosen argues that to the extent that we see any improvement in the data that we collected for the second half of 2012, that those don't reflect any effects from the petition because Commerce's preliminary determination wasn't issued until January of 2013, and that that's the first thing that would actually have affected the market. And they therefore argue that the Commission should not give weight to the presumption, the statutory presumption, that any improvements after the petition are results of the
filing of the petition.

How would you respond to that in terms of how we should be looking at the data from the second half of 2012?

MR. BOWMAN: One of the things put in my testimony was around to dispel some of the myths that were in the marketplace. When we filed this petition, there were a number of comments made that CP Kelco is exiting, CP Kelco is going to sell the biogum business, CP Kelco is not committed to the U.S. industry.

As we move forward to work with our customers and actually grow our business, what you'll find is we saw customers coming to us asking for more and more product as soon as the petition was filed, almost immediately.

We also saw quite a bit of response at the -- about a quarter after the petition was filed into the marketplace with prices from all the Respondents starting to rise quite rapidly. Therefore, as Mr. Viala had said, if you're selling a different shade of product of high value that maybe 20-30 percent of that product can be used less than the commodity or the Respondent's product.

If that price starts coming up, the value of
that differentiated grade really becomes materialized. And we saw that quite a bit in all the market segments that are on the board. We continue to see customers, and we have an exclusive distributor in North America called Univar. They also saw an increase within the folks asking about the ability to supply, the ability and price that would come into the marketplace, and how we could work closer together in our innovation engine.

So we saw it immediately, and that's why I said it's ironic. I would have thought that there would have been a stop point when you file a petition because that's when we saw the impact, almost immediately. We looked at this phenomena -- I think you call it critical circumstances. We felt we -- you know, many of those, as the shift of the burden of being the importer of record from China and Austria, some were shifted into the marketplace to the customers.

We saw no need to punish customers potentially of having to pick up those tariffs. We looked at it as we're starting to see the impact already in fourth quarter. And you could see it from our inventory levels dropping. You could see it from our production rates going up. And we had a very
robust fourth quarter, one of the strongest fourth quarters we've ever had, which was indicative. And that has translated over into 2013.

So from my perspective, this trade order and the investments and the commitment that I got from Don and the board flat out was working, which is exactly what we came here for.

COMMISSIONER ARANOFF: Okay. I appreciate those answers. And, Mr. Clark, I would just say that for posthearing, since you're the one who can see the confidential data, if there is anything you want to say about the consistency of what Kelco saw with the domestic industry, the data for the domestic industry as whole, that would be helpful.

MR. CLARK: We will do that. Thank you.

COMMISSIONER ARANOFF: In the Respondent's briefs and certainly in Mr. Porter's opening this morning, he made the argument that the domestic industry sold larger quantities of xanthan gum over the period of investigation as demand grew in the oil field segment, that the domestic industry was selling larger quantities of xanthan gum into that segment, which has, they said, historically and traditionally been the lowest priced segment of the market, and the result of this shift in product mix would necessarily
pull down the domestic industry's operating results
and would be unrelated to the presence of subject
imports in the market.

How do you respond to that assessment of the
record?

MR. CLARK: It's certainly one possible
interpretation of the statistical data from a very
high level. But if you break down the record a little
bit more carefully, for example, by looking at the
individual segments, you'll see very different
phenomena occurring across the different segments.

In a period of, for example, increasing
demand in the oil field segment, there would be no
particular reason for price in that segment to
decline. But that would be a phenomenon that you
would ask, and whether the impact on the domestic
industry's performance was more attributable to that
than to any phenomenon of dilution of average profit
across market segments.

You will also see, if you look at the
different segments, that given the impact on domestic
industry in the non-oil field segments, I think you
can isolate a more significant effect from -- trying
to be careful on confidential information -- market
share phenomenon in the higher margin and higher
priced markets that is equally if not as great as any
alleged dilution coming through the oil field segment.

We can go into this in somewhat greater
detail in the posthearing brief. I think another
phenomenon you'll see that relates to a point I made a
few minutes ago is contrasting the work-off of
inventory, and the relative level of pricing that's
associated with the runout of inventory as opposed to
current production is also a component of what was
happening in the rapidly -- the most rapidly growing
segment of the market.

COMMISSIONER ARANOFF: Okay. For
posthearing again, because there is so much
confidential information involved, I'm going to have
to ask you to look very carefully at the arguments
that were raised regarding what was going on in the
oil field segment and who at particular times was the
lowest price seller in that segment and what was going
on with market share.

So there is nothing more that I can say
about it now except to say that the arguments are laid
out in detail in the Respondent's briefs, and it would
be helpful to have a point-by-point response.

MR. CLARK: Thank you. We will do that.

COMMISSIONER ARANOFF: Thank you. When
you're looking at the specific pricing products for
which the Commission sought pricing data, within those
categories, and there were seven categories and then
two different channels of distribution, but within
those descriptions for the pricing products
themselves, are there a range of products that are
going to fit those descriptions that might reflect a
range or pricing, or is that a fairly narrow category
that should have fairly consistent pricing, all other
things being equal?

MR. BOWMAN: Yeah. Of the seven categories
that we started off with -- three, and then it broke
to four, and then it went to seven when we came back.
Those are very tightly narrowed into the quality
specifications and end-use needs that the customer
would want.

So Mr. Viala had highlighted the use of
agglomeration, for example, or sometimes
clarification, and then the benefits that you get from
clarification.

So those market segments are very tight in
the specifications and the markets, and the portfolio
of products that would be offered in each one of those
is extremely tight.

MR. KANNA: And if I could just add to that,
Commissioner, that what Mr. Bowman said is very, very true, although if you look closely at the description for product six, you'll see that in essence it does function as a basket category. There was a possibility that you might have a somewhat wider range of product pricing in product six, as compared to the other six product categories.

COMMISSIONER ARANOFF: Okay. All right. So you would argue that the possible exception of product six, that if we are seeing pricing disparities within what is reported for a particular pricing product that could not be based on product mix. That would be what we would call underselling.

MR. KANNA: Yes.

COMMISSIONER ARANOFF: Okay. All right. Let me just ask one last question. The number of purchasers who responded to the Commission reported that there were supply shortages, that there were periods when they felt that they couldn't get what they needed from the domestic industry.

Now, some of those come after the filing of the petition, so that's a different situation, and you can set those aside. But with respect to the ones that are referring to earlier periods, why would a purchaser perceive that the domestic industry was
unable to supply them, didn't have adequate supply for
them in a period where you've told us that the
industry had a great deal of excess capacity?

MR. BOWMAN: I think we can go back and look
at the full period of review, and we look at the
ability of the domestic market to be able to supply.
When we had -- when customers inquired about these
different product lines, both pre- and post- petition,
we always look at the specifications and at what the
customer needs. And we align those up with our
portfolio offering, and then we put it forward.

When we had opportunities to bid, if we
didn't get the business or supply, there could be a
price impact that comes on. But the U.S. industry,
when customers have inquired for us, we have supplied
material.

MR. VIALA: I think back to the purchasing
criteria that we talked about earlier, first we can
match any customer needs or any specifications on the
marketplace, and we had -- and we have the capacity to
supply those products.

However, we turned down lots of business,
unfortunately, because the price that the purchasing
agents were requested were not matching our cost
structure and were not matching the need that we had
to at least cover with some margins.

So I think that there is a false perception around us not taking the business versus us not being able or capable of supplying those businesses.

COMMISSIONER ARANOFF: Okay. I appreciate those answers.

MR. KANNA: May I make one comment here?

COMMISSIONER ARANOFF: Oh, certainly.

MR. KANNA: I see the vast majority of every inquiry that has come in, especially since the petition has come through. And there has only been one instance that we said we cannot supply you from a U.S. industry, you know, when purchasers were inquiring. And that happened to be a competitor, and it would be in direct violation of our agreement with another distributor in the U.S.

COMMISSIONER ARANOFF: Okay. You might want to get the confidential details on that to see if it matches up with any of what the purchasers were saying so we could maybe rule out one particular situation.

MR. CLARK: We'll be able to provide details around a number of those instances.

COMMISSIONER ARANOFF: Thank you very much.

Thank you, Mr. Chairman.

COMMISSIONER PEARSON: Commissioner Pinkert.
COMMISSIONER PINKERT: Thank you, Mr. Chairman.

Now, Halliburton suggests that there is not in fact intense competition between domestic and subject producers for certain business. I don't know if you can discuss this in the public hearing, but I'd like to have your response to that.

MR. SCHKADE: Can you clarify intense competition in your terms?

COMMISSIONER PINKERT: Well, again, without getting into proprietary information, all I can do is point out that in your brief you state that there is intense competition between domestic producers and subject producers to sell xanthan gum to certain purchasers. So my question then is what about Halliburton?

MR. SCHKADE: I think there is intense competition with all of our customers within the United States. If we're talking specifically Halliburton is intense competition. Our pricing is not as low as what they seek or get from our competition, and thus our business with them is not what we would like it to be.

MR. DOUGAN: Commissioner Pinkert, if I may add to that. I think what you were referring is in
the allegation that was made, I don't recall there being actual -- there was an assertion, but I don't know that there was actually a citation to record evidence in support of that. And I think that there are certainly evidence on the record from purchaser questionnaires that that would suggest that Halliburton's assertion is not true.

MR. CLARK: Commissioner Pinkert, if I may interject. Because of the confidential nature of some of the correspondence that relates to your particular inquiry, we will go into that in very clear detail in the posthearing brief, and what that will demonstrate quite conclusively is for that particular customer there was an ask, there was a bid, there were offers, there were commitments to supply, and the response that came back is we appreciate the offer to supply, but we have found other supply.

COMMISSIONER PINKERT: Thank you. Now, in your testimony just now, Mr. Schkade, you referred to your competition, and you said that you weren't able to match the pricing of the competition. I want to ask you very specifically are you referring to domestic competition there, or are you referring to subject import competition?

MR. SCHKADE: Subject import competition.
COMMISSIONER PINKERT: What about domestic competition? Do you have any comment on that?

MR. SCHKADE: Not in this particular case, no, no question. I mean, in general if you're asking about -- what we see in the marketplace is that domestic competition pricing are much higher than the subject producer's prices. And that's across all industries.

COMMISSIONER PINKERT: Right. But what I heard you say was that you'd been hurt by your competition in this area. Have you been hurt by competition from domestic production?

MR. SCHKADE: Not to my knowledge.

COMMISSIONER PINKERT: Any other thoughts on this panel, either now or in the posthearing on that issue?

MR. RUBRIGHT: I think if you look at the other U.S. producer, they participate in the lower end segments here, and that's what they target. So I would suspect they have a larger share than we do. Whether or not we can specifically point to where they have taken business from us, we cannot -- most of the business that we see that we've lost has been to price competition from Chinese and Austrian suppliers.

MR. VIALA: Let me -- just to add, the only
current domestic competitor is ADM. And I would say that they have an approach to the market and a business model which is different from ours. You may have seen some of the commercials, which is the supermarket of the world. That tells very much what they tried to do, meaning they would go to large multinational companies and try to supply a basket of ingredients, while at CP Kelco we try to go and try to solve their stabilization challenges, problem, and sell only hydrocolloid solutions.

So we have two different business models, meaning that we serve two different needs, and to different sort of customer mix, if you will. We don't have proteins. We don't have other ingredients. We don't have starch products and all that to offer. We only have hydrocolloids.

So we're not approaching the market the same way, and therefore we're not competing head to head either. So it's two different business models that you have there.

COMMISSIONER PINKERT: Thank you. That's very helpful. And again, if you can supplement that in the posthearing, that would be helpful as well.

Turning to the ability to switch from producing xanthan gum for one market segment versus
another market segment, how difficult is it to switch
from producing for one of those segments up on the
projection to another?

MR. VIALA: I would say it's not extremely
difficult. Obviously when you run pharmaceuticals,
there's a lot of paperwork to fill for the FDA, like
CPNs and IPEC regulations. So you have to go through
extensive cleanings, making sure that you have some
very tight standard operating procedures.

So I would say it's not difficult. It's
just paying attention to details, cleaning time. So
when you get the line down for 2 hours or 12 hours,
depending on how extensive the cleaning is, this is
obviously lost capacity. So I would say this is more
in term of the cost of running those campaigns than
the difficulty of doing it, provided you know how to
do that, provided you have the right skills and people
in place to run a pharmacy GMP campaign. Not
extremely difficult, but taking time, I would say.

COMMISSIONER PINKERT: Just to see if I
understand your testimony, would you say that shifting
to pharmaceutical applications involves more of kind
of a paperwork challenge than it does a technical
challenge?

MR. VIALA: That is correct. Again, the
functionality that you are trying to achieve is the same. So the process is not fundamentally different. Now, obviously, the standard operating procedures, the testing protocols, the paperwork, the supplier, the traceability, all that is more complex. But fundamentally in term of the manufacturing process itself, it's not that different. The quality assurance program is a lot different obviously.

And I would also add maybe one point quickly on that. It's not because you are running oil field product that you don't care about contamination. Let me explain why. I say that the bacteria is kind of the centerpiece of the process. Obviously, you want these Xanthomonas campestris to grow, but not any other competitive organism. And why is that? It's because you want as much xanthan gum as you want at the end of the process, and you don't want other bacteria to eat up your sugar that you're paying for, and also that causes issues in recovery, in precipitation and all of that because they also produce other products.

So running clean in any fermentation, in any biotech products is key whether you produce product that go in form of food and regulated industry, or whether you want to go in industry in an oil field
because that drives your productivity as well.  
So all these attention to detail is key.  
All the sterilization is key. And when you run an oil  
field batch, you also sterilize the fermenters because  
you want them to be clean.  

COMMISSIONER PINKERT: Thank you. Thank  
you, Mr. Chairman.  

COMMISSIONER PEARSON: Commissioner  
Johanson.  

COMMISSIONER JOHANSON: Thank you, Mr.  
Chairman. As you all have explained today, the number  
of producers in the United States has declined in  
recent years. I believe it's from six to two in the  
past several years. And I know that you all attribute  
that to imports. But have other factors led to the  
exit of some players from the U.S. market?  

MR. RUBRIGHT: Not that I'm aware of.  

COMMISSIONER JOHANSON: Because we had seen  
this -- this has been fairly common throughout the  
U.S. economy, that the number of -- it's due to  
consolidation, et cetera, but you attribute it solely  
to imports.  

MR. RUBRIGHT: Yeah. The period that we  
have been talking about since 2006, there were four  
down to two. One of those three was -- one of those
two that's shot was impacted because we canceled a
tolling agreement with them that they were
manufacturing for us. And we know why our volumes
went down.

So 50 percent of that leading of the market
happened because of that one issue.

COMMISSIONER JOHANSON: Yes, Mr. Clark?

MR. CLARK: Just one other observation. You have in the staff report and on the record from the
preliminary phase a domestic producer's questionnaire
from Tate and Lyle, where they have described their
circumstances.

COMMISSIONER JOHANSON: Okay. Thank you. I recall that. Thank you. The Petitioner's brief at
page 6 discusses how the food and beverage end use for
xanthan gum has declined over the period of
investigation. Could one of you all please elaborate
as to why that is the case? And that is page 6 of
your brief.

MR. BOWMAN: The use of -- I'm sorry. The
use of xanthan gum in processed foods as a whole
globally is actually increasing quite a bit. But when
you actually look in some of the new products that are
coming out right now, the benefits of xanthan gum in
the U.S. market, we've actually seen some erosions in
certain new product launches. It's actually below, quite below, the rest of the world.

And so when you're seeing a lower uptick in the use of xanthan gum in those labels, that's directly reflected into those new product launches.

COMMISSIONER JOHANSON: Do you know -- I guess Mr. Clark.

MR. CLARK: Just it's a very minor point of clarification, but what we described there is that the food and beverage market as a share of apparent consumption --

COMMISSIONER JOHANSON: Okay.

MR. CLARK: -- has declined, which is -- the point is still fair. That's a reflection of the overall growth in the market -- there has been discussion previously -- of oil field. It's not to suggest that beverage, food and beverage, was a declining market, but as a share -- as a segment, it was not as dominant a segment as it had been.

It is obviously a critical segment for us, and you can see in the record what has been the domestic industry's performance in that and the other segments, and we did comment on that in the brief as well, and that has a significant effect going to one of Commissioner Aranoff's earlier questions about the
overall profit performance of the industry over the period of investigation.

And we can -- we will break that out for you so that it will be quite illustrative of what happened over the period of investigation. We'll do that in confidence in the posthearing brief.

COMMISSIONER JOHANSON: All right. Thank you. You know, now looking at this again, I realize that I didn't read as well as perhaps I should have. But thank you for the clarification there. That helps out.

To the extent that you all can discuss this in this public hearing, could you all please discuss the differences in sales among the food and beverage, pharmaceutical, consumer, industrial, and oil field applications? In other words, what the process is selling those to customers, how they differ.

MR. VIALA: I can start on that. What we do most of the time -- and again, it will depend on the business model. I will describe how we do that in CP Kelco. It may be different as well. We don't come and ask for a set specification for a competitor and say give me that, and I will match the product and give you a price.

We try to understand and go to former
customer, and then we say our new suspension and
biotech in a product that goes -- and that will be the
concentration, and that is the suspension challenge
that I have. There are a lot of the other ingredients
in the formulation, so we then come to recommend a
hydrocolloid that may or may not be xanthan gum, that
often in that case will be xanthan gum, because of the
functionality requirement.

So we provide a solution and then we pick up
the best product. So we say that xanthan gum because
it has the functionality that you want. Now let's
discuss about your manufacturing plant and
capabilities, and then we provide the best grade of
xanthan gum.

Price would then come but will come after
the technical solution is divided. And all of the
team that's reporting to Mrs. Kelly do have a
technical background actually and technical
understanding so that they can have this dialogue with
customers. If it's complicated, it will go to our
laboratories and we can help as well.

So this dialogue happens, and that's how we
sell in most of the industries actually. We provide
more solutions than just product if you will. Now
what we saw happening is while you do all that, you
are going through the approval process, you work, you're giving the support for the customer to launch.

We then had some of our, and the Respondent here in this case here, come in and say give me the name of the product from CP Kelco or give me a specification. I can match that. And I'll give you a best price.

But that's a different business model, I would say. SO I described it how we do it in CP Kelco, and our model is fairly consistent across our industry, actually.

COMMISSIONER JOHANSON: And that's with all segments of the market.

MR. VIALA: Yes.

COMMISSIONER JOHANSON: Okay. Thank you.

How should the Commission assess the vulnerability of the domestic industry in light of continuous growth in apparent U.S. consumption and projected, although not certain, continued growth and demand for xanthan gum in the United States?

MR. CLARK: The vulnerability of the domestic industry is best assessed by looking at its financial performance over the entire period of investigation, including the trends as you move through that period of investigation. Obviously, that picks up and includes an improving performance post-
petition, so part of your analysis will be to imagine if the petition had not been filed, how the trends, apparent consumption might easily have continued on the same trajectory, but participation in that increase, you could imagine based on the testimony and the evidence of record would be different. And that would be indicative of what the counterfactual trend would be without the case, and looking at the vulnerability of the industry, so a situation where, for example, there was significant excess capacity, inventories were quite high, inventories had been growing over the period of investigation, production was on the whole relatively flat.

If there had not been a petition, those vulnerabilities would look very different. We would maintain that those trends that had been going down would have accelerated and would have fallen much more sharply.

That's the industry that will exist if there is not an affirmative determination. That's the measure, we maintain, of vulnerability in an environment where the evidence of record is that price is a determinant. While we've talked about different characterizations that everything matters except price, when you look at actual points of competition,
our experience is that price is the ultimate
determinant of when sales are made, even selling to
incumbent customers we've been doing business with for
many years.

That's the expression of vulnerability for
the industry.

COMMISSIONER JOHANSON: All right. Thank
you. Yes.

MR. DOUGAN: If I may just add to that. One
other thing that you may want to look at in terms of
vulnerability is the sustainability of the current
level of investment in the capital equipment and
assets of the industry. And I can't go into too much
more detail, but basically look at those trends and
the relative relationships with some of their
financial indicators.

COMMISSIONER JOHANSON: Yes, I recall that,
now that you bring that up. Thank you. And my time
is -- I don't have a lot of time left, but I had a
very basic question, and this is probably best
answered by Mr. Viala. And thank you again for
demonstrating the product here today.

In the use of -- as an oil field lubricant,
does xanthan gum basically make the residue when
you're drilling rise to the top or -- I'm trying to
figure it out. I know this is a very basic question, but exactly what this product does in oil field applications.

MR. VIALA: It will suspend -- and I will describe a very generic --

COMMISSIONER JOHANSON: Okay.

MR. VIALA: -- application. But you have part of the drilling that will have very high sheer.

So it's important there that you have very --

COMMISSIONER JOHANSON: High shale?

MR. VIALA: Sheer.

COMMISSIONER JOHANSON: Sheer, okay.

MR. VIALA: Very little viscosity. And the sheer thinning property of xanthan gum will make that at the head, for example, you will have very little viscosity. It's like water essentially. So you will not block it, and it will be easy to drill.

However, at the back end of it, you want the rocks and the piece of rocks to be suspended so that you can remove them, and they don't stay there. So again, you want it to be easy to drill, that follow viscosity where you have high sheer. And you want high viscosity when the product is more at rest so that you can suspend the particles and help removing them.
So in a nutshell, if you will, close to the surface, you want to suspend the beads to where you see that. Close to the head of the drilling you would like to flow the way it was on the one in the middle. And that's this difference in viscosity, depending on the sheer you apply. That is key to the drilling.

Again, at rest, you want to suspend. When it's high energy and you're drilling, you want no viscosity because you need to move quick and go into the rocks. That's the fundamental property of xanthan gum. Plus then you want stability because very often you've got high salt system when you go deep. And you have those moments which because of ions you don't want that to degrade easily. So the stability of xanthan gum combined with this special biology makes it a unique product for oil feel application.

COMMISSIONER JOHANSON: Thank you. That brings it to life to me. I actually -- I'm interested in this personally. In college, I took a course in petroleum engineering. I had to take an engineering course. I took that, and I actually did very well. But I'm quite surprised.

But it does help me to understand exactly what this product is used for. I have to tell you, it's a very unique product, used in everything from
toothpaste to baked goods to pharmaceuticals to oil field equipment, as an oil field application as well. So this has been quite interesting for me to learn about. Thank you.

MR. VIALA: That's what makes it very interesting.

COMMISSIONER JOHANSON: Right. Thanks a lot.

COMMISSIONER PEARSON: Commissioner Broadbent.

COMMISSIONER BROADBENT: Thank you. I guess this is for Mr. Clark, just trying to hone in on the volume arguments you're making. We've sort of seen limited net shifts in market share overall. And can you kind of summarize how you're advising us to look at this? We sort of drill down into certain segments and see displacement, or --

MR. CLARK: That -- and this has to be done on the confidential record. But if you see different market share performances by market segment --

COMMISSIONER BROADBENT: Right.

MR. CLARK: So if you take the overall trend -- if you take apparent consumption, and instead of treating it for xanthan gum as an entirety, you look at the individual market segments where you have
information, you see different trends at very specific points of competition. And when you look at those particular instances, you see different volume effects. You see very significant price and volume effects that are correlated in time.

COMMISSIONER BROADBENT: And that wouldn't argue for a different domestic product definition.

MR. CLARK: It would not argue for a different domestic product definition because, for example, going to a point that Mr. Viala made earlier when he was making the demonstration, and also looking at the hierarchy, the so-called value triangle. Production that is in the case of CP Kelco targeted at any of the higher segments of the market is perfectly available for sale to oil field, to industrial, to any of the less regulated or less purity demanding specifications.

There is no significant cost differential. Even if we take the most demanding application, pharmaceutical, going to Commissioner Pinker's questions, the differences there are fundamentally recordkeeping and traceability questions. So they're an overlay to the production, but the production process is undifferentiated.

So we see no difference in the cost or
production, but we have the ability to move volume
into the less demanding segments of the market.
Conversely, it is harder to move up unless you are, as
Mr. Rubright described, producing this very large bell
curve of production, in which case you can find at the
edges of the bell curve product that can be sold into
the more demand segment.

So simply by being a volume producer without
regard to targeting specifications, you will generate
product that has utility and meets higher
specifications.

So we have the ability to move down. What
that means is a company like CP Kelco that is
targeting a range of different specifications, all of
whom are demanding, we always will have the ability to
sell into a less demanding application without paying
a cost penalty because there is not a cost or
production difference where we are producing. And
that's why we would say that as we -- if you imagine a
situation where you have a cost volume effect in the
demanding markets, but because of the prevailing price
and the history we've described in oil field, you no
longer have the ability to dispose.

You see the phenomenon that Ms. McConnell
testified to of 2010, 2011. Warehouses are filling
up. It's not for lack of quality product. It's for lack of a price market. And in instances where -- in those segments where there was some ability to increase price, you will see a volume effect associated with that price increase. And we'll go into that and be able to illustrate it in detail posthearing.

COMMISSIONER BROADBENT: Okay. This is probably for Mr. Rubright and maybe Mr. Bowman. The testimony has been very helpful to me this morning. I'm still trying to kind of measure the importance of price in this market, given all that you have said about non-price factors. You've made it clear that you consider price to be the primary differentiating factor, but you also expressed a lot of pride in the principles of your product quality, safety, and the goals that you work for at Kelco.

You referred to the Austrian product as having this western quality, but Chinese pricing. And I think, Mr. Rubright, you referred to a purchaser's decision to shift away from your product as frankly -- shift away from your product as a dangerous decision to go to the lower-priced Chinese product.

These statements square with substantial minorities of purchasers -- and this is sort of a
substantial minority of the folks that we interviewed in our staff report. It did say that the U.S. product is superior, and it prioritizes non-price factors.

What can you say about the Chinese quality? Do they meet your standards really, or do they not? And how do you see your purchasers viewing the quality versus price in the priority of how they make their decision to buy from you?

MR. RUBRIGHT: I can talk to that from a perspective of what we do in operations versus what we have seen in their operations. And given our high standards, we see it as a risk if someone is going into, say, the food grade application or pharmaceutical grade application.

Without going into any specifics around that here, I think some of those risks are real, and I think in terms of the risk factors versus pricing that people see in the market, perhaps some customers are willing to take that risk because of the economics around the gap between some of our pricing and some of the import pricing.

MR. VIALA: Just summarizing, the functionality is the same, but the product certification and the quality management systems are different.
MR. BOWMAN: And to Don's point, the number of times our brands in many cases here, the Keltrol, the Kelzan XCD brand, we pioneered this industry. We've written most of the specifications. We've worked with different governments, not only in the U.S., but around the world on the specifications. So we have quite a bit of gravitas from the standpoint of what the product should look like and how it should behave.

We've seen Chinese material that can behave equally as good as the domestic product. It's the shortcuts, as Mr. Rubright said, that can get concerning. But the bacteria, the Xanthomonas campestris, this whole realm around biotechnology is a fantastic manufacturing engine. It does it job.

MR. DOUGAN: If I just may add, the purchaser responses also do I think speak to this a little bit in the broad acceptance of the quality of the Chinese product and its interchangeability with the U.S. Twenty-one out of twenty-six responding said that there were no applications where only the U.S.-produced xanthan gum could be used. And 15 out of 23 said that there was absolutely no quality issue. And 17 out of 24 said that Chinese imports were always or frequently interchangeable with the U.S. product.
So there are fairly sizable majorities seeing, you know, little difference, if any.

COMMISSIONER BROADBENT: Okay. Me.

Rubright, what can you tell me about sort of the cost structure of your experience producing in China versus what is going on in Europe versus the U.S.?

MR. RUBRIGHT: Yeah. Go back to our acquisition of the Wulian, China operation in 2005. We bought that plant with the idea -- and I was not there at the time, so I'm giving you the history that developed in 2006. And the idea was to be able to buy a low-cost China facility and compete head on with the Chinese.

The stated cost per unit there was comparable to the Chinese cost per unit when we bought that operation. On the due diligence side, once in that operation, we saw some issues, both in terms of how they were perhaps accounting for some things, but also in the structure of the plan. They had things like big piston compressors that frankly were unsafe. We had one actually blow up and almost kill one of our employees, required extensive brain surgery to save his life.

So we went about replacing all of those. We had serious foundation issues underneath the
fermenters that we found were crumbling. We had to rebuild all the foundations underneath those fermenters. And as we did that, we found a pipe underneath the ground that was diverting wastewater directly to the river at times of production because the waste water treatment facility could not properly support the throughput in the plant when it was operating at full capacity.

We also found an open -- what we call an open precipitation system, which allows alcohol vapors to be open, and any spark could set off an explosion in the plant. We know for certain there had been such explosions in Chinese plants that make this product.

So we invested heavily to go to what we call closed precipitation systems, which eliminate that risk in the factory. So after you make those investments and you go to proper compliance levels, you start to see the cost change significantly. We also made sure that we were working hard on the raw material supply to make sure that, you know, food safety was of paramount concern to us.

So our standards, our one global standards, set of standards, require that we do this. And I will tell you our shareholders are more concerned about environmental concerns or food safety concerns often
than they are about the performance of the business, which I know sounds strange in today's environment, but it's factually true.

So that set of standards stems from the family directly, and they enforce that on us and demand compliance. The fact that that pushed our cost up -- when we were done with all those changes, it actually doubled our cost -- really created a situation where we could no longer compete in the U.S. market on a direct import basis out of the China facility.

So what we did is what we always do. We tried to -- we started down the innovation path, so we have implemented a high performance xanthan gum that has much higher viscosity and much higher hydration rates than some of the other products that you typically see in the marketplace, and that product was just launched about two years ago and is slowly building acceptance globally in the marketplace, including the U.S. market. But it is much higher priced than the China imports or the Austrian imports, for that matter.

The other thing we have done is we have created some proprietary products around non-xanthan products that also utilize fermentation, and that
product is doing quite well in the cementing application side of the oil field business. So we are still competing in the U.S. oil field business through a non-xanthan product. So we had to reconfigure the plant to remain competitive in the oil field in the U.S. market.

As to the Austrian side of the equation, I am less familiar with that, although I know that I believe they play in a much higher level of participation than food, in the higher level application spaces. And I know they have a solid business in Europe, where the standards are quite demanding.

So I would expect that their standards would be as stringent as the U.S. standards and what we try to comply to.

COMMISSIONER BROADBENT: So when you were reaching compliance, was this Chinese regulations that you were complying with, or were these domestic? I mean, were these sort of internally driven standards or --

MR. RUBRIGHT: These were internally driven. We call them one global standard in CP Kelco. So we do not acquiesce to the local requirements. We often go beyond that based on what we see as the one global
standard, especially when it comes to safety and
environmental, where, you know, our safety record and
what we do to try to protect employees -- we're in the
top quartile of our industry, and we're proud of it.

COMMISSIONER BROADBENT: So is it your sense
the Chinese were skirting these standards?

MR. RUBRIGHT: I cannot say that. I'm sure
they can create documentation that says they are in
compliance.

COMMISSIONER BROADBENT: And then you sold a
plant in Europe, right, and are now planning to export
from the U.S. to serve that market?

MR. RUBRIGHT: We actually did shut that

COMMISSIONER BROADBENT: And what was the
reason for that?

MR. RUBRIGHT: The scale was subscale, and
we did not -- and after we pulled back in terms of our
equipment to the oil field market because of the
import prices, we knew that we would not need the
capacity. So we wanted to leverage out the capacity
in the Okmulgee, Oklahoma facility to make sure that
we run at -- the economics around a biofermentation
operation like this, if you go below a certain level
of throughput, then your costs ratchet up quickly.
And so we needed to consolidate some of our capacity in order to maintain the economics of the plant.

COMMISSIONER BROADBENT: Okay. I'll follow up later. I'm getting the hook here from my colleague.

COMMISSIONER PEARSON: Mr. Rubright, I would just comment, having had some experience myself with companies that apply global standards in multiple markets, it can be a real challenge, and I salute you for insisting on this within CP Kelco.

I would just observe that I think there have been instances where bringing higher standards to a market that was not accustomed to them does have the affect over time of raising the standards overall, to the benefit of the people and the environment in those countries. So keep at it.

MR. RUBRIGHT: Yeah. I would add that we have received awards from local governments for those efforts, as a model for the rest of the industry in the area.

COMMISSIONER PEARSON: Right. In Exhibit 4 of its prehearing brief -- and this will be a question only for those who have access to the confidential record. But Exhibit 4 of its prehearing brief, JBL
brings our attention to pricing differences between the two domestic producers. And this involves the pricing -- the quarterly pricing products.

Now, I'm curious. What explains those differences that they point out, and are those differences significant in the context of this investigation? I understand that part of the response might have to be post-hearing, but whatever you can tell me, Mr. Dougan.

MR. DOUGAN: I think this will largely have to be addressed in the posthearing. There are things in my head that I'm thinking of saying, and I'm not sure at the moment whether I've, you know, gotten them through public or confidential channels. So I want to be careful. But I will definitely provide a detailed answer with the posthearing.

COMMISSIONER PEARSON: Okay. And in those quarters in which we do see some differences in pricing for the same products, should we analyze them as examples of underselling in the same way we do with -- when we look at the pricing of imported product versus domestic product? And the question being, in a given quarter is the fact that on domestic firm might have a lower price than the other, is that perhaps suppressing the price of the other firm? How do we
analyze all that?

MR. DOUGAN: My response to that would build on something that Mr. Schkade said earlier in his testimony, which is, you know, in his experience -- and he sees just about everything that goes through CP Kelco from a sales perspective -- that they're not competing or hearing about prices from their domestic competitor.

So in that sense, those aren't -- that wouldn't be underselling. It's not impacting what they're able to charge for their product.

COMMISSIONER PEARSON: Okay. Well, of course, Mr. Schkade hasn't seen Exhibit 4 of the --

(Laughter.)

COMMISSIONER PEARSON: But those of you who have seen it, explain it to us as best you can in the posthearing because I'm wrestling with it, and, you know, it's not an issue for every product, for every quarter, but for those instances that they brought to our attention, I'm trying to understand how to analyze it.

MR. DOUGAN: Will do.

COMMISSIONER PEARSON: Then why do we see some apparent difference between the performance of U.S. producers in the U.S. market compared to export
markets? You know, the performance seems to be somewhat different, and I think I'm probably not going too far to say that the export market appears almost to have been a better market for domestic producers than the domestic market. Why is that?

MR. VIALA: We -- and again I want to be careful on that, and we'll go in further details in the posthearing. But we have and we are the producers, always looking for a new way to pioneer the use of xanthan gum. And when you open up new market segments for xanthan, because there is a new need, and you go from, say, petroleum-derived thickeners that are not biodegradable to xanthan gum, which is fully biodegradable, then you can command higher margins because you're the first comer in that segment, and you worked to get all these customers. That's why we have managed to do an export market, and we increased the volume for those segments as the first mover, and we have been enjoying the first mover advantage in terms of pricing and margin there.

So I would say that's a result of our strategy. That was a response to us having to sort of survive and move away from the U.S. domestic market. So we'll give example in the posthearing that I don't want to give here, obviously. But you
see that we have had some successes and large volume
successes.

COMMISSIONER PEARSON: Okay. Do the subject
importers, when they are competing with you in third
country markets, do they compete less robustly in
those markets than they do in the United States?

MR. VIALA: Sometime they don't even know
about those markets, and that's why I have to be
careful.

(Laughter.)

MR. RUBRIGHT: There are also some markets
where certain suppliers of material have not been
welcome, especially on the food side of the business.

We are concerned about food safety and about what
might be there in the product. And so they have been
very slow to adopt other suppliers' recommendations.

That said, at some point, our concern is if
we stop our innovation -- and we are the innovator in
this market -- and we create markets, and then the
lower pricers come in take the high volume segments
out from under us, if we're not there to innovate,
what happens to the industry? And that is of real
concern to us because this is the base camp here, is
the U.S.

But if that volume becomes large enough, and
the U.S. producers and the one innovator in the industry disappears, then what goes on from there is of concern.

MR. BOWMAN: Yeah. To Mr. Rubright's point, we see some innovation historically. The U.S. and parts of Europe were the foundation of new products, especially consumer-based products. But we're seeing quite a bit of that growth in other parts of the world in which they have been working with us on these new grades, and specific products where they could launch new products.

A product might be developed in the U.S., in the Midwest, but then launched in Asia, which we have formulated it here, but then it has been shipped in other parts of the world.

We also see quite a bit with the expansion in the U.S. about pushing price down to expand these channels, more emphasis in price here and innovation in other parts of the world. So that also kind of -- it builds upon what we see in this export model that you might see in the gross combined with noticeably being slammed into Okmulgee.

MR. CLARK: I was going to offer one other comment, really picking up on one of Mr. Rubright's remarks from earlier. The United States is the
world's largest xanthan gum market. The Chinese producers, the leading producers, Hoofing and DSNR, are the world's one and two largest producers.

So it's therefore critical for every producer to have a presence in the U.S. market. This is the largest market, and it is a demanding market. At every segment, we have significant customers, and they are exacting, and they are demanding. So it's an important market to participate in. The company CP Kelco's experience in 2010 and 2011, as Mr. Rubright explained, was one where it seemed that the Deosen and Fufeng were committed to eviscerating one another and using the U.S. market as the playground for that particular night fight. And that was very much at the expense of the domestic industry, and I think your underselling analysis over the period of investigation is indicative of that experience.

COMMISSIONER PEARSON: Okay. Well, shifting gears, I recognize that ADM is not here today. I assume that there have been some discussions with them. Are you able either now or in the posthearing to give us some understanding of what their thinking is? Does it reflect their different business model that they're not here to participate in this case?

MR. BOWMAN: Well, I believe if you look at
the size of ADM's xanthan gum business to the size of
Arthur Daniels Midland, if you took a look at the size
of the xanthan business to CP Kelco, this is our
business.

I'm not sure it's a rounding error, but it's
quite small, whatever the contribution of xanthan gum
is to Arthur Daniels Midland. We're here because of
the leadership that we've brought forward in
pioneering, establishing the xanthan gum, which is one
of the first major biotechnology industries from an
industrial scale in the world and also in that level
of innovation which we keep funding through.

So from a standpoint of where we sit, that's
why we're here.

COMMISSIONER PEARSON: Okay. Another
question related to ADM, again for the posthearing.
Do you know anything about how that company might have
fairied in this product line post-petition? What have
been the effects of the petition on ADM? Because you
have information about CP, but can you get anything
for us on ADM?

MR. SCHKADE: What we've heard is that
they've had the same type of increasing inquiries as
we have, as far as after the petition was filed. And
therefore we understand that they've increased their
sales domestically as well since the filing in June of 2012.

COMMISSIONER PEARSON: Okay. Well, if you're able to say anything in the posthearing, please let us know.

My time has expired, so Commissioner Aranoff.

COMMISSIONER ARANOFF: Thank you, Mr. Chairman.

In the prehearing brief for Petitioner, your pricing injury argument is based mainly on a price suppression theory that the domestic industry was not able to raise its prices sufficiently in the fact of rising costs to maintain its profitability.

According to the record, though, a significant portion, and perhaps the largest portion of the relevant cost increases, are not raw material costs or energy costs that are largely out of a producer's control, and they are not labor costs, but they are other costs which one might argue, and Respondent's do argue, were voluntarily undertaken based on management decisions, but were not necessarily required.

In such a case, should the Commission view the inability to raise prices sufficiently to maintain
a certain level of profitability in the face of rising costs as price suppression by reason of the subject imports or by reason of some other cause?

MR. CLARK: Commissioner Aranoff, our view is that the -- while we see the argument that has been made, we think that it is incorrect to characterize these cost increases as reflecting casual decision-making or business decisions that are at some level disconnected from the production and sale of not just xanthan gum, but you will recall that CP Kelco produces a range of different products across a number of different plants.

There was a verification by the department staff of our questionnaire response, and you have the information that emerged from that verification. Other portions of CP Kelco's business performed and have performed throughout the period of investigation quite well, including in 2012. And that performance drove levels of recognition that were due the employees of that business, and it is under normal accounting, including the Commission's form of accounting, appropriate to allocate that across all lines of business.

One of the other allegations that was made is that there was a decision -- and we'll go into this
greater detail in confidence, of course. But there
was a decision made to voluntarily increase a form of
internal pricing. You heard Mr. Rubright refer to the
very significant effort that was made to bring the
Wulian plant up to CP Kelco's standards. Because
operating at that standard there was no ability to
sell even at cost into the oil field segment, so we
therefore innovated and created the advanced
performance product.

When that product is sold into the United
States at a higher cost and at a higher value,
compliance with the normal laws of customs valuation
and transfer pricing for Internal Revenue Services
purposes will cause there to be an increase in
declared value and in transfer price.

So what you have here is a phenomenon that
does not explain at all that there is a cause other
than subject imports for CP Kelco's inability to raise
price sufficiently to cover the complete range of
increasing costs.

MR. DOUGAN: If I may add to that, and when
Mr. Clark says complete range of increasing costs, I
think the Commission should also consider that it's
not only the range of increasing costs that might
appear, say, on the P&L, but also in the press
releases announcing the price increases that were at least attempted or announced, if not gotten.

It not only mentioned rising raw material costs, but also a strategic desire to make investments in innovation and capital equipment and capacity to allow for continued growth and innovation by the domestic producer. And I think if you -- as I mentioned to Commissioner Johanson before, if you look at the CAP-X relative to depreciation of this industry over time, you'll see that that additional investment is needed.

And so the inability to raise prices sufficiently because of the dumped imports is not only reflected in a cost-price squeeze, but also in its level of investment and capital equipment.

COMMISSIONER ARANOFF: Okay. That's an interesting answer because that's not usually the first place that the Commission looks when we're looking at price suppression. As you know, we're just usually looking at the COGS to net sales ratio. And then the second piece of that is that the statute says, you know, we need to find that price increases that otherwise would have occurred have not occurred. Now, we've got a situation where demand has been improving overall during the period, and we have
evidence of generally rising prices. I know that's not consistent with the personal experience that some of you have expressed, but that's what is on our record. And based on the profitability data that we have, based on the way the Commission generally looks at price suppression in the costs that we look at seemed to be largely covered.

So we're left with this question of what price increases otherwise would have occurred? What is there on the record that suggests that there should have been more price increases than what was seen.

Now, I take the one answer is that we should look at what was going on on the investment side. Is there anything else that we should be looking at?

MR. CLARK: The answer, Commissioner Aranoff is no. The record is complete in terms of the reported costs. But you'll recall two points, that Mr. Viala made the first one. And you saw it captured also in the video clip.

This is a very capital-intensive industry. Mr. Rubright made multiple references to the lack of sufficient economic reinvestments, a rationale for economic investment in the business for it to sustain over time.

So it is not an issue of simply carrying
marginal cost in the short term. In order for the business to succeed, in order to move into an environment in which we can go from having two operating lines in Okmulgee to filling the plant, we need to have price stability. We need to have prices no longer declining.

That puts us in a position to make the investments that are necessary. If we cannot capture price increases in order to fund investment and reinvestment, then the fate of a biotechnology business, which is what this is, extremely capital intensive with a very expensive workforce of scientists, geneticists, biologists, and technicians does present somewhat of a different scenario than you've seen in some cases.

COMMISSIONER ARANOFF: Okay.

MR. DOUGAN: And if may add one other thing, the reflection of your characterization of the costs having largely been covered by increases in prices that appear in the P&L, one thing that we'll examine in the posthearing is the degree to which that was largely contributed to or driven by what was achieved in the export markets and not just in the domestic market, where the competition with the dumped imports was most intense.
So the overall P&L reflects, you know, the export sales as well.

COMMISSIONER ARANOFF: Okay.

COMMISSIONER BROADBENT: Say that once more.

I'm sorry.

MR. DOUGAN: The P&L that -- I'm trying to be careful here, but your characterization of the increase in price as being sufficient to cover what would be considered the usual cost that you might look at from a price suppression standpoint. That's fed by in large part the domestic industry's export sales, which are higher value and -- well, you have to be careful here again.

But there is a component -- and as we showed in the prehearing brief, that performance overall for domestic sales was not as good. And so I think that that's worth considering as well.

COMMISSIONER ARANOFF: Okay. Let me turn to a more general question about pricing, and that is just a description of how sales transactions are handled in this industry. There has been some reference to bidding and being qualified, and then bidding. Can you describe for me generally how it works? And I imagine it's different in different segments. So is it generally that a purchaser is

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going to put a request for quotes, and then you submit
a bid? Are there multiple rounds of bidding? Do you
go and try and develop new customers who haven't
requested bids? What can you tell me about the
dynamic that surrounds any particular price
negotiation?

MR. SCHKADE: Well, the vast number of the
businesses are usually through requests for quotes.
It's very similar in all industries. So therefore
from the oil field all the way to the pharmaceuticals,
they'll come out usually with an annual request for
quote bid. And then we will enter their form, submit
the bids, and usually at that point in time, after
the analysis, we will come back, and they will let us
know if they had been awarded that business or not.

COMMISSIONER ARANOFF: So it's one bid, they
analyze their award, or do they come back to you and
say you're a little high, can you bring your price
down?

MR. SCHKADE: There is certain customers
that will do that, will let us know if we're a little
high. And others will say if you can't match or be
below, then you won't win the business, or we're going
to take the business away from you, yes.

COMMISSIONER ARANOFF: And what most
customers are awarding are a requirements contract covering a certain period of time as opposed to a set volume?

MR. SCHKADE: They give us estimated volumes, and they're requiring a price stability for a certain period of time. And those may vary.

COMMISSIONER ARANOFF: Is it typical for a purchaser after having multiple bids to award all of their business to one supplier, or do they tend to split their business between two or more suppliers?

MR. SCHKADE: It varies by company.

COMMISSIONER ARANOFF: Okay. All right. If there is anything else you think the Commission should know about the way that the bidding process operates that you want to add posthearing, that would be welcome.

Thank you, Mr. Chairman.

COMMISSIONER PEARSON: Commissioner Pinkert.

COMMISSIONER PINKERT: I just have one additional question, and this is a legal question for Mr. Clark. In order to make an affirmative present injury finding or determination in this case, would I have to find that both U.S. producers have been injured by reason of subject imports?

MR. CLARK: The answer to your question,
Commissioner Pinkert is no, you do not have to make individual determinations looking at the performance of specific individual producers. What you need to do under the statute is look at the domestic industry as a whole, except that there is only two producers.

But nevertheless, there are indicia of injury that you can find in the record relevant to both of the producers. I don't think that you need to go down a specific path that says, for example, I find that company A has suffered material injury; company B has not.

Your analysis needs to look at the totality of the industry, all of the indicia of injury. And by the way, you may find indicia of injury -- certain indicia of injury in one company, and a different set of indicia of injury in the other. And for the industry as a whole, that would be the foundation to make an affirmative determination, that the domestic industry as whole has been injured.

COMMISSIONER PINKERT: Thank you. With that, I have no further questions. Thank you, Mr. Chairman. And I thank the panel.

COMMISSIONER PEARSON: Commissioner Johanson? Commissioner Broadbent?

COMMISSIONER BROADBENT: Thank you. This
would be for Mr. Bowman, I think. How come there are so few suppliers of this product globally? Is it something that -- is it because it is technical and sophisticated and biotech? Or does it have to be done in a big -- on a very large scale? Can you kind of describe to me why there are so few global producers?

MR. BOWMAN: I'll start off and tell you some of the commercial and the markets and all that. Mr. Viala can come in with some of the technology side of it because I think he's probably a little bit more -- has more to add.

What you find is there has been a number of companies over the years that have been in this business. You do -- this biotechnology business really does -- you have to first be able to control and manufacture the bacteria. That's the first step of this process.

Then you have to put that bacteria -- stress that bacteria to produce the xanthan gum from the Xanthomonas campestris, and that puts it in the finished product, or what we look at now, into the powder forms and such. And then with the back end of the plants, we actually tailor those to meet the market needs.

It's not as easy as just taking a couple of
chemicals, putting it into a vat, mixing it, and
voilà, xanthan gum out the back side. There is a lot
of different areas it comes through that's up front
in the fermentation side, and then in the recovery,
and then in the finishing.

When you look at it in the marketplace, what
you saw in front of you in the demonstrations is this
uniqueness of chemistry set that structure and
function in real life. This is why people use this
product. No one in their right mind would include bug
sweat in a product that they would consume.

But when you see this functionality that
comes forward, there is a need. And then what we
found is the reason that our brands, the Keltrol and
Kelzan XCD brands -- because we were able to pioneer
this industry and bring it forward, those are the ones
that are typically the preferred brands globally, when
folks come in to look.

When it comes down to the capital-intensive,
couple intensity, being able to have the skilled
workforce, being able to have the R&D, technologists,
the process R&D, the engineers to be able to produce
the product on an ongoing scale, and then to have the
commercial force on the other side to be able to bring
that to market and educate customers to incorporate it
into the industry, it's a difficult sale. It's a very difficult sale.

And so when you find the industry, even around this room, you're going to find it's a Kelco reunion today. Predominantly this training methodology that has gone on to build this industry has deposited itself pretty much in this small little baby industry known as biotechnology or xanthan gum.

The other side of the factor that really comes into play is there is government regulations globally on where you can and cannot use these products. The U.S. is by far the largest market in the world. All these market segments are growing and mature, but they're all growing. Now, the other parts of the world might grow faster. But these markets are all expanding. So the dynamics is to get into the U.S. market, and as Mr. Viala said, they start working their way up that value chain. And if you gain scale, then you can accelerate that by lot selection or cherry-picking.

But you might want to highlight some of the technology some.

MR. VIALA: Getting back to the question on why so few current suppliers, I think it's difficult to scale it up. This is a naturally occurring
fermentation. If you're going natural, that's harder bacteria, as was related, out of cabbage leaves in the field, right? That produces xanthan gum, when cabbages get rotten.

Now, when you get this bacteria, and you put it in the fermenters, which is high, like a four-story building, that's more difficult to get it cost effectively. And I think the scale-up of it and the mastering the technologies so that you can have a reproducible quality is what made it difficult.

So you heard through the testimony of Mr. Rubright and myself talking about capital intensity. That's the first part, yeah. The second one is definitely the technology and how to scale it up. And over the years, there have been large corporations that tried to get into the business and could not successfully day-in and day-out produce xanthan gum.

So I would say the second one is the technology. And the third one is to be able sell the value to customers and keep innovating and grow the market. I think when you combine those three, and that's what why we're so proud at CP Kelco -- when you combine the three, then you can win, if you play equally, and if the competition is there.

COMMISSIONER BROADBENT: Mr. Bowman, you
sort of alluded to a little bit of a downward trend in
demand for this in food uses in the U.S. Are we
getting more sensitive to certain food issues related
to this product? Or do you see it growing faster in
developing country markets in the future?

MR. BOWMAN: What you're seeing is year over
year processed food in the U.S. industry has slowed
down. We've seen a slowdown in the restaurants,
eating out. Quite a bit of the xanthan gum market
does service this quick serve restaurants, the fast
food, but also some of your gourmet restaurants that
you might find down here in D.C., certain spots. The
industry as a whole is not as growing compared
especially relatively to other parts of the world,
where we're seeing quite rapid growth in other
processed foods.

And so those are some of the areas. To eat
local and not prepared foods, you do see that trend
impacting the adoption rates. Still growing. I don't
want it to come across the market, it's still growing.

I know we had some slowdown in oil field rigs in the
U.S.; but in the other markets, it's still growing.

COMMISSIONER BROADBENT: And I wanted just
to take the opportunity to ask you kind of what your
perspective is on the talk of a U.S./EU free trade
agreement, how would that affect your business back
and forth across the Atlantic with Europeans?

MR. BOWMAN: I'm not familiar with that
trade term and the rest that comes through, so I'll
let the legal team handle that side of it. But what I
will say is we have open innovation globally and we
work with our customers. As I said, many of the
multinationals which buy our products outside the U.S.
have R&D facilities here in the U.S., where we work
very closely to expand the xanthan gum market.

What we find in the European Union right now
with the slowdown of their economic state is that
they're not launching as nearly as many new products
as they did a couple of years ago. We also see a
tightening of the belts. But in the areas of consumer
markets that we participate in, we do see growth there
as well. I don't know, you guys could probably expand
on this trade law.

MR. CLARK: Commissioner Broadbent, our
speculation is too early to tell what the potential
U.S./EU trade agreement brings. But going back over
the nature of the market and the participation, what
we see is that there are not significant barriers to
trading xanthan gum around the world. In the case of
--
COMMISSIONER BROADBENT: Not yet.

MR. CLARK: Not yet. But if we take that by way of example, CP Kelco participates in the EU market and has participated in the EU market for a long time. JBL participates obviously in the EU market, but also in the U.S. market. So the things that are of concern to commentators as to the presence of non-tariff barriers, in particular safety, health, welfare types of specifications are not appearing to be an impediment now. We are participating in those markets. It's very difficult to imagine when you already have qualified suppliers on both sides of the Atlantic, that entirely new barriers are going to be erected.

So we have a situation where product flows now without significant regulatory barriers and we don't really see a prospect for in a free trade environment to create barriers to a product that frankly is desired in both markets. There would be no particular reason -- there's no domestic incumbency that would drive a different outcome than we see in the marketplace today.

COMMISSIONER BROADBENT: You say it's a harmonized standard at this point generally? I mean are we generally with the Europeans?
MR. BOWMAN: Mr. Viala correctly described, and you see this also reflected in the staff report and in some of the briefing, there are a variety of regulatory regimes of increasing specificity and detail as you travel up the food pyramid. In the case of the European and U.S. producers, we comply with those standards and those standards are quite harmonious. So the standards that are relevant to the ability to bring product into European markets or into the U.S. market have been achieved already by the U.S. and European producers.

COMMISSIONER BROADBENT: Thank you.

COMMISSIONER PEARSON: Let me try to get through several questions somewhat expeditiously. There appear to be differences in the way that Austrian and Chinese firms compete in the U.S. market. Why is JBL involved in this case would be another way of saying it? Either now or in the post-hearing perhaps a bit more explanation?

MR. BOWMAN: What I can say in the public area is that when we reviewed the data and we were monitoring this date pretty closely, as Mr. Rubright said, we did not jump into this thing lightly. This was our last resort, that we showed up.

When we analyzed the data, we found cases
where if the Chinese led by Food Fang dropping prices quite rapidly across all market segments, promoting low prices in all the market segments, driving down the innovation to just take on low price. We also found that many times if customers were resistant to buy the Chinese and weren't sure yet, the Austrian prices, western quality good enough and the prices were lower. And then when we really started looking further into that analysis, we saw that repeated over and over into the market segments.

So we brought it in from the standpoint as that's one of the areas we can see that they were also selling below fair market value.

COMMISSIONER PEARSON: Okay. What explains the change that we see in SG&A expense, sales, general administrative expenses over the POI? And as we consider the effect that it has on our analysis of the financials, do we see any tie in with subject imports? Mr. Dougan? And again you might want to deal with it in post-hearing, but I've noted this and I'm trying to understand what to think about it.

MR. DOUGAN: I think that's something best handled in post-hearing.

COMMISSIONER PEARSON: Okay. Likewise we see a change in hourly wages over the POI and also a
change in the unit cost per pound of the labor. What explains that change? And again post-hearing might be best, although I'm happy to hear anything you have to say. Now I would just note it's a somewhat larger change than we commonly would see in one of these investigations.

MR. CLARK: We will go into greater detail in post-hearing in confidence. But an example of the reason that you would see that particular change in labor over the course of the period of investigation, in particular looking at 2012, is the phenomenon that was described by Mr. Casey and Ms. McConnell. The case was CP Kelco and the Okmulgee plant in particular.

As we saw the phenomenon that really began in the latter part of Q3 and extended into Q4 of 2012, where there had been an environment in which for example over time was largely eliminated, where to the extent that there was any hiring, it was done on a temporary basis, where the plant had been attriting heads over the course of several years. By the end of 2012, which means for the time period that we were reporting information, we have seen an about face there. We've actually added significant bodies and not only in Oklahoma, but also in San Diego in
redirect response to the increase in orders coming in. So you have to increase your headcount immediately in order to begin processing. You produce, you ship, and then the revenue comes in. So you're going to have a lag time always between when you do your hiring, when you are producing, and when you are sending that new production out the door, as opposed to for example consuming your inventory. So I think you heard here from the individuals involved why you see, in particular in 2012, an increase in labor costs.

COMMISSIONER PEARSON: Okay. Thank you for that explanation. If you wish to flush it out a little bit more in the post-hearing, that would be great. What you're saying makes -- certainly is consistent with that we see on the record.

MR. CLARK: We'll do that.

COMMISSIONER PEARSON: The staff report makes reference to blending of xanthan gum with other products. And I'm just curious, is that a business that CP Kelco is involved in, where you put various items together in a package and sell it to a customer as a finished product, or is that something that somebody else in the marketplace might do?

MR. VIALA: We do some of that, but I would
say it's minimal. And we tend to have some
differentiated hydrochloride solutions, but none of
these reblends of hydrochloride with starch, with
proteins, with sugar, nothing. That is a different
business model again and this is not something we're
doing a lot of. We have a few blends, you may have
seen that already, and we do that very often at
customer request. But when we try to go and solve a
solution for customers, we do not look at blends
immediately. That's not who we are as a business
model.

COMMISSIONER PEARSON: Okay.

MR. VIALA: There are other companies out
there, sometimes including xanthan gum manufacturers
themselves that would also have a large blending, what
we call blending division or blender activity. But we
don't do that in CP Kelco.

COMMISSIONER PEARSON: Okay. For purposes
of the post-hearing, if you could give us some idea of
what portion of CP's volume of xanthan gum goes in
blends. It would give us just a little additional
perspective on this. And obviously if you have any
knowledge of how ADM might handle issue, that also
would be useful to know. But I understand the
limitations there.
A basic question that relates to the pyramid here. If your goal is to produce high-grade stuff, pharmaceutical or consumer grade product, and you're trying to run the plant to accomplish that, does that have the effect of reducing somewhat the overall volume of output of the plant? In other words, are you having to run it slower or is there some equipment that's limiting for the production of the most highly refined product?

MR. VIALA: I may qualify a bit what you just said. Our goal is when we want to make a pharma grade, we want to get a pharma grade. When we want to make an oil field grade, we want to get an oil field grade. That's our goal.

So we know for a fact that when we go and want to produce a pharma grade, we know that we need to put the right cleaning in place. We need to respect the right isopach. So we know that it would take more line time and marching time if you will than would the oil field run.

Now this is reflected in the cost of the products and, therefore, reflected in our margin calculations. But, indeed, if we were deciding not to make any pharma products, then you can get more kilos out the door, but the cost of those would be different.
as well

COMMISSIONER PEARSON: Right, okay. So we understand the capacity of a plant. It actually would vary based on the grade of products one was trying to produce?

MR. VIALA: Correct. That is correct.

COMMISSIONER PEARSON: Okay. Well, for the post-hearing, let us know kind of what the swing and volume might be between trying to produce say all oil field grade and all pharmaceutical grade, just give us some perspective on it.

I think my last question, this would be for post-hearing. For counsel, could you please brief the issue of cumulation for threat because I don't think your post-hearing brief really went into that, did it?

MR. CLARK: We did not spend a lot of time on the cumulation issue pre-hearing, but we will speak to the arguments presented by JBL.

COMMISSIONER PEARSON: Okay, great. Thank you. And with that, I believe I have no further questions. So I thank all of you for your participation. Commissioner Aranoff? No. Do members of the staff have questions for this panel?
MS. HAINES: Staff has no questions.

COMMISSIONER PEARSON: Do representatives of the Respondents have any questions for this panel?

MR. PORTER: We have no questions.

COMMISSIONER PEARSON: Okay, thank you.

Well, in that case, this might be a good time for a lunch break. I propose that we return at quarter to 2:00. Be mindful that the room is not secure, so if you have confidential material please take it with you. And Mr. Secretary, is there anything else I'm supposed to say now? I forgot to look at the script.

MR. BISHOP: No, Mr. Chairman, that covers it.

COMMISSIONER PEARSON: See, I'm rusty at this. I used to be more -- okay, we stand in recess until quarter to 2:00.

(Whereupon, at 12:45 p.m., the hearing in the above-entitled matter was recessed, to reconvene at 1:45 p.m. this same day, Wednesday, May 23, 2013.)
AFTERNOON SESSION

(1:46 p.m.)

COMMISSIONER PEARSON: This hearing is now reconvened. Mr. Secretary, are there any preliminary matters?

MR. BISHOP: No, Mr. Chairman. Our second panel, those in opposition to the imposition of antidumping duty orders have been seated. All witnesses have been sworn.

COMMISSIONER PEARSON: Very well. Mr. Porter, is this your show?

MR. PORTER: It is indeed and we start with Mr. Rainville in the back. Thank you.

COMMISSIONER PEARSON: Okay, great.

MR. RAINVILLE: Good afternoon. My name is Dan Rainville and I am President of Jungbunzlauer Inc., which is located in Newton Centre, Massachusetts. Jungbunzlauer Inc. or JBL Inc. is a dedicated U.S. sales office of the Jungbunzlauer Group. I have been President of JBL Inc. since 2006. Prior to that time I was Director of Finance at JBL, and before that I was the financial consultant to the company. In total I have worked for JBL for more than 20 years.

JBL is a family-owned privately-held
company, which dates back to 1867. Today we have manufacturing operations in Austria, France, Germany, and Canada. We produce xanthan gum only at our plant in Pernhofen, Austria. Our production of xanthan gum began in 1985 and we have sold xanthan gum in the United States since 1986. JBL Inc. is the exclusive U.S. importer of xanthan gum from JBL Austria and we do not sell xanthan gum produced by any other manufacturer.

As you already know, there are only four countries that produce xanthan gum: Austria, China, France, and the United States. And the United States is the largest market in the world for the consumption of xanthan gum. JBL produces xanthan gum and citric acid at our plant in Austria and these products are produced on separate production lines. We also internally produce glucose syrup in Austria, which is the feedstock for both of these production lines. We have been expanding our glucose production so that we can meet all of our needs internally.

Contrary to Petitioner's claims, the expansion of our glucose production has no effect on our capacity to make xanthan gum or citric acid. Instead, it is entirely a matter of eliminating outside sourcing of glucose to control costs. In fact
JBL has no plans to increase its capacity to produce xanthan gum in Austria.

JBL's largest markets of xanthan gum are Europe, which is JBL's natural home market in North America. From 2010 to 2012, the quantity of our U.S. imports of xanthan gum increased, but not as rapidly as the growth of the U.S. market for xanthan gum. In fact although we increased our sales to existing U.S. customers in 2012, JBL has lost market share in the U.S. market since 2010.

JBL is primarily a food grade producer of xanthan gum, so most of JBL's sales of xanthan gum in the United States are in the food and beverage sector. We also product technical grade xanthan gum and sell it for industrial applications in the U.S. market. Some examples of these include detergents, paints, and fire fighting applications. JBL also produces small amounts of xanthan gum for the pharmaceutical and personal care industries, but we sell very little of these products in the United States. We also have limited sales in the United States into the oil field sector.

In terms of customers, JBL sells to both end users and distributors, although we sell more to end users than distributors. Most of our U.S. customers
have purchased from JBL for extended period of time, often more than five years. We sell to several customers that indicate to us that they buy xanthan gum exclusively from JBL.

Most of our customers buy xanthan gum on an annual contract basis. Normally our customers provide us with their product specification and their estimated requirements and they ask us to make an offer. The specification usually contains parameters, such as viscosity under certain defined test methods, granular size, and purity. JBL's technical service manager then identifies our grade xanthan gum which corresponds to the given specifications and our sales manager prepares the appropriate offer.

Sometimes existing customers develop new products or have problems with existing formulations. In these cases a customer may ask JBL for technical support. Our technical service department will assist and provide insights about the formula or the application and we will try to find the best solution for our customer.

There are a number of factors that are important to our customers when they buy xanthan gum. First, the product must be strict quality standards which JBL's xanthan gum does. The U.S. Food and Drug
Administration approves xanthan gum as a safe and effective food in 1969 and the European Community likewise in 1980s. JBL's food grade product meets these standards, as well as the purity standards for the U.S., EC, and World Health Organization. All of JBL's xanthan gum is 100 percent pure regardless of the end use application.

Second, customers want a reliable and consistent supplier. We maintain inventories of xanthan gum in public warehouses throughout the United States in order to provide our customers with prompt delivery. Generally, we are able to provide our customers with product from inventory in less than three days. Our inventories generally have been steady over the period of investigation, although they did decline somewhat from 2010 to 2012. JBL has proven to be a reliable supplier while many of our customers have told us that the U.S. producers haven to been as reliable.

Finally, price is also a consideration, but less so than quality or availability. Over the past three years, the average price to our U.S. customers have increased. JBL makes a premium product and we have a reputation for quality and reliability. Our customers are willing to pay for this. We are told by
our customers that JBL is not the low price supplier in the U.S. market, but they are willing to pay a premium for our product due to product availability, quality of product, and service. Thank you very much and I'll be happy to answer any questions you may have.

MR. TERRY: Good afternoon. I'm Keith Terry. My position is Director for the Global Supply Chain for the Baroid Product Service Line within Halliburton Energy Services, Inc. Halliburton Energy Services is a wholly-owned division of Halliburton Company. I've been with Halliburton for more than 15 years. Since 2009 I've been in my present position with Halliburton Baroid, which provides drilling fluid services, fluid performance additives, and waste management services for drilling operations.

I've been the principal procurement decision maker for the Halliburton Baroid PSL for the components used in drilling muds by Halliburton globally since 2009. As such I'm well aware of suppliers of such additives, including those based on xanthan gum. I provided a declaration last week, which I understand has been submitted to the Commission for the purposes of this case.

Halliburton is one of the world's largest
providers of products and services to the energy industry. We operate in more than 80 countries and are involved in every major aspect of exploration, drilling, and production services in the oil and gas business. As a result we are one of the largest purchasers of xanthan gum products in the world for use as drilling fluid additives in the United States, Middle East, Asia, Latin America, and the remainder of the world.

To understand what motives Halliburton's purchasing decisions, it is important to understand the role that xanthan gum products play in Halliburton's business. Halliburton Baroid is a product service line of Halliburton, meaning that a menu of products and services are provided under the family of registered Halliburton Baroid trademarks. Our value proposition to our customers is engineered fluid solutions customized to maximize well bore value.

Specialty xanthan gum compositions are one category of Halliburton products that differentiate and carry trademarks such as BARAZAN D PLUS, BARAZAN D, BARAZAN L, and BISL and others. All have unique compositions according to the specific application of the product and specifications and contain multiple
ingredients. These products are additives used in some drilling mud formulations. Drilling muds provide a variety of functions and drilling operations, including the removal of cuttings, pressure control, well stability, cooling and lubrication of the drill string, filter cake facilitation for the cementing of well bores, as well as other functions.

Xanthan gum is an important but minor cost additive in drilling muds. Drilling mud is an important but minor cost component of Halliburton's overall drilling services. Put together, xanthan gum products represent an extremely minor portion of the cost related to services that Halliburton provides its customers. However, these products do carry the Halliburton Baroid trademark name and are used as part of the Baroid suite of products and, therefore, must conform and be manufactured to our strict specifications.

Stated differently, the important factor to Halliburton is that xanthan gum products be delivered to location on time and function properly with other Halliburton Baroid products in the fluid system, so that Halliburton can perform contracted services to meet or exceed expectations of our customers. To that end, the xanthan gum products must be Halliburton
Baroid's specifications and be readily available in required quantities and in Halliburton Baroid custom bags or drums with the trademark Halliburton Baroid name to support our drilling operations without delay.

In comparison the cost of xanthan gum is such a small part of overall costs and revenue received by Halliburton that our purchasing decisions are dictated by quality and continuity of supply, factors that can directly impact our customer's business if not kept under careful control.

Halliburton purchases xanthan gum products under contract and only goes into the spot market when necessary to meet urgent supply requirements. We have global specifications for trademark xanthan gum products and purchase these products from manufacturers to meet our global requirements, in part to control our quality, and additionally to ensure that inventory can be used in any operation anywhere in the world. This reflects the high importance placed on quality, availability, and consistency of supply. If a xanthan gum product does not meet Halliburton's global specifications for quality, then it will not be considered for use in any location regardless of price or the desire of a supplier to provide the product.
Halliburton generally purchases only from prequalified contracted suppliers capable, willing, and committed to deliver large volumes on schedule and abide by strict quality reporting disciplines. At these volumes changing suppliers is difficult and time consuming. Availability, supply reliability, product quality, and logistic options are more important factors than price for Halliburton to consider suppliers for strategic procurement contract.

I understand that there is an issue in this case regarding competition to supply xanthan gum products for oil field applications. Without getting into too much detail on the public record, I would emphasize that unless Halliburton has confidence that a supplier has the capability, willingness, and commitment to supply large volumes of our trademark xanthan gum products on a reliable contract basis, Halliburton will not negotiate price, develop a contract, nor place orders.

There are only a limited number of xanthan gum producers and even fewer have the capability, willingness, and commitment to supply our needs. And as such, Halliburton does not have the confidence in companies lacking these factors to consider them as reliable strategic partners for this product. The two
U.S. xanthan gum producers, CP Kelco and ADM, fall into that category. To be clear, these two companies have been unwilling to manufacture large volumes of our trademark xanthan gum products at the high turn rates needed to meet our demand and have not shown commitment to provide solutions to these challenges presented by the oil field market.

Two final points. First, I understand there may be an issue as to how xanthan gum products are priced when a combination of products are sold as a part of a complete services offering. I want to make clear that in the large majority of cases, our xanthan gum products are priced separately and appear as distinct line items on a customer's invoice. This is required by our customers.

Secondly, from my standpoint of having responsibility for global procurement of xanthan gum products, I can confirm that suppliers are tight worldwide. I'm not personally aware of any supplier having excess capacity. Certainly no such U.S. supplier has approached Halliburton offering the extra capacity to meet our needs since I assumed my present position in 2009. Thank you.

MR. MARZULLI: Good afternoon. My name is Noel Marzulli. I have been working in this industry
for almost 40 years. I started working at CP Kelco in 1973 and was part of the early development xanthan gum as a new product. I left Kelco in 1988 and began working as an independent consultant to companies selling xanthan and other hydrocolloid products.

I started working with Deosen in 2003 and have been a marketing and technical consultant for them. My current work with Deosen USA focuses on the food and beverage segment and also includes other consumer and industrial products other than oil field applications. In my testimony this afternoon, I would like to discuss a few key issues about the market dynamics and about Deosen's participation in the U.S. market, particularly the food and beverage market.

First, let me describe a bit about the nature of the food and beverage segment of the xanthan gum market. What does xanthan do and how do companies buy it? The product is an additive that imparts various properties to processed food and beverage products. Take for example cake mixes, xanthan gum stabilizes the amount of air in a cake mix and thus allows a cake to bake with more volume and a lighter taste. It avoids a gummy or sticky quality of a flour-based product.

Another example, consider non-separating
salad dressings, such as French, Ranch, or Blue Cheese. Xanthan helps keep oil and water mixed together without separating. Xanthan also improves the degree to which the dressing clings to the salad ingredients instead of just rolling off the lettuce like water.

When added to beverages, xanthan gum changes the mouth feel of the product. The beverage takes on a thicker more juice-like consistency and is no longer watery. The beverage is thicker than water, but allow the flavor of beverage to come through.

Early today you heard a lot of testimony about xanthan gum as a commodity with purchase decisions being made solely on price. In fact the market realities are more complicated than that. Xanthan gum is actually a high valuated technical agreement and customers care about many factors other than price. For example, customers care about hydration rate, how fast can the powder turn into a solution during the manufacturing process. The faster the powder converts to a solution, the faster the throughput of the manufacturing process. Faster throughput means lower cost for the end user.

Another technical characteristic is the flow properties. Customers need xanthan gum that exhibits
smooth type pouring and is not gloppy as it pours. In this case this characteristic adds value to the finished product by making it more appealing to the ultimate customer.

Customers also need product stability and batch consistency. The xanthan stabilized dressing needs to maintain stability for at least a year or longer. In addition, xanthan needs to impart the same physical properties from batch to batch, so that the customer can produce a product with the necessary consistency batch to batch.

These important physical characteristics are precisely why all our food customers have a comprehensive qualification process. Our food customers require that their xanthan suppliers pass their qualification requirement not only for the type of product, but also the specific type of application.

For example, at one of our customers we had to pass their qualification requirement for several different types of salad dressing, such as separating dressing, non-separating dressing, and low calorie dressing. For each of these different types of salad dressings, there are unique functionality requirements for the xanthan gum.

For example, in low oil dressing, the
customer is concerned about the fact that there is much more water than in regular salad dressing. However, the customer wants the mouth feel of the salad dressing to be the same. This desire establishes a separate requirement for the xanthan gum. In addition to holding the oil and water together like xanthan does in regular salad dressing, the xanthan for low oil dressing also needs to be able to work with other ingredients to provide a creamy type texture.

This is why the customer requires that their xanthan gum suppliers pass their qualification process for each separate application that would use xanthan. And indeed for some of our customers, we have not been able to pass their qualification for certain applications. For example, we have a customer for which we supply an agglomerated type product for a type of relish. However, for this very same customer, we've not been able to become qualified to supply xanthan for the pourable salad dressing. This particular customer requires very rapid solubility for the salad dressing and our xanthan gum was not able to pass their solubility requirements.

I want to make a few comments about the differences between the food segment of the market and
the non-food gum segment, the biggest for which Deosen is oil field. It is no secret that in general food grade xanthan gum commands a much higher price than does oil field xanthan. There are a few practical reasons for this.

The first reason is that food segment customers are less price sensitive than oil field customers and the reason for this is because xanthan gum accounts for a very small percentage of the end use product. One of the primary end uses for food grade xanthan is salad dressing. Xanthan gum accounts for well under one percent of the total cost of making the dressing. Indeed it is barely a quarter percent. In contrast, xanthan accounts for a much bigger share of the total cost of drilling fluid.

The second reason concerns the relative shipment volumes. Although in total the two segments may consume comparable quantities, the food grade segment has smaller volume customers. Even our largest customer of food grade xanthan consumes just a fraction of what the large oil field segment customers would consume. A universal truth in the business is that the ability to ship larger quantities in a single shipment results in lower prices.

The third reason for the difference in
selling price has to do with history and the fact that xanthan gum absolutely cannot be sold to customers if the plate count, that is the bacterial level, is too high, no matter how good the other attributes are.

Please understand that for the most part there is little difference between the production process to make food grade xanthan and the production process to make oil field xanthan. The real difference becomes evident in the testing phase. If it does not meet the plate count for food quality standards, that the bacteria count is too high, it cannot be sold as food grade xanthan. And so xanthan gum producers needed some outlet for the batches of xanthan that did not meet food grade standards. It was this search for an outlet for xanthan that led to the development of xanthan for the oil field industrial segments in the first place. And as you can imagine the original pricing reflected the fact that food grade xanthan gum producers originally had no other outlet for the xanthan gum that had a high plate count.

These are the reasons why there is such a big difference between the selling price for food grade xanthan and oil field xanthan. Importantly this large difference has always existed. Such differences
in selling prices necessarily meant that there was also a larger difference in profitability. For a xanthan gum producer, food grade xanthan has always been much more profitable than oil field xanthan.

In my final comment I want to address the future. This morning you heard claims by CP Kelco that if the AD duties were not imposed, the Chinese will take -- excuse me here -- the Chinese will take the -- I'm sorry -- will take over the xanthan market.

Commissioners, that simply is not true and is particularly not true for many segments of the xanthan market.

As part of Deosen USA, I help manage Deosen's sales of xanthan to all segments other than oil field and I can tell you over the past few years, my overall business has been relatively flat and quite honestly I do not see much change in this trend for the future. Please understand there are several segments of the xanthan gum market in which the Chinese do not have real presence and are unlikely to have in the future. For example, I estimate that 10 to 15 percent of the U.S. market is for non-oil field, non-food applications. These applications include products like toothpaste, cosmetics, pharmaceuticals, and other non-food uses. Deosen has not really
participated actively in this segment because of some
very specific barriers to entry and because of certain
customer needs in this segment.

First, many of these applications require a
highly clarified xanthan. The xanthan needs to have
transparency greater than 85 percent. Chinese
producers have had difficulty in producing such
products for a number of reasons. The difference in
the underlying production process thus limits the
application of the resulting xanthan gum.

Second, many of these applications require
xanthan produced using only isopropyl alcohol. Most
Chinese production uses ethanol as a precipitate, so
it cannot match customer requirements. So far only
Deosen has the ability to use either ethanol or
isopropyl alcohol as a precipitate in its process. So
if a customer insists on a product that meets the
standards in 21 C.F.R. 172, most Chinese suppliers are
unable to meet these specifications.

Third, many of the specific applications in
this non-food segment are smaller volume. The
customers therefore have little incentive to qualify
multiple suppliers or go to the trouble to even
consider other sources. These products are left to
the current supplier with no replacement by others.
Fourth, these other segments generally require more technical support and laboratory time, and no Chinese producer is able to provide these locally.

For all of these reasons, the Chinese competition in this segment is very limited and the U.S. producers have this segment of the market largely to themselves. These barriers to entry limit competition by the Chinese manufacturers.

That concludes my testimony. I will be happy to answer any questions.

MR. BOLEN: Good afternoon. For the record, my name is Ron Bolen. I am currently employed by Grinding & Sizing Company or G&S. G&S specializes in the manufacture and sale of a variety of drilling fluid products, including xanthan products with applications in the oil field sector. In my capacity as Vice President of Sales & Marketing at G&S, I oversee both customer and vendor accounts associated with xanthan sales and purchases.

I have been working in the oil field sector for more than 25 years and know the oil field market for xanthan quite well. In addition I worked for CP Kelco for nearly 30 years and so know something about the domestic industry in this case as well. I left CP
Kelco for Grinding & Sizing in September of 2007. My last position at the company as oil field sales manager for the Americas. I am pleased to be here today to discuss G&S's experience in the market and to answer any questions you may have.

Let me start by telling you a little bit more about G&S. G&S serves as a custom blender and packer of a variety of products for the oil services community. Our objective is to be a one-stop shop where our customers can procure all their drilling fluid products requirements.

In terms of xanthan gum, we blend xanthan products based on our customer's own formulation and also serve as a distributor of prepackaged products. Most of our own purchases of xanthan gum are in bulk, so that we can provide those additional services to our customers. This might include packaging that bulks xanthan under our own customer's label or preparing various powder or slurry blends based on customer specifications.

As background, slurries are a fluid preparation in which we pre-disburse xanthan gum in a carrier system and the product is delivered to the drill site in this pre-disbursed state. This is a common product for smaller drilling companies in drill
sites that lack mixing equipment at the drill site to properly mix the dry xanthan. While powder and slurry blends contain more than just xanthan, the prices are based on the total makeup of the product and service provided. The xanthan component can be tracked and price quantified, and this is how we report it to you in our own purchaser's questionnaire.

G&S is not a dedicated re-distributor of any particular brand. We buy from both domestic and Chinese sources, although the majority of our bulk purchases are of Chinese origin. On the domestic side, most of our purchases have been from ADM, who actively solicits our business. The same cannot be said for CP Kelco. CP Kelco does not actively call on us and we have had some difficulty in getting Kelco to return our calls.

Last September, we requested a quote and followed up with them again. They finally responded, indicating that they had little volume to offer. I can only speculate on CP Kelco's possible reasons for excluding G&S as a prospective xanthan customer. They used to be more active in the oil field sector, but even before my departure they began a substantial reduction in their sales force for this segment on a global basis.
In terms of demand, I can make this assessment on the market as far as the domestic industry's ability to meet it. In my opinion, I don't think they can. I know this from public statements and from earlier testimony that CP Kelco announced a 40 percent increase in their capacity at the San Diego facility. Based on the most capacity increase announcements made by other producers, this usually means the addition of new fermentation capacity. Given the very public circumstances surrounding the cost facing CP Kelco at its San Diego facility, such as utility, environmental, and other rate increases, I can only wonder if this is a real increase in new fermentation capacity to produce xanthan.

As for xanthan gum demand itself, there is no question that it will continue to grow driven by a number of factors. First, drilling activity worldwide continues to grow, which is a bell weather of xanthan demand. The more rigs, the more drilling activity, the more xanthan. It's really that simple. The global rig count is up and we do not expect that to change.

Admittedly, some of this drilling activity has no direct connection to xanthan demand, as it involves exploiting unconventional petroleum plays.
that depend on hydraulic fracturing or fracking. Nonetheless, the result is more xanthan demand and let me explain why.

Fracking requires guar gum and the industry's most recent with guar is that the market price and supply can be highly volatile. This creates an incentive to look for substitutes to limit the exposure. Xanthan is an imperfect substitute for guar and the industry is still working out solutions, but sometimes substitution is an indirect phenomena. More guar consumption in the oil sector leads to more guar substitution in sectors like food, including the shift to xanthan gum where there are more ready applications. And fracking will not always be just a U.S. phenomenon. It will begin to take hold in other regions, as other interests traverse the language curve and make the necessary investments and resolve other logistical issues.

The bottom line is that demand is going to be strong inside and outside the United States. And there is no evidence in my mind that the domestic industry is up to the task. It was not adequately meeting demand and was not interested in that demand in strong markets prior to the existing duties. I am confused as to why additional duties would change that
situation. In my mind any difficulty the domestic
industry is facing is not about imports. It is about
their own internal issues.

And let me quickly address one aspect of
these internal issues that is quite relevant here.
There have been a lot of discussion about the xanthan
market being all about price. This is simply not
ture. Let me give you a good example. In mid 2007
Grinding & Sizing was approached by Kachina Drilling
Chemicals regarding their xanthan supplier
requirements. Kachina had been a committed customer
of ADM, but had grown frustrated with ADM over service
and reliability issues and other business practices.
This was a significant account.

Kachina was worried of purchasing Chinese
product over quality concerns and expressed those
concerns to us. Over a six-month qualification
period, we convinced Kachina that Chinese product
could reliably meet their specifications. Price was
the last thing we talked about, not the first. We had
to be competitive with ADM product, but that meant
more than price and price was not what drove Kachina
to us. Kachina came to us over non-price issues and
we were able to address those issues where ADM had
failed. This is not a unique story.
And with that, I will conclude my remarks.

Thank you for your time and I look forward to your questions.

MR. DURLING: Good afternoon. For the record my name is James Durling with the law firm of Curtis, Mallet-Prevost, appearing today on behalf of the Respondents.

Let me begin with volume effects. This case is somewhat unique. In most cases there are significant shifts among the market participants. That did not happen in this case. Instead, the market shares remain quite stable. Subject imports were a significant part of the market, but they have always been a significant part of the market. The Commission's analysis focuses on changes over a specific period of investigation. Subject imports may have increased, but that increase is not particularly significant in this case during this period because it did nothing more than match the overall growth in the market.

This first graph describes the overall market, but the key segment in this case has been the oil field segment that alone accounts for the vast majority of the increase in subject imports. The trends in this oil field segment are even less
injurious with the domestic industry gaining market share in this key segment. These trends demonstrate the absence of any adverse volume effects in this case.

Petitioner claims the overall capacity utilization is too low to be sustainable and that the domestic industry should have been able to gain market share. But capacity utilization has been stable. If it is too low, it has always been too low. Subject imports have not changed anything about capacity utilization during the period of investigation, nor does the failure to gain market share constitute adverse effects under the statute.

Petitioners also claim petition effects distort the analysis, but this claim is at odds with the record evidence. This slide summarizes the semi-annual volume of subject imports according to the pricing data, which accounts for about 80 percent of the total volume of imports in this period. During the second half of 2012, subject imports continued to increase. More telling relative to the same periods in 2011, the subject import gain in the first half of 2012 was only about 2.2 million pounds, while the subject import gain in the second half of 2012 was about 4.5 million pounds. In other words, the second
half 2012 gain was more than double the increase in the first half of 2012. Since the petition did not lead to any decrease in subject import volume, it is hard to see any basis for dismissing the volume or other trends because of petition effects.

So we now turn to price effects. This case is unique in that the survey of purchasers revealed price to be a much less important factor than in most cases before the Commission. Many other factors are more important than price.

But this case is also unique in that domestic prices have been increasing so much over the period. We don't have so much pricing data that is public, but we do have the following data showing that for 12 out of 14 possible comparisons, prices at the end of the period were higher, sometimes significantly higher than prices at the beginning of the period. There is thus no price depression.

As one might expect, Petitioner focuses on the existence of underselling, but the simplistic approach ignores several key points about the record evidence. First, the margins of underselling have been generally consistent across the various products across time. We cannot show it publicly, but the confidential pricing graph in the pre-hearing report
show very consistent margins of underselling over time. Petitioner's theory cannot explain why underselling in 2010 that was not injurious somehow becomes injurious in 2012.

Second, the margins of underselling often coincide with increasing domestic prices. As our pre-hearing brief discusses, in one key segment margins of underselling increase somewhat, but they increase because domestic prices were increasing so much faster than subject import prices.

Third, the underselling also often coincides with increasing domestic volumes. Again as our pre-hearing brief discusses in another key segment, underselling existed, but the domestic industry was still able to increase its volume shipped. These patterns are utterly inconsistent with any theory of injurious underselling.

Finally, we note that there is also underselling by the domestic industry itself. We cannot discuss this issue publicly, but our pre-hearing brief discusses and we will elaborate in our post-hearing brief about the extent and significance of domestic industry underselling in key product segments at key points in time. Domestic industry underselling may not have occurred in very many
quarters, but we are confident the Commission's analysis will go beyond just mechanically counting the quarters of underselling. When the underselling coexists with increasing domestic prices and increasing domestic volumes, pretty clearly some other dynamics are at play in the market.

Petitioner also claims price suppression. But once again Petitioner presents a simplistic approach that ignores several key points about the record evidence. First, the use of a single overall annual AUV masks important shifts in the product mix behind that single AUV.

Second, in fact the price increases were more than enough to cover raw materials and other key variable costs, such as energy. Given the production process for xanthan gum, raw materials are a small part of the production process. The more important variable cost is energy and energy costs in the United States have been stable or declining over this period. So the traditional notion of a price-cost squeeze with external variable costs changing by more than the price increases simply does not apply here. If there's been any price-cost squeeze at all, it reflects internal factors that have nothing to do with subject imports. We will return to these issues in a
Finally, we turn to adverse impact and whether the evidence shows that any adverse impact is by reason of subject imports. At the outset, we note that most of the statutory factors have been positive. Production and shipments are up. Prices are up. Workers and wages paid are up. And these improvements have occurred in spite of increasing subject imports. The petition was filed too late in 2012 to have materially affected any of the trends showing up in the 2012 data. Subject imports continue to increase through the end of 2012. These positive domestic trends occurred in spite of subject imports. The only negative trend is operating income and some other statutory factors that are basically calculated from operating income. Yet this one negative trend has little to do with subject imports. Rather this trend reflects other factors that are demonstrably not related to subject imports. Let me explain.

Let's start with the domestic industry operating income as a whole. This graph reflects the operating income trend based on the most recent revisions submitted by domestic producers. So the underlying data is slightly different than the pre-
hearing report. I cannot provide actual numbers, but this public graph makes the key points.

First, the domestic industry has been consistently profitable. Second, the drop in operating income occurred in 2011 and then remained pretty stable. So the key question for the Commission's analysis is what happened in 2011. It was not subject imports. On an overall basis from 2010 to 2011, subject import market share was stable and subject import AUVs and prices were generally increasing.

So what changed? Product mix changed. This slide presents an import counterfactual. In addition to the basic trend in overall industry operating income, we show how much of this decline in overall operating income reflects the drop in the export markets. Virtually all of the overall decline reflects a drop of profitability in the export market in 2011 that continued in 2012. These trends have nothing to do with any adverse impact of subject imports in the U.S. market.

Now the domestic industry presents a domestic shipments only trend in operating income, but this argument is wrong and misleading in two key respects. First, the statute requires the Commission
to consider the profits on all U.S. production, whether it is sold domestically or sold in export markets. The company and the workers benefit from each additional ton produced regardless of where it is sold. So the legally relevant trend is the trend in overall operating income.

Second, Petitioner focuses on trends in export market AUVs in isolation. When those trends are put in context, export AUVs relative to changing costs for those export sales, a very different picture emerges. We discuss this issue more in our confidential post-hearing brief.

But another way to look at this trend is to show the effect of various internal factors at play for the domestic industry. Here, we present the discussion from our pre-hearing brief, but using the revised domestic industry questionnaire responses and using a public format. This graph shows that almost all of the decline in 2011 and a substantial portion of the decline in 2012 can be attributed to two different internal factors at the domestic industry. Again these trends have nothing to do with subject imports.

We acknowledge that this graph shows a modest drop in 2012 even after taking into account
these internal factors, but that decline reflects changing product mix over the period as the domestic industry shipped more volume at a higher percentage of its total volume to oil field applications that on average had lower operating margins. This trend is hardly surprising. If an industry chooses to shift more of its business to a segment with lower profits, not surprisingly the average profit margins will fall.

In light of this discussion, it should be clear by now that the oil field segment is a key part of this case. Petitioner stresses the alleged adverse impact in the oil field segment. Given the limits of what I can say publicly, let me just note a few key points.

First, the domestic industry gained the same amount of volume in the oil field segment as the subject imports. This graph shows the difference in annual volume, showing 2012 compared to 2010 for both supply sources. The idea is to convey publicly that both sources of supply grew comparably in the oil field segment in response to strong demand during the period.

Second, the domestic industry changed its prices in the oil field segment more dramatically than the subject imports. This graph shows the difference
in annual average unit value showing the difference between the 2012 AUV compared to the 2010 AUV for both sources. The idea is to convey publicly that subject imports have not been dramatically dropping their prices in this key segment. Our pre-hearing brief discusses this issue in much more detail using the confidential record. Thank you.

MR. MCCULLOUGH: For the record, my name is Matt McCullough and I will briefly just -- whether subject imports threaten to cause material injury to the domestic industry. The simple answer to that question is an emphatic no.

A review of the statutory threat factors and other relevant considerations makes that reality clear. My comments will focus on facts surrounding the Chinese industry, as I believe counsel for the Austrian industry will cover facts relevant to the Austrian industry.

First, the record in this case has very little unused production capacity in China and no basis to assume that such capacity even if filled would be used to serve the U.S. market. To the contrary, the Chinese industry is serving several other export markets as reflected in the pre-hearing staff report.
I can also tell you that looking at our own client's own pricing data, that Deosen's average unit values for xanthan gum are higher in nearly all export markets and its own domestic market than in the U.S. market across all end-use segments. This indicates a greater incentive to ship to those markets over the U.S. market.

As far as any evidence of an imminent substantial increase in production capacity in China, that is not apparent from the record. On the other hand, publicly available information shows that there are very substantial constraints on the use of existing capacity in China.

This April, for example, it was reported that Fufeng's inner Mongolian plant will be forced by new environmental laws to abandon its own underground wells and instead source water from the Yellow River. As reported given the differences in water quality, this shift threatens a sustained shutdown of the inner Mongolian plant to address bacteria acclimation issues. That's just one of the environmental examples and we will address that more in the post-hearing brief.

Second, any increase in the volume or market penetration of Chinese imports of the subject
merchandise does not indicate the likelihood of substantially increased imports. At the outset, the increase in imports from China over the period of investigation is not significant. Yes, volume was higher, but domestic market shares remain stable. Moreover, as I already mentioned, there are real capacity constraints in China, as well as other more lucrative export markets to attract Chinese exports.

CP Kelco is the first to acknowledge growing global demand for this product. As documented in the pre-hearing staff report, in a series of price increase announcements dating back to 2010, CP Kelco repeatedly discusses growing global demand as the cause. Given these circumstances, any finding that substantially increased imports are likely to enter the U.S. market would be the kind of conjecture and speculation not permitted under the statute.

Third, evidence of imminent significant price effects from subject imports, whether in the form of price depression or suppression, cannot be found on this record. To the contrary, CP Kelco consistently and significantly raised prices during the period of investigation even as Chinese volume increased and whether or not Chinese volume undersold domestic product. This is not a surprising trend, as
the purchaser questionnaire responses received by the Commission ranked price sixth among purchasing factors behind other considerations, including availability, delivery time, product consistency, quality, and reliability of supply. There is no evidence to suggest that these trends or preferences will change. These are the basic facts. But what else do we know? The staff report offers no indication of threat based on any perceived inventory overhang. None exists. Trend are working in the opposite direction. There is also no evidence of any significant capability to product shift on the same equipment. And in this environment, we also know that xanthan demand will be growing in the United States and abroad. Not even CP Kelco can challenge this point.

We can start with the most fundamental demand indicator, gross domestic product. U.S. GDP is projected to grow. As a GDP in every single major xanthan market, in emerging markets with high populations, and where organization and rising living standards are leading to exponential growth in processed foods and therefore xanthan consumption, GDP growth is at its highest.

Looking at the oil sector and rig counts, a
common bell weather for xanthan consumption, the
global rig count remains far above levels in 2010 and
there is no prediction that these counts will plummet
any time soon.

Another factor in the drilling market that
will sustain higher xanthan consumption rates, both
inside and outside the oil sector, is that segment's
experience with the recent volatility of guar prices
and supply. Yes, guar prices had declined, but the
substitution effect in terms of increase xanthan use
and in particular use in the food segment will not
decline in tandem. Rather, some of that substitution
will be locked in since once a reformulation occurs
using more xanthan, it does not necessarily make sense
to reformulate back to more guar.

Moreover, given the experience with guar
prices and supply, guar consumers will seek to
diversify as a hedge, leading to further exploration
of xanthan as a substitute.

Finally, the domestic industry is simply not
vulnerable to subject imports. The domestic industry
has in fact performed quite well and is solidly
positioned to perform well for the foreseeable future.

As my colleague Jim Durling previously discussed,
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considers have been positive or neutral. The only negative trend has been operating income and some other metrics derived from operating income. But those trends come with two additional considerations. First, that there has been consistent profitability despite such trends; and second, that there are very obvious explanations as to why subject imports have not been the cause of such trends that we will again address in confidential briefing.

Under the circumstances, there is no basis for the Commission to find threat of material injury from subject imports.

Thank you.

MR. MAGRATH: Good afternoon members of the Commission, Commission Staff, ladies and gentlemen. I am Patrick Magrath appearing on behalf of JBL the Austrian producer of Xanthan Gum.

I'd like to say first off I'd like to incorporate Commissioner Pearson's question this morning, why are we here?

This portion of my testimony will consider the conditions of competition in the Xanthan Gum market as well as the volume price of subject imports and their decidedly not-impact on the conditions of competition and the industry.
First, there is attenuated competition in the U.S. market for Xanthan Gum. The market is fragmented by end use applications, pricing levels, different sets of customers, barriers to market entry, and Xanthan Gum is therefore decidedly not a commodity type product.

As the pre-hearing staff stated, there are five separate market segments for Xanthan Gum -- pharmaceutical, consumer, food, beverage and industrial and the oil field. JBL is a producer in the food and beverage sector. It sells no or virtually no Xanthan Gum to these other sectors. The confidential record shows that other suppliers to the U.S. market concentrate on one or more of these segments and that for some there is essentially no competition between domestic products and imports.

Of these submarkets, the single largest segment, oil and gas, increased strongly over the P&L due to both domestic and global booming energy production. JBL has almost no participation in this market segment.

On the other hand, the food and beverage sector where JBL has the greatest majority of its sales declined over the POI. It was also the segment which reported the largest increase in AUVs or prices.
of any segment. So if you're looking for price depression or suppression here, it is impossible to discern.

In addition to competition being segregated to these rigid market segments, it is also differentiated by price. In oil and gas applications prices are noticeable lower than in any other segment. At the other end of the broad price scale are the prices of branded Xanthan Gum products in other sectors.

As usual in the Commission's investigations, much relevant information is contained in the responses to purchasers' questionnaires which show ample proof of the market separation of JBL from other suppliers.

A large number of purchasers reported no purchases of Xanthan Gum from JBL and several reported buying exclusively from JBL. A few reported buying only Austrian and Chinese products.

Based on the purchasers' responses it is no surprise that different sets of customers purchase from JBL in contrast to the two U.S. producers.

Please see Table IV-25 of the producers' and importers' questionnaire responses where JBL and the U.S. producers identify their ten largest customers.
Finally, because of the segmented nature of this market and JBL's concentration in the food and beverage sector, the number of lost sales and revenue examples alleged against Austria, there are just six allegations of lost sales and one of lost revenue. These few allegations are also an indication of attenuated competition.

In short, U.S. purchasers who buy for the pharmaceutical, industrial, consumer and oil field markets seldom buy from JBL and those purchasers that do buy from JBL are concentrated into one end use -- food and beverage.

We think that this along with the rigidly segmented market constitutes limited and attenuated competition between JBL and the U.S. producers, substantially limiting if not severing completely the possibility that the U.S. industry could be injured by imports from Austria.

The purchasers' questionnaire responses also addressed the considerations that go into purchasing decisions. What the Commission is probing in this context is how important the pricing is in helping subject imports get a toe-hold into the U.S. market.

In contrast to many cases, only 2 of 30 purchasers who answered this question, 2 of 30, named
price as their number one factor. Indeed, price is outranked by quality, product safety and availability concerns with most purchasers ranking price as only the third most important factor.

So low price does really not count for that much and probably not at all for very high value applications such as pharmaceutical and food and beverage.

The relative unimportance of price is also the reason for the wide differences in domestic producer prices that were noted this morning and that are in our pre-hearing brief.

There are a number of reasons why lower price is less important than quality and service factors. First, there is what has been called functional specificity. This describes the situation in which there are two chemically identical Xanthan Gum products but only one of them will work in a specific application for a specific user. That is even if both are qualified.

Second, the long, up to 24 months and costly qualification process.

Third, the extremely low cost share of Xanthan Gum in all applications, which is a minor but essential ingredient in a myriad of applications.
Together these factors constitute extremely high barriers to entry -- a situation in which a current supplier of Xanthan Gum to a purchaser has extensive knowledge of its customers' specific application and the functionality of the product. These barriers are the reason behind the unusual aspects in this market we have been talking about. The lack of alternate suppliers, the focus of JBL in only one segment, and the premium demanded for domestic branded products.

Although subject import volumes have gone up, the domestic industry has not lost market share and domestic producers' prices have increased at the same time. Subject import share of the U.S. market increased by less than one percent over the period of investigation, despite underselling of the U.S. product.

It is even harder to discern any effect of subject imports on U.S. producerers' prices. All of the parties enjoyed price increases over the period. Prices rose in each channel of distribution. Despite evidence of underselling there is no price depression or suppression.

Lower import prices did not seem to affect domestic prices at all. In fact domestic prices rose
consistently throughout the POI.

This morning the U.S. industry talked a lot about how the profitability of the U.S. went down over the POI but not how import prices were going the other way, rising inversely as the profits declined.

As a result of the U.S. industry's increasing shipments, domestic producers maintained market share in the presence of increasing imports and they retained the power to raise prices.

Petitioner Kelco has invested in a major capacity expansion. This is not a textbook or any kind of a book definition of injury. I would also encourage the Commission to look at the domestic industry's trends in net sales, inventory, employment, related variables of employment, and capital expenditures. They are all up, some substantially.

I would urge the Commission to read or re-read and ponder Footnote 2 on page VI pages one and two of the pre-hearing report.

Finally, JBL endorses the analysis of the U.S. industry's profitability found in Respondent Deosen's brief identifying the impact of internal business decisions and not subject imports on profitability.

The trade statutes are not designed to
protect the U.S. industry from the consequences of its own internal business decisions.

Briefly, I will cover the threat factors related to JBL and JBL only.

Over the POI, U.S. consumption of Xanthan Gum grew by 35 percent but JBL's market share fell during this period. JBL's Austrian plant runs at a high capacity. JBL's capacity increased marginally in 2011 as a de-bottle-necking exercise.

Fourth, the growth segment of the U.S. market is the oil and gas sector which accounted for the great bulk of the overall increase in apparent consumption. JBL barely has a presence in this segment. In all other segments save food and beverage, JBL's market share is minuscule.

Finally, JBL is not likely to have negative price effects in the future for the food and beverage sector into which JBL sells the great majority of its shipments. Please see our pricing data which was on the increase throughout the period in Products 3 and 4 in the pre-hearing report.

I'd like to thank the staff for the pre-hearing report.

That completes my testimony.

MR. PORTER: Mr. Chairman, that concludes
Respondents affirmative presentation.

COMMISSIONER PEARSON: Thanks to all of you and welcome to the Commission. I appreciate your willingness to be with us this afternoon, and coming from different parts of the country with different expertise.

We will begin the afternoon questioning with Commissioner Johanson.

COMMISSIONER JOHANSON: Thank you, Mr. Chairman, and I would also like to extend my thanks to all of the witnesses for appearing here today.

I'm going to start with a very basic question and any of the witnesses can answer this. But do you consider that there is a global price for Xanthan Gum?

MR. TERRY: From my perspective the pyramid that was shown this morning, I don't have really much knowledge of any of the pyramid except for the oil field. From an oil field perspective yes, there is a price that our customers are wiling to pay and this pretty much sets the tone for kind of a global expectation.

COMMISSIONER JOHANSON: Mr. Marzulli?

MR. MARZULLI: I would like to just say that there are some multinational customers we have
that require a global pricing for all locations.

COMMISSIONER JOHANSON: Does that cut across all segments of the Xanthan Gum industry?

MR. MARZULLI: Certainly for food.

COMMISSIONER JOHANSON: How about when you cut across like the oil and gas sector?

MR. TERRY: The majority of our customers, let's say we service three main customer groups. One is international oil companies. The international oil companies, they build a global expectation. They don't segregate the market in the U.S. from the market in the Middle East or from anywhere else where they drill. They look at their bills, they look at their invoices, et cetera.

We also have national oil companies. They have a national expectation for what they will pay for any product. It doesn't matter if it's Xanthan Gum or anything else.

Then you've got a third group which is independent producers. Independent producers tend to focus on how can they get their needs met. When you have these large national and international oil companies the private oil companies are sometimes shoved out to do their own thing. So they're looking out for number one. They wouldn't have an
understanding of what a global price would be on anything.

COMMISSIONER JOHANSON: Thank you.

This next question is for Mr. Bolen. Mr. Bolen, you stated that the majority of the purchasers of Xanthan Gum for your firm are from China. And could you tell me why that is the case?

MR. BOLEN: Yes. One being we get the quality that we require. And the one big contract that we got happened to be Chinese produced Xanthan Gum based on quality. So that kind of defines the majority.

We have used ADM Xanthan Gum. We kind of use it interchangeably based on grades and whatever. And as I stated before, Kelco really doesn't want to sell us any Xanthan Gum.

COMMISSIONER JOHANSON: Thank you.

This question is probably going to be best answered either by you, Mr. Bolen again, or Mr. Terry. That is, it was stated in the testimony today, I believe by Mr. Marzulli, that the price of Xanthan Gum, the amount of Xanthan Gum used in baked products let's say or food products, is a much smaller component than that that's used in fluid for drilling.

Do you know what the approximate amount of
-- Do you know what the approximate amount of Xanthan Gum that is used in drilling fluid by price

MR. TERRY: I don't have that information at this time.

COMMISSIONER JOHANSON: Would you know, Mr. Bolen, by chance?

MR. BOLEN: It really depends. The unique thing about food systems is it's a set formulation. So if you're putting it in a salad dressing or whatever, you're using a very specific amount of Xanthan Gum. When you go to drill a well, you really don't know how much you're going to use. You can make estimates, but because of that drilling process of drilling two or three or four miles into the ground, you could require varying amounts of Xanthan Gum so it's really hard to predict.

The use rates in drilling fluids have steadily increased over time as folks have realized that Xanthan Gum is more functional the more you put it into the system, so the use rates over time have grown.

Typical use rates could be a pound per barrel which is like .28 percent. But we've seen instances where they're using as many as three to four pounds per barrel in certain applications.
So it's a highly variable thing depending on that particular well and that particular circumstances.

COMMISSIONER JOHANSON: So the use has increased not only because of deeper wells or increased drilling, but also due to functional reasons?

MR. BOLEN: Yeah.

COMMISSIONER JOHANSON: This is a follow-up question for you, Mr. Bolen. You say that you purchased Xanthan Gum on the basis of quality, primarily on quality, that's the highest factor. What occurs when you use lower quality Xanthan Gum in drilling?

MR. BOLEN: You're having to use more. You can use lower grade material, and some of our customers prefer to do that, but we don't make that decision for them. We basically have the various grades that appear to be favored in our application, then they can decide. If price varies a little bit based on the functionality, but it's really up to our customer to decide what they want.

COMMISSIONER JOHANSON: Mr. Marzulli, I have a question that comes out of your testimony from earlier today. I think you stated something along the
lines of Xanthan Gum when it goes bad for food purposes, it can be used for drilling purposes? Is that correct?

MR. MARZULLI: For industrial.

COMMISSIONER JOHANSON: For industrial purposes.

MR. MARZULLI: Yeah.

COMMISSIONER JOHANSON: How often does that happen?

MR. MARZULLI: I really couldn't state. But what I said was in the beginning.

COMMISSIONER JOHANSON: Okay, in the beginning. So it's no longer --

MR. MARZULLI: When it was started Xanthan Gum that did not meet food grade material was made for industrial.

COMMISSIONER JOHANSON: But as far as you know that's no longer a major factor?

MR. MARZULLI: I'm not sure.

COMMISSIONER JOHANSON: Or a factor in industry?

MR. PORTER: We can see what we can do in post-hearing. Mr. Marzulli is on the sales end of things. He's at Deosen USA. He's here in the United States. So he's sort of been told to sell the food
grade stuff as it's shipped to him.

Every once in a while because they have to do further testing, he runs into a situation where perhaps it doesn't meet the customer spec and then he has to sort of sell it off. But that, the decision of whether it meets food grade, whether the plate count's too high, whether the bacteria's too high, is actually made at the factory. It comes off the line and I believe all Xanthan Gum producers but certainly Deosen, test it immediately. If the plate count's too high, it cannot be used for food. So at that point it is, if it was intended for food has to be somewhere else.

What I do not know, we can look into, I think your question is when they are sort of deliberately trying to make food grade, how often is it that the plate count is too high so it cannot be for food. Is that your question?

COMMISSIONER JOHANSON: Right. Along those lines.

MR. PORTER: We will try to get some information from the manufacturer in China about their experience over the last few years.

COMMISSIONER JOHANSON: Thank you.

Mr. McCullough, you had spoken about prices,
of Guar prices being unstable in recent years. Can
you explain why that is the case?

MR. McCULLOUGH: It's a combination of both
demand and supply considerations. The market took a
shock because of real supply constraints and increased
demand. If I recall correctly, and we can go back to
the record from the preliminary phase, but prices rose
to over $12 or $13 a pound, I recall.

Prices have come back down and that was part
of my point is I think the idea that because prices
have come back down it's eliminated concern about that
market, it really hasn't. And it certainly is an
incentive to explore other applications for Xanthan.

COMMISSIONER JOHANSON: I assume that prices
have been somewhat unstable due to what's happened in
the oil and gas sector?

MR. McCULLOUGH: That's part of it,
particularly with increased fracturing, that increased
demand for Guar, but there are also supply issues.
There are only a couple of regions in the world where
Guar is produced at this point. They're trying to
change that, but India in particular is the primary
supplier of that product.

COMMISSIONER JOHANSON: Thank you.

My time has about expired. I will end
there. I think you for answering my questions.

COMMISSIONER PEARSON: Commissioner Broadbent?

COMMISSIONER BROADBENT: Thank you. I want to thank the witnesses. We're pleased to have you with us today.

This is sort of an open question for the panel if anybody had a comment. What do you believe the effect of an antidumping duty order would be in this market? Would the sales shift to the domestic suppliers? Or do you think businesses would retain their existing suppliers and just accept the increased prices inherent in the duty orders.

MR. RAINVILLE: May I comment first from Jungbunzlauer's standpoint?

Our customers have a hard time receiving material or even responses from Kelco or the domestic market. They rely heavily on our services and our ability to provide that product. So I believe a dumping duty will just raise their price and make them less competitive against their competition.

MR. TERRY: My comment on that is that our customers will be forced to pay higher prices.

COMMISSIONER BROADBENT: Do we think the U.S. industry has the capacity and capability to
produce enough Xanthan Gum to meet all the U.S.
demand?

Mr. McCullough, I see you shaking your head.

MR. McCULLOUGH: I'm shaking my head because
I think about the record, and obviously some of it is
proprietary, but if you look at some of the capacity
utilization rates and then you look at the record, as
the Commission mentioned this morning about there have
been consistent reports of not being able to secure
supply from the domestic industry. Then you look at
announcements to the domestic industry including CP
Kelco about how they're going to expand capacity.
There's some disconnect there.

I think the story's really not out on the
table about what really is their capacity to supply
this market, and I think all the record evidence
points to the reality that they can't.

MR. MAGRATH: I would agree with that.
Remember that capacity in this industry isn't just one
number. This is divided into these five rigid market
segments. Perhaps the U.S. industry could have the
capacity to produce for one end use but not the
capacity to produce for another. The same goes with
the importers.

COMMISSIONER BROADBENT: Are there
particular market segments you see more of a shortage?

MR. MAGRATH: I really don't see any particular sector. Certainly if the oil and gas sector continues to go gangbusters, you would think that that would be one sector, yes.

COMMISSIONER BROADBENT: Okay.

MR. TERRY: Our strategy is to use a small number of high volume providers. We do not want a large number of low volume suppliers.

Kelco has not told us that they want to be a high volume custom supplier. So they are mainly a spot supplier to our oilfield needs.

I have discussed price for what we regard as a high volume, or I've not, excuse me, discussed price for what we regard as a high volume of Xanthan Gum products with any of the domestic suppliers. Not have they indicated the willingness to supply those types of volumes.

COMMISSIONER BROADBENT: Since ADM isn't here, I just wondered if any of you have any observations on the role that ADM plays in this market?

MR. BOLEN: At least in the oil field they're a player but they're not a large player. I don't know who their customers are. I talked briefly
about who one of them was. And I don't think they're a major impact on the oil field.

COMMISSIONER BROADBENT: How do their prices compare to the Chinese prices?

MR. BOLEN: They're generally higher.

COMMISSIONER BROADBENT: This is a question about production of this product.

At what point do you start getting a more sophisticated product that has a lot of specifications associated with it. Do you sort of produce a baseline product and then add to it with bells and whistles? Or does it start out being very, have a very specific character at the beginning of the production process.

MR. RAINVILLE: From Jungbunzlauer's standpoint, we are historically, and our expertise is in fermentation. Everything we do we do through fermentation.

We have always served the food and beverage industry first, so Xanthan Gum just fits into that portfolio. For the most part we make food and beverage quality Xanthan Gum as well as our other products and we have been doing this since 1986 when we entered this market.

COMMISSIONER BROADBENT: Okay. But does the production process start out with the same product
then it's kind of tweaked? Or does it go into the
batch with a separate identity? Do you understand my
question?

MR. MARZULLI: The value added portion of
Xanthan at least on the food side, comes after
manufacturing. You have your Xanthan Gum, then you
might change the grinding to have a finer mesh Xanthan
or you may coat it to make it a better disbursable
Xanthan. That's where the changes take place, once
it's Xanthan Gum.

COMMISSIONER BROADBENT: That was helpful.
Thank you.

Mr. Bolen, why do you believe that Kelco is
not pursuing your business given your part of the oil
sector is really where the growth is protected?

MR. BOLEN: I really don't know. We're
here. We're a demonstrated user of Xanthan Gum. I
guess that's best answered by them.

COMMISSIONER BROADBENT: Okay.

I think some of the witnesses were
addressing this before, but I'm still trying to get a
grip onto the relationship in the price of the Guar
Gum as a substitute or versus the effect that it has
on the Xanthan Gum price. Can someone explain that to
me once more?
MR. BOLEN: Guar Gum has been traditionally used in fracturing over the years. Many, many years. It had a relatively low price. It had a particular functionality that the industry applied. So it worked and it was relatively inexpensive.

You probably read about shale gas drilling and drilling in Pennsylvania and Ohio and West Virginia and places that had never been really drilled before. To make shale gas drilling work you have to fracture the well. You have to use a fracturing technique which uses Guar.

So as the virtual explosion of development in shale gas formations, wherever they were in the United States, it just meant that there was a lot more Guar used.

There were some aspects of supply related to weather. There always are issues in Pakistan and India relative to floods and droughts and whatever. It comes from a plant. So there was a shortage at least through the early, or late 2009, related to shortage based on drought.

But then the demand increased, and I think the suppliers kind of said we can ask whatever we want to on this and they're going to pay it because they really don't have an alternative. That's kind of the
way I saw it.

Now supply is beginning to relax a little bit and because it is a commodity the price is going to go down.

MR. PORTER: Commissioner Broadbent, let me see if I can try to come back to Xanthan Gum on that. I invite others to correct me if I'm wrong, but I think the main idea is the following.

Guar is a very sort of preferred product in oil fields, certain types of oil field oil drilling, as Mr. Bolen explained, especially in fracking. In fact you can probably only use Guar there.

There was a big increase in demand combined with sort of disruptions in supply led to a huge spike in the price of Guar.

Now Guar is also used in other applications, primarily food applications. In those applications there's more of a substitution with Xanthan Gum.

What happened is as the price of Guar shot up because of oil fields, food and beverage people said I don't like this, I'm going to now try Xanthan Gum. They reformulated their product. I think it's cake mixes and dairy where they can kind of use either. They reformulated the product and then began purchasing more Xanthan Gum which led to an increase
in Xanthan Gum. I think that's kind of the history that we were trying to develop, and we expect that to continue, which is why we think the demand is good for Xanthan Gum for the future.

COMMISSIONER BROADBENT: This is for Mr. McCullough. Can you comment on similarities between the U.S. food and beverage market for Xanthan Gum and those in emerging markets, India and Brazil? Do these markets and the customers have different quality specifications, or the same?

MR. McCULLOUGH: I may have to, admittedly I don't know what the preferences are in terms of different Xanthan qualities. I may want to leave that to one of the other witnesses that deal in the food sector.

I think one of the points I was trying to make is that as these emerging markets in particular, their living standards and GDP increases and there's more organization, you're going to get a push towards more processed foods. That's obviously a demand driver for Xanthan. In terms of different qualities, I don't know, but maybe one of the other witnesses could address that.

MR. MARZULLI: The multinationals, again, will set a standard for their Xanthan Gum requirements
and wherever in the world they use that Xanthan for that application, they will be the same standards. There are no differences.

COMMISSIONER BROADBENT: Okay. Thank you very much.

COMMISSIONER PEARSON: Following up on Commissioner Broadbent's question regarding how the marketplace might respond to the imposition of an antidumping order on all subject imports. I note this really isn't a commodity product. With some commodity products you can envision if subject imports get shut out there's going to be supply from elsewhere and it can come in relatively quickly and the marketplace can adjust. I have the impression that this marketplace would have a lot more challenging adjustments to make because of the specific formulations of products into which Xanthan Gum goes.

Tell me first about non-subject imports. Are there some non-subject imports that potentially could replace some subject imports given a period of months?

MR. TERRY: The answer is no.

COMMISSIONER PEARSON: Okay.

MR. TERRY: If you want me to comment
further, there are no manufacturers outside thesample import countries other than France that I'm
aware of which does not have the capability or the
capacity to meet these types of demands.

COMMISSIONER PEARSON: You of course are
taking a large volume use of this specialized product.

MR. TERRY: Yes, sir.

COMMISSIONER PEARSON: I think you already
commented to Commissioner Broadbent that it would be
challenging, or likely not possible in the short term
for domestic producers to satisfy that demand.

MR. TERRY: Right.

COMMISSIONER PEARSON: So at least for a
period of time you would be continuing to purchase
from Chinese producers, I would guess. Or from
subject producers at any rate.

Mr. Porter, did you have --

MR. PORTER: I just wanted to comment. I
fully understand your question. What I'm wrestling in
my mind is the answers that you're hearing, how does
it affect the statutory analysis.

COMMISSIONER PEARSON: It's a condition of
competition issue, actually. I'm trying to understand
how much rigidity there is in the marketplace given
existing contractual relationships and the existing
specific customer/producer relationships. It may have nothing directly to do with statutory construct, but I'm curious about it regardless.

MR. PORTER: We will do our best to answer.

COMMISSIONER PEARSON: Okay.

I was going to ask too if anyone wishes to speculate, how long it would take for the effects to be fully accommodated by the marketplace? There would be some period of months or years in which there would be changes going on. I assume that after one to two years things would have pretty much settled down and the marketplace would be dealing with the new reality.

Dr. Magrath?

MR. MAGRATH: Perhaps. Our testimony here and the facts of the case are that very long qualification periods, up to 24 months, and the fact of this functional specificity that I talked about. The phenomenon where you could have two or three qualified suppliers but yet for only one of those qualified suppliers, the product will actually work in the application. And if that guy is knocked out by a dumping duty, what is the purchaser going to do?

Well, what the purchaser will do is he'll pay the extra, or it might be absorbed by the Xanthan Gum producer. but it would lead to extreme
dislocations I think in the short run in many applications, and it would lead to the raising of prices on Xanthan Gum.

I don't think it would lead to a decrease in actual imports over the long run.

COMMISSIONER PEARSON: Maybe that's enough for that non-statutory question.

The marketplace would be in a world of hurt, is what I'm hearing. The adjustments would be really challenging.

MR. PORTER: I believe the witnesses can expound quite a bit on that question if you want them to. If these duties are sort of finalized I think they believe they will be in a world of hurt.

COMMISSIONER PEARSON: Perhaps more for this post-hearing because we could probably go on for quite some time now if we started speculating on all of that.

Mr. Rainville, I just wanted to clarify, JBL's plant in Austria, the source of the glucose that it uses, is it derived from corn or from wheat or from some other product?

MR. RAINVILLE: It's entirely coming from corn.

COMMISSIONER PEARSON: Is that a GMO-free
product? Is that important in your production process?

MR. RAINVILLE: It is GMO-free. It's important for the European Community. We see some interest in the United States but not to any great degree for GMO-free Xanthan Gum.

COMMISSIONER PEARSON: Obviously that's an issue for food uses, maybe for pharmaceutical, but less so for oil field, I would assume.

MR. RAINVILLE: I would assume too. We don't sell too much to the oil field worldwide, so I don't ever recall being asked the questions on GMO, or GMO-free from an oil field --

COMMISSIONER PEARSON: There probably wouldn't be a real concern. But who am I to decide what GMO issue might be offensive to someone.

MR. RAINVILLE: GMO-free products are growing in interest in the United States. To what degree this market will grow in the future, and what need will be there, time will tell.

COMMISSIONER PEARSON: I'm happy that the marketplace should give consumers what they want, but I'm not sure how relevant a distinction that is for this product.

Mr. Terry, you had indicated that Kelco
hasn't been interested in being a high volume provider
to Halliburton. Some of this may want to be offered
in the post-hearing, but I'm wondering how much
contact have you had with Kelco over the entire POI?
I think you made reference to some contact in 2012.
What I'd like to get a picture of is whether there's
been kind of an ongoing effort to cultivate a
relationship with Kelco.

MR. TERRY: Kelco, as with any of our other
suppliers, makes contact from time to time just to
keep up with the industry, keep up with what's going
on with Halliburton.

From the perspective of serious inquiries
and serious communication regarding production to meet
Halliburton's ongoing large volume deeds, very, very
few conversations in that vein.

Prior to this period, there were always
discussions, there always seemed to be diverging
interests between what Halliburton was trying to
accomplish with large volumes, trademarked products,
that type of thing versus what Kelco would prefer to
do which would be more market their products, be more
of a seller of their Xanthan Gum products. That kind
of drove maybe our interests further and further
apart. But over a period of the subject timeframe, we
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continued to purchase on a spot basis from Kelco. That was about the extent of the conversations.

COMMISSIONER PEARSON: Mr. O'Brien, did you have a comment?

MR. O'BRIEN: Thank you, yes.

I just wanted to draw the distinction between spot purchases which can be made from time to time in emergency situations, versus contract large volume suppliers.

COMMISSIONER PEARSON: Are there occasions, Mr. Terry, when Halliburton might purchase Xanthan Gum in the United States and then export it to some other location where drilling was going on?

MR. TERRY: Under extreme emergency circumstances, yes. That would not be a normal circumstance because there are international supplies available as well.

COMMISSIONER PEARSON: So if you had a drilling project going on in the Persian Gulf, for instance, and you needed a supply of Xanthan for that, that would be coming from these same companies we're talking about now, but it would be delivered to Dubai or something like that.

MR. TERRY: That's correct, yes.

COMMISSIONER PEARSON: I know that
Respondents have briefed the issue of cumulation in regard to threat. Do you have any thoughts on cumulation for present injury? Is there an argument there that there's enough on this record to allow decumulation for purposes of present injury? And this could be post-hearing too. Mr. Waite?

MR. WAITE: We will address it in post-hearing, but candidly, Commissioner Pearson, we've looked at the cumulation standard for present material injury and based on the findings in the staff report we don't see much ground to till there.

COMMISSIONER PEARSON: Okay. There's some attenuation of competition here and I just didn't know whether that took one far enough down that road.

With that, my time has expired. Let me turn to Commissioner Aranoff.

COMMISSIONER ARANOFF: Thank you, Mr. Chairman. Welcome to the afternoon panel.

I was going to jump into some of the pricing questions that I was asking the first panel, but before I do, one other question.

The Petitioner has provided the Commission with information from Fufeng's 2012 annual report regarding additional capacity. Since Fufeng did not return a questionnaire in the final phase of this
investigation, do you see any reason why the
Commission should not take this additional capacity
into consideration?

MR. PORTER: Let me take a stab at first
addressing that, Commissioner Aranoff.

Petitioner provided some factual
information, and like all factual information the
Commissioners are allowed to evaluate it.

I would note that although Fufeng decided
not to participate in the final phase, the staff did a
very good job essentially of preparing a Fufeng
questionnaire response based on a lot of data they had
compiled. So we actually have a completed Fufeng
questionnaire response that the staff prepared with
pretty much all of the data.

So you have capacity, production, capacity
utilization, you have shipments and so forth.

When I looked at Petitioner's Exhibit, I
didn't see honestly a whole lot of discrepancy between
what that exhibit was actually saying and what the
staff had compiled themselves. So I don't see that
there's a big difference there.

I think what the staff has done can be used
by the Commission in evaluating Fufeng's capacity in
production.
COMMISSIONER ARANOFF: Okay. Let me turn to those pricing questions that I wanted to get to. First, kind of a technical data question. Petitioner argues in their brief that certain import pricing data with respect to pricing product number six is at the wrong level of trade and should be disregarded. I don't know if there's anything you can say about that in the public session. Otherwise I'd ask you to respond in post-hearing.

MR. PORTER: I'm afraid we're going to have to do post-hearing. It's just too much confidential information.

COMMISSIONER ARANOFF: Okay.

When I asked Petitioner this morning about the specific pricing products and whether the specifications for each of them were tight enough that we could not expect an product mix issues within each pricing product. They said no, those are very tight. And to the extent that we were seeing differences in price between two different producers, that would not be product mix, that would be underselling. I wanted to ask whether you agree with that assessment.

MR. PORTER: Let me see if I can first start with food and beverage, and then go to oil field. Let's first go to JBL and see if --
MR. MAGRATH: We agree. they are specific.

MR. PORTER: Let me ask Mr. Marzulli, are you familiar with the product distinctions in the question or not so much?

MR. MARZULLI: I'm not familiar with that.

MR. PORTER: Okay. Let us for Deosen, we will address this post-conference.

There are different people that fill out the questionnaire and I don't think Mr. Marzulli sort of read the specific definition, so it's hard for him to answer on the spot.

COMMISSIONER ARANOFF: That's fine. Obviously that's the factual prerequisite to the question of whether or not we should be giving weight to the underselling that we see in the data.

MR. PORTER: Absolutely, Commissioner Aranoff, and if I may make a suggestion, if the Commission is interested, I think perhaps going back to the parties and simply saying for each pricing product give me your of high/low, your range of prices that you sold in that pricing product. Then you would have data from all the parties in response to your question. Just a suggestion.

COMMISSIONER ARANOFF: We'll think about that.
This afternoon you've made the argument that the U.S. market is not the most profitable market in which to sell Xanthan Gum for Chinese producers. Therefore, increased volumes of Chinese imports are not likely in the imminent future. How do you reconcile that with the fact that imports from China did increase in absolute terms significantly over the period? Or significantly is a conclusory term. In any event, they rose in absolute terms over the period of investigation.

MR. PORTER: Thank you, Commissioner Aranoff.

Yes, imports from China did increase but the whole reason the Commission asks and receives capacity utilization information is to get at this very question.

Imports rose from 2010 to 2012 but now your question is looking beyond 2012, and what the data shows is there's just not much capacity there to engage in significant exports from China. That's how we would respond to your question.

COMMISSIONER ARANOFF: At the end of my questioning of the Petitioners panel I was asking general questions about how sales transactions work in the market, so obviously we have some sellers and
purchasers here. If you could just talk a little bit about how the process works. How a request for quotes put out, do you have to be pre-qualified to bid? Do you reach out to potential suppliers or do they reach out to you?

I can start with Mr. Terry. You're probably the most directly affected person.

MR. TERRY: From our standpoint, generally we do a global RFQ which would identify, we would identify the potential suppliers.

This cursory identification would not necessarily determine whether these suppliers would be qualified or not.

Then we would go through a pre-qualification period and phase which includes a combination of can you align with our custom needs and can you meet our custom requirements from the quality and volume perspective.

Once suppliers are pre-qualified under that process, then we have the RFQ itself which has those suppliers quote on a group or a batch of volumes or their desired interest in our business. Allows them to comment on their capabilities, on their future expansions, developments, innovations, all those types of things.
We try to be complete. Then we go through a number of different considerations, primarily quality, availability of supply, ability to meet our trademark needs, ability to package, warehousing, logistics information, as well as price.

MR. MARZULLI: With the multinational food companies, they will issue an RFQ, a request for quotation. And you do not necessarily have to be fully qualified for them to send that out and they will get the bids from the different suppliers.

Once they review the bids and decide which supplier or suppliers they want to deal with, if they are not approved for Xanthan at those companies it will go into an approval process there.

But for the most part in our case, in Deosen's case, we are asked to bid on the business on a worldwide basis, and we do that, and then the customer decides if we have the winning bid.

Many times they do not award the bid 100 percent to any one supplier. It will be given to a number, a couple of different suppliers.

MR. RAINVILLE: From JBL's standpoint, we do participate as well in these formal bids, but from many of the U.S. food and beverage customers we do not see such a formal process. And very often it's more
of a negotiation or a discussion between us and our customer because it's not so much about price. It's about availability of product in meeting the needs that they expect from us and they've received from us over the years.

COMMISSIONER ARANOFF: In your collective experience, is it common for a purchaser in the course of one of these discussions to come back to you and say I have a lower quote from another supplier, can you meet that? Or your price is a little higher than I was expecting, can you do something for me? Is that common?

MR. BOLEN: In the case of Grinding and Sizing, the vast majority of our customers are -- You can classify drilling fluid service companies from the big global companies like Halliburton, Schlumberger, whatever. Then there are some mid-tier people that are kind of regional independents, if you will. They're the next tier of -- The majority of our customers are the lower tier and there are hundreds of them in America. They're the drilling fluids engineers who learn the business and then start a business. It can be a husband and a wife, it can be three guys that had some contact with an independent operator and got some business. They're the ones that
we deal with. Basically we have a price list that we
don't deviate from much. They'll call us and say we
need some, we need some lost circulation materials or
we need some of this and some of that. And oh by the
way, could you fill out the truck with a couple of
pallets of Xanthan Gum. Yeah, we're glad to do that.

That's kind of where we -- We don't do a lot
of contract work.

COMMISSIONER ARANOFF: How about in your
capacity as a purchaser of Xanthan Gum? When you're
dealing with your Xanthan Gum supplier. That's kind
of the level at which I think we're the most
interested.

MR. BOLEN: First we try to estimate our
requirements. I can tell you last fall that we were
allocating Xanthan Gum to all of our clients because
we didn't have any. We didn't have enough. There
wasn't enough in the business and we were getting
calls from people who we knew were in the business but
they weren't customers who were begging us for Xanthan
Gum.

So there was a shortage mid-year last year
all the way close to the end of the year. We finally
started getting some more supply in. So there was --
We go to our suppliers and let them know what, not
only what do we need now but what do we think we're going to need in the future. That's a really difficult thing to -- It's such a dynamic industry that you really don't know what these guys are going to need in the future and in a lot of cases they don't know themselves.

We run a 24x7 operation, seven days a week. To be a supplier to the drilling fluid business you have to have availability of whatever you're selling on a 24x7 basis because they can come in in the middle of the night and want it, they can come in on Saturdays and Sundays. They never close. It's because those rigs, once they get going they never close. They drill 24x7 until they get to where they're going to get, until they produce oil or gas or whatever they're looking for.

So it's a highly service oriented business where they don't -- Sure, we've got customers that say can you give me a little lower price on this? Well, they ask for a little lower price on everything. That's the business they're in, is to try to reduce their costs. But we generally put our service and our capabilities out there and say this is what we charge. We've been pretty successful at that.

COMMISSIONER ARANOFF: I've gone over my
time, but thank you for those answers.

COMMISSIONER PEARSON: Commissioner Pinkert?

COMMISSIONER PINKERT: Thank you Mr. Chairman, and I join my colleagues in thanking all of you for being here and taking time out to help us understand this industry.

I want to begin with a question that may seem to be going over well trod ground at this point, but I think you've testified quite a bit about what you regard as the lack of impact of the underselling that we observe in this market. But I haven't heard a succinct explanation of why we observe the persistent underselling in this market? What's going on that enables this pattern to continue?

MR. PORTER: I'll start, but I'm obviously going to quickly turn it over to the industry experts. I think one thing that you heard is the market does have branded versus private label. As the Commission knows from many past case, that itself produces, if you will, perceived underselling simply because of the markup for the brand. I think in the oil field you'll hear that some of the oil field customers ask the Xanthan Gum supplier to make the Xanthan Gum and put it into their bag. So that way when they ship it to their customer it looks like
whoever the oil, the drilling fluid, it looks like it's theirs, but obviously it was made by one of the few Xanthan Gum suppliers.

Where there are other types of Xanthan Gum from some of the producers who were boasting about their branded product, and I think that helps to explain why there is a, we would call it a natural premium for that which in trade law parlance translates into underselling. But I'm going to ask the industry experts to elaborate.

COMMISSIONER PINKERT: I see Mr. Magrath in the back there. Do you want to go ahead and start?

MR. MAGRATH: While they're pondering their response, from JBL's standpoint, I'm really just repeating what Mr. Rainville said. First of all, the underselling and overselling information is mixed in terms of JBL. And with them, selling to a customer is more of a discussion, a negotiation between them and a long time customer, customers that have been with them five years, with them ten years.

So there's a certain price that's established that's bumped up over time, but for JBL, it just wouldn't be good business practice for them to raise their prices willy-nilly, because they are negotiating with these guys who are basically friends
of theirs. Right Dan?

MR. RAINVILLE: Correct.

COMMISSIONER PINKERT: In the first row here, do we have an answer?

MR. O'BRIEN: Commissioner Pinkert, I think we'd like to address that in the post-conference brief if we can.

COMMISSIONER PINKERT: Certainly.

MR. PORTER: I'm looking at, I think we'll do the same. I think they want to think about that and also get their, all their experiences together, and we'll address that in our post-hearing brief.

MR. MAGRATH: Commissioner, I'm sorry, may I add one thing quickly?

COMMISSIONER PINKERT: Certainly.

MR. MAGRATH: This goes to what Mr. Porter said.

This is a market that is characterized by a large producer that's got a branded product. And once you start talking about brands, a little, maybe a lot of price competition in the usual way you look at underselling goes out the window. So I would just have you remember that the nature of what a brand means to a market and to a producer.

COMMISSIONER PINKERT: I will do that.
I want to give you a chance to answer a question that I asked the earlier panel, and this may be more of a post-hearing question. But do you think that CP Kelco has been hurt or harmed in some way by domestic competition rather than by subject import competition?

MR. PORTER: We have a lot to say about that but we're going to have to defer to post-hearing on that one. But we have quite a bit to say about that.

    Thank you.

COMMISSIONER PINKERT: Can anybody address this in a public hearing? I totally understand if the answer to that is no, but --

    Mr. Waite?

MR. WAITE: After careful consideration, Commissioner Pinkert, I think we'd like to reserve for the post-hearing brief as well.

    You may recall that in our pre-hearing brief we did address this issue. We did present certain information which has already been referred to during testimony this afternoon. We'd like to expand upon that. But given the constraints of confidentiality, I really feel uncomfortable saying much more than if you could wait for our post-hearing brief.

    COMMISSIONER PINKERT: Thank you.
Note that I did not use the term injured in my question. I said hurt or harmed. So we don't need to get into a philosophical discussion of whether somebody can be harmed but not by reason of subject imports.

My next question is for Mr. Terry. I understand that you've described the history that your company has had in dealing or not dealing with domestic producers, but what would it take for you or your company to purchase Xanthan Gum from domestic producers? Just sort of turning the whole thing on its head and saying what would have to be different for you to do that?

MR. TERRY: We do purchase on a spot basis today, but I think your question is more along the lines of larger volumes more than spot.

MR. PORTER: Correct. Just kind of treading over old ground, but the willingness, the capability or at least the willingness to devote capability, and the wherewithal to produce trade named, trade packaged products in large volumes would be a primary consideration that were specifically designed for our specifications. That's the biggest hurdle I think for us to get over, is just to get that commitment on high volume, high quality devoted products to Halliburton's
MR. O'BRIEN: If I could just add, Commissioner Pinkert, in the post-hearing brief we'll explain that Halliburton, its strategy is to use a small number of suppliers that can supply quite high volumes. So what might be high to another company might not be adequate or acceptable to Halliburton. That's a situation we'll explain in more detail, but that has certainly been part of the problem.

COMMISSIONER PINKERT: Thank you.

I believe you heard testimony earlier today from the earlier panel about the difficulty or lack of difficulty there is for producers to switch from producing Xanthan Gum for one market segment over to pharmaceutical applications. The characterization that we heard from the earlier panel more or less ran along the lines of there's a lot of paperwork. There are a lot of tasks unrelated to the specific qualities of the product that have to be undertaken in order to move over. But more or less it's pretty easy otherwise.

Can you comment on that characterization?

MR. MARZULLI: For the pharmaceutical area, it is very, very difficult. It has been very difficult for Deosen to get into that market or the
consumer market. Because many of these customers require an FDA approved plant which means audits over in China for those plants, and they have to meet very, very stringent standards for the pharmaceutical grade products.

Secondly, the applications for the most part in those areas are very, very small, so it is very difficult and very time consuming and costly for a pharmaceutical company to qualify another supplier for Xanthan Gum. Even if that supplier meets the FDA and all the other regulations, it's an extremely difficult area to try to get in. I believe they could even require an NDA for the ingredient to get in there. So it's very, very difficult.

MR. PORTER: Commissioner Pinkert, can I have ten seconds?

COMMISSIONER PINKERT: Certainly.

MR. PORTER: The Commission staff did a very admirable job in collecting data by different segments. And quite honestly, your question, at least in concept, has been answered by the Commission staff because they have data on sort of everyone's participation in these segments.

And if it were so easy, and if the Chinese were as rapacious as CP Kelco is making out, you would
expect to see a lot more participation in those
segment. I submit that the data doesn't show that and
the reason is precisely what Mr. Marzulli said. It's
not that easy, so they have not been able to overcome
the barrier to those markets.

COMMISSIONER PINKERT: Thank you very much.

It was a little more than ten seconds, but we didn't
hear from the Chairman on it so it's okay. Thank you
very much.

COMMISSIONER PEARSON: Commissioner
Johanson?

COMMISSIONER JOHANSON: Thank you, Mr.
Chairman. It's okay that it was more than ten seconds
because I'm going to continue along the same theme
here.

In Deosen's brief you all write that there
has been consumer, I'm sorry, customer resistance to
China's imports that will continue to advantage the
U.S. industry. Could you all please expand in that?

MR. PORTER: Certainly. I'd ask Mr.
Marzulli to give sort of real world examples of, quite
honestly what been an anti-China bias for certain
applications of Xanthan Gum.

MR. MARZULLI: There are customers who sell
to the fast food industry, per se, that those people
do not want any Chinese manufactured material in their ingredients. Even our existing customers, they will
tell us we cannot use your product in certain applications because our customers will not allow Chinese material to be in here. So it's very, very difficult for us to penetrate some of those markets.

COMMISSIONER JOHANSON: I assume some customers are using Chinese product.

MR. MARZULLI: Yeah, but there are a couple of major multinational companies in the cereal area that will not even evaluate Chinese material.

COMMISSIONER JOHANSON: Is that due to perceived safety issues or quality issues?

MR. MARZULLI: That they feel, yes.

MR. PORTER: If I may --

COMMISSIONER JOHANSON: Yes, Mr. Porter.

MR. PORTER: It is definitely a perception issue, Commissioner Johanson. Obviously the Chinese are selling --

COMMISSIONER JOHANSON: And I used the word perceived.

MR. PORTER: Yes, perceived. But I would sort of note that the evidence of how widespread that perception was given to you this morning CP Kelco commented that in their view using Chinese product was
actually dangerous in certain applications. That's what they said this morning. I think you heard it. From Deosen's standpoint, unfortunately, many U.S. customers feel the same way which is why Deosen, as much as they wanted to, is not particularly bullish about expanding into sort of food and beverage, consumer and farmer segments into the future.

COMMISSIONER JOHANSON: Are there issues with the FDA applications?

MR. MARZULLI: The plants have to have an FDA approval process. Deosen is not an FDA-approved plant. It is FCC approved, but not FDA approved.

COMMISSIONER JOHANSON: FCC?

MR. MARZULLI: The material meets the food chemical --

COMMISSIONER JOHANSON: I was thinking Federal Communications Commission. I was confused. they're right down the street, so I got a little confused. I'm sorry.

MR. MARZULLI: But not FDA requirements.

Many of these suppliers will come to China and do audits on the plants. But there's many restrictions that customers have regarding Chinese Xanthan.

COMMISSIONER JOHANSON: Again, with Mr.
Bolen we heard earlier today that Chinese product is actually preferred in some cases with regard to oil field applications.

MR. BOLEN: With regard to the Buy American thing I can tell you that the majority of our customers drive pickup trucks with brush guards on the front and an American flag in the back. So they are pretty patriotic. But they've also come to realize in the drilling business that a lot of the Baroid comes from China, just because it's there and it's available.

So they've had to kind of deal with the reality that if they're going to be in business they've got to accept products that come from all over the globe. So they've transitioned to that over time. But we don't see any resistance to Chinese product at all. After you convince them that it's what they need and it meets their specs.

COMMISSIONER JOHANSON: Thank you.

This question regards Austria so I'm going to the other part of the globe.

Mr. Rainville, I was wondering, the plant that you own, your company owns in Austria, was that built I assume primarily to supply the European market?
MR. RAINVILLE: No, not necessarily. It was built to supply all markets. The Xanthan Gum portion was built in the 1980s. At that point we had been producing citric acid for 20 years off that same plant location and we were already servicing the U.S. market. So there was clearly a volume dedicated to servicing those same food and beverage customers in the U.S. that we provide citric acid, who are now asking us for Xanthan Gum.

COMMISSIONER JOHANSON: One reason, I'm actually following up on something that Commissioner Pearson talked on earlier and that was the feed stock for Xanthan Gum produced in Austria.

I understand that, I believe you said it's primarily, or you indicated it's primarily European produced corn and if that's proprietary you don't have to answer that.

MR. RAINVILLE: It is entirely European corn.

COMMISSIONER JOHANSON: Does that put you at a price advantage in any way? Because with the U.S. being the largest corn producer in the world, and I know the various corn production in the European Union, but I know it's not nearly as high as that in the United States.
MR. RAINVILLE: Price advantage from the --

COMMISSIONER JOHANSON: With regard to the

feed stock. The corn.

MR. WAITE: Commissioner Johanson, this is

Fred Waite. If I could begin to respond to that. Mr.

Rainville's on the sales side --

COMMISSIONER JOHANSON: I understand, sir.

I apologize.

MR. WAITE: No apology necessary,

Commissioner. But we obviously, both Mr. Rainville

and I have spoken extensively with the production side

as well, and whether there's a cost advantage to JBL

to purchase European produced corn rather than corn

from other sources.

There are certain advantages, obviously, in

purchasing corn from nearby locations. As I recall

when we visited Pernhofen earlier this year, much of

their corn comes from Austria, some of it comes from

Czechoslovakia, Hungary, nearby locations. And as Mr.

Rainville also testified, the real change in the cost

structure, if you will, of JBL's production in Austria

has been a shift to move toward entirely internally

produced glucose rather than purchase glucose from

other suppliers. They would buy, that is JBL now buys

the corn and prepares the feed stock at the plant.
There's another advantage perhaps that JBL has in that respect in that the citric plant at Pernhofen, which again as Mr. Rainville testified is entirely separate and distinct from the Xanthan. There's no commingling of production processes or output.

The citric plant, as we were told, is the largest in the world, so there's a tremendous consumption of glucose at that facility, and by moving to internally supply their input needs, that has given JBL price stability, it's given them input reliability and assurance. But whether or not there's a distinct advantage in say the United States or Europe in terms of prices of corn. I mean we can look at that and report to you in our post-hearing brief what we find in terms of corn prices and the movement of corn prices during the POI. That's not very difficult to do. We'd be happy to do that for you.

COMMISSIONER JOHANSON: That would be useful.

One of the reasons I'm asking these questions is I'm somewhat familiar with the production of GMO corn in the European Union and I would assume that would add to your costs. I know that produces a marketing advantage for you perhaps, in the United
States and certainly in the European Union. But that would be more expensive.

I know for example, at least I understand that livestock producers in the EU feel this advantage -- vis-a-vis the livestock producers in other parts of the world because the corn used in that production, feed, is higher priced than it would be let's say in the United States due to the fact that it's usually GMO-free. This is in regard to European produced corn.

MR. RAINVILLE: I understand the question, Commissioner. We can look at that. We just don't have that information with us right now.

COMMISSIONER JOHANSON: Thank you. I'd appreciate that.

Mr. Rainville, I have another question for you and I don't know if this is something you want to get into or not because it might potentially be proprietary.

But you had stated that U.S. suppliers are not often that reliable. Do you have any examples of that by chance, that you'd be willing to speak on?

MR. RAINVILLE: My examples are from discussions over the past years between myself and customers as well as my sales team and customers. And
very often we get this response from the buyers of the various customers, that they've reached out to the domestic market product, they either can't get the volumes they need or very often they can't even get quotes, offers for volumes that they may need.

COMMISSIONER JOHANSON: Thank you.

Mr. O'Brien and Mr. Bolen, in the oil and gas sector, have you experienced the same problems?

MR. BOLEN: Yeah, like I commented on it briefly before.

COMMISSIONER JOHANSON: Okay.

MR. BOLEN: I've seen it demonstrated, an unwillingness to supply the volume that are necessary to fulfill the needs of the market.

COMMISSIONER JOHANSON: Thank you. That concludes my time.

COMMISSIONER PEARSON: Commissioner Broadbent.

COMMISSIONER BROADBENT: We're sort of in the stage where we have these lingering questions in our minds that are kind of random, so I have a few extra things to ask you.

Why the sharp increase in demand in 2012. We sort of said we saw a flat demand during 2011 and this sharp spike up in demand in 2012.
Anybody have an explanation for what was going on there?

MR. BOLEN: UI said earlier that generally use in the oil field was related to rig count and the higher the rig count the higher the use of Xanthan Gum. That's generally true.

In the case of some of these new techniques, the industry loves to make these rigs count as rotating rigs, those traditional things that you see out there. There's some new technology that's coming to the fore using coil tubing techniques. They take a big piece of steel and thread it into the hole, they straighten it out as they go and thread it in so they can actually drill a well without a rig. No one's counting that part of it in the activity and there's a lot of that, an increasing number of that going on. There's also an increasing amount of Xanthan Gum used in those types of operations, whether they be drilling or completion. Using those techniques.

So you tend not to be able to see where it's coming from, but the demand for liquid Xanthan Gum slurries, at least from our standpoint, has kind of gone through the roof. So that would account for part of it.

MR. McCULLOUGH: Commissioner Broadbent,
Matt McCullough. Just to add some flavor to that. If you look at our exhibit 5 from our pre-hearing brief and looking at the traditional rig count you'll see that the rig count in the U.S. was 25 percent higher in 2012 than it was in 2010 and almost double what it was in 2009. That tells part of the story.

And obviously Xanthan demand has just grown in both sectors, it tracks the economy, GDP growth. So you're going to get that kind of demand growth.

COMMISSIONER BROADBENT: Thank you.

This is sort of to get a little bit of a distinction, a comparison between the oil field sector and the food sector.

I think this is probably Mr. Marzulli, Mr. Terry, Mr. Bolen, Mr. Rainville might have an answer on this.

Are most of your purchasers in your sector characterized by spot purchases? Or are they more longer term contract based supply relationships? I just wanted to contrast the two different sectors.

MR. MARZULLI: In the food area ours are primarily contract basis.

MR. RAINVILLE: Same with Jungbunzlauer.

Most of our business is annual contracts.

MR. TERRY: The majority of our business in
the oil field is contracted, large volume producers.

MR. BOLEN: Ours is a combination of spot buying and contracts with the heavy leaning toward spot buying.

COMMISSIONER BROADBENT: Okay.

As you know in the staff report, our staff collected pricing data for both end users and distributors. In looking at specific products, do you recommend that we give extra weight to sales to end users, to distributors, or to look at both together?

MR. MARZULLI: In the food area in our case it's primarily to end users. We don't use very many distributors in the United States.

MR. PORTER: In terms of giving extra weight, I think that's a little bit hard for me to answer. We typically look at this on a volume basis and two aspects of volume. One is where's the subject imports that most and where's the domestic the most and then by doing that, where is the most intense overlap of competition.

I don't sort of have all the numbers in my head.

As you might have seen, there's been, without getting into detail there's been some confusion in one of the segments about how to identify
purchasers. Whether they should be end users or distributors. We think in that particular thing the best thing to do is just do a weight average of both when you do your underselling analysis.

COMMISSIONER BROADBENT: Okay.

Mr. Marzulli, to expand on your answer to Commissioner Johanson about the Chinese product, is the anti-China bias easing a bit? As the Chinese product is in the U.S. market for a longer period of time? Do you see that at all abating or is it a pretty steady anti-Chinese bias in the U.S. market.

MR. MARZULLI: It was quite severe four or five years ago when they had all those issues in China with the milk powder and things like that.

It has dissipated quite a bit now. Certainly in the food industry that we call on. But again, if you move up to the higher value added Xanthan in the cosmetics and the pharmaceuticals, I think there's probably still a very strong Chinese bias.

COMMISSIONER BROADBENT: Thank you.

Mr. Chairman, I want to just thank the witnesses for educating me today. I think I'm going to sleep better tonight knowing that I can get Xanthan Gum on an emergency basis 24 hours a day. I know how
to call now. This has been a great hearing. Thank you.

COMMISSIONER PEARSON: I think I have only one question and this would be for you to comment on in post-hearing if you're able.

I asked the domestic industry this morning whether they could tell us anything about ADM and why they aren't here. Given that your firms either compete with ADM in the marketplace or purchase from them, you might have some insights into that. Whatever you could help us to understand that might be useful on the record. I guess in order to be substantial evidence it has to be something other than just speculation, but -- Mr. Porter, you have something to add?

MR. PORTER: Yes. I want to thank you for the question because quite honestly, we were going to answer that anyway, even though you asked it of Petitioners. So thank you for asking us.

COMMISSIONER PEARSON: Okay, and I don't expect you to say anything herein the public session. With that I believe I have no further questions.

Commissioner Aranoff?

COMMISSIONER ARANOFF: Thank you.
You've made the argument that the petition had no material impact on the domestic industry's operating results because the preliminary duties weren't imposed until January 2013. And you've shown us the data regarding what happened with import levels in the second half of 2012. But Petitioner has pointed us to evidence in the record of a number of purchasers that they say have come to them who haven't come to them in a really long time, a pickup in their business, a pickup in their production. How do you respond to the argument that those are visible effects from the petition?

MR. PORTER: Two responses.

The first response, I'd like to sort of set the stage a little bit. Petition effect historically, the way the Commission has looked at it, has been about the disappearance of subject imports which traditionally had been because of termination. It really started out as a volume sort of, what happened was you'd have the prelim like come out in say March or April. Then the Petitioner would ask for nine months of data and Respondents would come and say look at the interim period. They're doing really well. That's because all of the subject imports disappeared because of the prelim. So the idea of petition effect
was really related to the disappearance of the subject imports.

COMMISSIONER ARANOFF: Or the increase in price of the subject imports.

MR. PORTER: Fair enough.

But again, the Commission in past cases has repeatedly said we do that as a date of the prelim, as you I believe, Commissioner Aranoff, said this morning, that's when under the law it has effect.

In this case in particular, there has not even been an allegation of critical circumstances. What that means as a practical matter is that the exporters knew that essentially they could ship without fear of antidumping duties until January 2013 with respect, without the antidumping duties.

So you really have this nice situation that the antidumping duties did not affect anything in 2012.

Now I do recognize what Petitioners have argued in their brief. I believe if, I believe you don't need to, but if you really believe that this is an issue, I suggest the Commission treat that sort of allegation as a lost sale allegation, go back to those purchasers and ask them the question, ask the purchaser to comment on that.
MR. DURLING: Commissioner Aranoff, this is Jim Durling, just two other points about the record.

First, the evidence of incredibly strong demand in 2012 especially the end of 2012, I think when we can talk about the data which we can't here, but when you talk about the data I think what you'll see, and it is consistent with the qualitative testimony you heard from some of these witnesses, that at the end of 2012 they were having trouble getting supply. Right? That's why you would see, kind of more outreach to suppliers, kind of reaching out to people you have not previously seen.

So on the volume side I think it's largely about demand. On the price side we can't say much in a public hearing but I think when we address that in post-hearing you'll see that the claim or the implication that prices somehow went up at the end of the period because of the petition effects, can't be squared with the data but we'll have to do that post-hearing.

COMMISSIONER ARANOFF: I appreciate that.

And for both sides, I think at least for me one very important issue in this case is going to be how I look at the data from the second half of 2012. The statute tells me that I can presume that any improvements in
the state of the domestic industry after the petition was filed are due to the petition and I can give them less weight in my determination unless there are facts on the record that can overcome that presumption.

So if there are facts on the record that can overcome that presumption, that's where you need to focus.

One more question.

This is an argument that JBL made in your brief and I think you also made it in your testimony today which was that to the extent that shipments into the U.S. market from Austria have increased during the period, they reflect increased sales to existing customers and that somehow that means the Commission should give them less weight when it's assessing volume effects and causation.

Can you walk me through your theory on that?

MR. WAITE: Of course, Commissioner Aranoff, if I can get in a position where I can see you.

As you heard testimony this afternoon from the panel and as you saw in the briefs that were submitted before the hearing, the Xanthan Gum market in the United States is highly fragmented, and one of the attributes of that fragmentation is the reliance of certain customers on certain suppliers and the fact
that the record shows that many customers buy either exclusively or almost exclusively from one supplier or in some limited cases two suppliers, and as a result, those customers, because of their formulations, because of the use of the product in their applications, their reluctance to look at other suppliers because that might cause them to have to reformulate their applications, rely on suppliers and JBL in particular in the food and beverage sector has customers like that. It's in the record and we can fill that out with names and faces in our post-hearing brief.

So as a result those customers who rely on JBL purchased additional quantities during 2012 and of course JBL as Mr. Rainville testified, is in constant communication with its customer base, and as indicated to JBL, the need for additional supply for their operations, JBL met those needs and because again of the attenuated competition because of customers relying on specific suppliers, those customers were not in the market looking for anyone else. They knew the supplier, they knew the supplier's product, qualities, reliability, performance, all the other factors. So we believe that's another indication of the attenuated competition in the market, and in our
post-hearing brief we can supply you actually with facts to show you where JBL's shipments were during 2012 and of those shipments what shipments were going to existing customers, and many of these customers were customers for a decade and where JBL may have been shipping to new customers. You will see that the vast majority of their sales were to this existing customer base.

COMMISSIONER ARANOFF: That would be helpful.

MR. WAITE: We will do that.

COMMISSIONER ARANOFF: with that I don't have any further questions. I do want to thank this panel very much for being with us today.

COMMISSIONER PEARSON: Are there further questions? Mr. Pinkert?

COMMISSIONER PINKERT: I have perhaps only one more question.

You may recall that I asked as my very last question of the first panel a legal question and I'm going to reformulate the question as a practical question.

So as a practical matter, do I need to find import injury with respect to both U.S. producers in order to make an affirmative present injury finding in
this case?

MR. PORTER: It's a good question, Commissioner Pinkert, and we'll give it a stab now but of course we'll address it more in post-hearing.

MR. DURLING: This is Jim Durling. I think there are two ways to think about it, Commissioner Pinkert. For one part of the analysis the statute requires you to look at the industry as a whole, so at some level you have to ground your analysis in the condition of the industry as a whole. So even though there are some challenges with reconciling what may be kind of inconsistent trends between individual suppliers, at the end of the day the statute says industry as a whole.

That being said --

COMMISSIONER PINKERT: That's why I made the question about a practical application.

MR. DURLING: But where it fits in the statutory framework, and this is the way we've tried to frame our argument, is that looking at the trends between the two domestic producers, between the different, either between or among depending on how many market segments you're looking at, looking at that disaggregated result in our view is a critical part of your making a statutory based conclusion...
about causation. Because in our view whatever your
evaluation of the condition of the industry as a
whole, your evaluation of whether that condition can
be linked to subject imports is very much caught up in
fully understanding exactly what kind of interplay is
there among market segments and among suppliers in the
U.S. market.

In particularly, it links back to the
question I think both sides will be addressing at
length which is what do we do about ADM? In our view
you could not make a statutorily correct conclusion
about causal link without having considered that
interplay and making sure that you in an appropriate
way have taken that into account in your analysis.

In our view the statute does not permit you
to impose trade relief against a domestic industry if
the record evidence shows that the domestic industry
for lack of a legal term I'll call it they shot
themselves in the foot situation. If the record
evidence shows that the domestic industry shot
themselves in the foot, or using a less value-laden
term, if they simply made certain choices. If the
record evidence shows certain choices which lead
inexorably to certain trends in the data, in our view
you can't find a causal link. You can sort of,
thinking back to some of our slides, if we were able
to show, let me pose a hypothetical. If we were able
to show that all of the decline was because of a
decision that everyone could agree had absolutely
nothing to do with subject imports, that decision no
matter what it does to the domestic industry trends,
that decision has nothing to do with subject imports.

In our view the statute doesn't allow you to blame
subject imports for a decision that the domestic
industry made on its own.

So that's in our view the way you can kind
of square this requirement in the statute to continue
to consider the industry as a whole, but also
recognize these competitive dynamics, whether it's
intra-industry competition between the two domestic
suppliers, or kind of intra-segment competition or
attenuated competition among the segments. That's how
you can reconcile the two.

COMMISSIONER PINKERT: I know you're trying,
but I don't think you answered my question.

Perhaps you can come back to it in the post-
hearing. But is there anybody else who would like to
take a stab at it?

Perhaps I can formulate it as a

hypothetical.
If I were to conclude that there was import injury but it only affected one of the domestic producers then what should the result be under your analysis of the statute?

MR. DURLING: That question is actually simple. At the end of the day if you find a causal connection you then have to step back and say okay, here's my causal link. It's to a particular cosmetic supplier. Then you step back, you have to look at the industry as a whole because part of your analysis has to be okay, there is a domestic producer that has been injured under your hypothetical, but how does that relate to the condition of the industry as a whole?

And put differently, Commissioner Pinkert, if you have one company that's doing well and one company that's suffering, if at the end of the day you have a combined industry trend that for all the other reasons you're considering does not show adverse trends, in our view finding injury to a company that does not rise to the level of injury to the domestic industry as a whole would not be legally sufficient.

You may find injury to the one company but at the end of the day your statutory requirement is to step back and say okay, given that, do I still find that the industry as a whole has been injured by
subject imports. If you can't reach that ultimate conclusion about the industry as a whole, in our view you could not use injury to one company to justify an affirmative determination. You've got to do that second step.

COMMISSIONER PINKERT: Thank you. I've got other lawyers on the panel. Would anybody else like to address that either here or in the post-hearing?

MR. O'BRIEN: Yes, Commissioner, we'll address it in the post-hearing brief.

MR. WAITE: We shall as well, Commissioner.

COMMISSIONER PINKERT: Thank you very much. With that I have no further questions.

Thank you, Mr. Chairman.

COMMISSIONER PEARSON: Are there any other questions from the dais?

Seeing none, doe members of the staff have questions for this panel?

MS. HAINES: Elizabeth Haines. Staff has no questions.

COMMISSIONER PEARSON: Does counsel for the domestic industry have any questions for this panel?

MR. CLARK: We do not. Thank you, Mr. Chairman.

COMMISSIONER PEARSON: In that case then I
get to advise of the time remaining.

Those in support of the petition have 14 minutes left from direct presentation plus five minutes for closing, a total of 19.

Those in opposition have one minute left from the direct testimony and five minutes from closing for a total of six.

So with that, let's adjourn this panel. You may return to your seats and let's prepare to move to closing.

And let's follow our normal custom unless there's an objection, and we'll combine the times. Does that work okay for everyone?

MR. CLARK: Yes, Mr. Chairman, no objection. I'd like to ask one favor, though. With the goal of not using all of our 19 minutes for closing and rebuttal, may I have two minutes to very quickly confer with my colleagues?

COMMISSIONER PEARSON: That's probably fair. We never subtract points from anyone who uses less than their fully allocated time. So yes, go ahead and take two minutes.

MR. CLARK: We will respect that. Thank you.

(Whereupon, a brief recess was taken.)
COMMISSIONER PEARSON: Welcome back, Mr. Clark.

MR. CLARK: I apologize if I ran slightly over.

COMMISSIONER PEARSON: We'll grant you a little. We cut each other some slack fairly often up here, as you can tell.

MR. CLARK: Thank you.

For the record, Matt Clark of Arent Fox, counsel for the Petitioner.

I'm going to go through a series of points, but the one I'm going to start with is actually the last point of the afternoon session which was a legal question. So I'm on relatively safer ground on a legal question, I hope.

The question was, in a hypothetical domestic industry consisting of two producers and I find injury for one producer but not the other, what do I do under the statute?

The answer to that question is if the domestic producer that is injured is the predominant producer, accounts for the predominant share of domestic production, under the statute the industry as a whole is materially injured and it yields an affirmative determination.
The statute is directed at domestic production as a whole. If you have a domestic producer that has standing on that basis and that domestic producer demonstrates injury alone based on the totality of the record, then the domestic industry as a whole has suffered material injury so your determination in that instance must be an affirmative determination.

I want to go through now a series of the points and these I think I can do in well less than the allotted time.

There was quite a lot of discussion with the witness from Halliburton so I'm going to start there. We will document this in the post-hearing brief, but I will tell you a summary of the situation now.

The assertion that was made is that CP Kelco is not prepared, is not committed to supply volume. During 2012 we worked with Halliburton and we offered to supply Halliburton large volumes. What they asked for for long term supply. We thought we were going to consummate a transaction but they made a decision at the end of 2012 that they were not interested in entering into a long term supply deal with CP Kelco for oil field supply and we will provide you documentation to that effect.
Sticking with Halliburton, you heard the comment that Halliburton does buy from CP Kelco on a spot basis. The ability of Halliburton to purchase from CP Kelco on a spot basis demonstrates one very critical fact that was asserted against the domestic industry. The domestic industry has no available supply. If the domestic industry has no available supply how are we able to respond on a spot basis year after year after year to a customer like Halliburton?

Sticking with the oil field. A comment was also made that it is critically important that private label supply be available. That is that vendors are prepared to package their Xanthan Gum in private label bags.

We had this discussion also during the preliminary phase and the same point was made and we thought that we had dealt with it. The material that we supply to Halliburton and that we supply to other oil field customers is private labeled. We do private label. We have done private label since the inception of the oil field market and we were there at the inception of the oil field market.

Private label is not a challenge, it is a standard part of our business. We are committed to it. We participate in it. And not only in Xanthan
Gum but in the other hydrocolloids that are used in the oil field sector.

A few comments about Grinding and Sizing. Comment was made that CP Kelco doesn't come to us. We scratched our heads over this one. Grinding and Sizing has our price list. They have been told that they are free to place orders any time that they want.

There is, however, a market reality and the market reality is that Grinding and Sizing is also a competitor. There are customers that we compete to sell to. So that Grinding and Sizing does not order from us is a choice that they have made. We have never refused an order from Grinding and Sizing.

There was some discussion around global food companies and Mr. Marzulli provided a very helpful and we think accurate description of the RFQ process. If you think about his testimony, and there was a similar comment made by Mr. Rainville. Global food companies will issue RFQs and then they will begin a process of qualification. This is in the context where allegedly price means nothing and qualification means everything.

If the RFQ goes out to companies who are not qualified, what are they going to get back other than price that will induce them to begin the qualification
So the very notion that global food companies would enter into blind RFQs with vendors that are not qualified tells you what the role of price is because frankly there would be no other sorting criteria if they have not qualified these vendors.

The other reality on price that you heard, Mr. Bowman testified to this earlier in the day. CP Kelco sells to a large number of global food companies. You've seen that in our questionnaire response. It is a repeated pattern that we are able to secure supply from those customers, but not for their U.S. locations. We were able to secure supply at prices that are attractive to their export locations but for their North American, for their U.S. locations, lower prices are prevailing. Obviously we are selling to a global spec. We're supplying their other locations. So once again, the reality is just that fact, that price is critical.

The argument was made that if there is a dumping order the marketplace will be in a world of hurt. We have difficulty with this concept as well. The purpose of the dumping order will be to restore fair value prices. If price is irrelevant and because
Xanthan Gum is such a small component of cake mixes and even not really critical for most drilling fluids, why is it that the world would be, the marketplace would be in a world of hurt if there were fair prices? If prices were to increase to correct the amount of dumping?

It's inconsistent to say that price is irrelevant and that Xanthan Gum is a minor component. But to also imagine that in the event of a dumping order there would suddenly be short supply and then that price would in that circumstance matter. The reality is, price does matter. Price is critical. That's the reason for CP Kelco that we have seen a change from the darkness to the sunshine, as Mr. Bowman put it, in 2012. The marketplace is different for the domestic industry in the second half of 2012. your record shows that. The testimony that you heard demonstrates that.

The principal argument we heard this afternoon is that the domestic industry should be certainly content and arguably happy that it has a flat share of a rising market. The domestic industry is not content that when the U.S. market is rising that we find ourselves unable to gain share, that price continues to fall, that we see better pricing
selling to the exact same customers and export markets. Price does matter and we're not content to have only a flat share of a rising market, in particular when the reason we have that flat share is because having filed the petition in this case we were able in response to market demand for customers concerned about the price effect of the order, to move old inventory. Inventory that as you heard from Ms. McConnell was building up and filling warehouses when trucks were not backing up to the dock.

When did that change? That changed for CP Kelco in the second half of 2012.

What's different about the second half of 2012 than the first half of 2012? The petition in this case.

There's no other change in relevant fact. The observation was made that there's no allegation of critical circumstances in this case so therefore there really can't be a trade effect. It was interesting to note on one of the slides that the Respondents presented what a surge of imports there was in the second half of 2012. I suppose some people would imagine that that's also disconnected to the petition, but of course our information including from customers is that it is not. To the contrary, people
were moving merchandise as rapidly as they could.

Mr. Bowman spoke to you about critical circumstances and explained that when Fufeng in particular changed their terms of sale and they put the burden of critical circumstances, duties, on top of their customers, CP Kelco looked at the circumstances and said we are not going to level an allegation that would only affect customers. We're already seeing an effect in the marketplace. We don't need to go down the path of critical circumstances. All you saw on that slide, the acceleration of imports in the second half of 2012 was another direct response to the petition in this case.

I'll ask again, if price is irrelevant and Xanthan Gum such a minor component of formulations? Why was there so much panic? Why was there so much concern? Price matters. It always matters.

There was a little discussion around the subject or Guar. Not a lot of discussion, just a little. I'd point you to Exhibit 2 to our pre-hearing brief. We provided you with some time series and information about Guar and the history of Guar pricing. What you may recall is that the spike in Guar prices actually took place just about exactly at the time of the preliminary conference in this case.
and you can see the trend in our exhibit for Guar prices.

What you'll also see is that most of the reformulations that were described earlier in the food area, those were not efforts to introduce Xanthan Gum in place of Guar because Xanthan Gum is relatively expensive. That functionality for Guar very much like Mr. Viala's demonstration today, you will recall that two of the vials were Guar and CMC. You will also recall that those are the two vials that behaved identically.

So the substitution effect to the extent that people really did reformulate the products that they were looking at in the main were CMC and Starch. It is not Xanthan attempt to reformulate.

Finally, and this is a critical point that I'll touch on very briefly. We began here and it is important to keep in mind, and that is Fufeng. The world's largest producer, the largest producer in China.

Fufeng's annual report speaks for itself. I agree that the Commission staff, being its typical diligent self, did everything it could to compile a complete record. It did not receive complete cooperation in that regard.
I encourage you to look at what is on the record as the Fufeng response and look at it and ask how much of the information contained there in fact came from Fufeng and deals with the most critical periods of the period of investigation.

When you look at that and you look at what is in their annual report, you can only conclude that the capacity numbers reflected in the staff report through no fault of the staff, are incomplete and dramatically understate not only capacity as we sit here at the beginning of 2013, but the capacity profile for the world's largest producer when they get to the end of 2013 which is when they will complete phase two, recalling that their own testimony is that they completed phase one of the expansion at the end of 2012. Phase two of the expansion is a 2013 event.

Hopefully I've come in well under my allotted time. I appreciate very much your patience and on behalf of myself and CP Kelco, our employees in San Diego and Okmulgee, we look forward to a careful deliberation, thoughtful decision, and we anxiously await the Commission's finding. Thank you so much for your time and your attention.

COMMISSIONER PEARSON: Thank you, Mr. Clark.

Mr. McCullough and Mr. Waite?
MR. McCULLOUGH: Thank you. We have a little bit less time than the other side, so I'm going to make this quick and then pass it over to my colleague. I'd just make a handful of basic observations.

I know CP Kelco came in here today and is complaining about the absence of Fufeng, but honestly, the bigger problem and the real problem is the absence of ADM. You heard all the questioning today. We know where it's going. We know where the data is on the record. ADM's absence is a big problem. They're a big part of the story to tell about this case. We're going to continue filling in the gaps in post-hearing much like we did in our pre-hearing brief.

The second point I wanted to make is that Kelco is having a hard time keeping to the POI to tell its injury story. We're still hearing about capacity closures pre-POI. Honestly, we addressed a lot of this in the preliminary phase, factually, showing how there's no connection with those closures and subject imports. I don't know that it's even relevant. Indeed, some of these capacity closures occurred outside the United States.

But we haven't heard any rebuttal to that but we have heard a different story today about well,
I believe it was the President for Kelco explaining that what happened pre-POI is really context for what could happen to us. And so it's really couching this as really a threat case, and honestly, the data, and Commissioner Pearson sort of picked up on that, and really, the data on current injury and what you're looking at that's consistent with the idea that really the only case you can bring at this point is threat of injury.

If you go to the threat factors and you look at the case in the record, the threat case just does not stand up.

One other point, I think I heard today about the China plant again, we heard a little bit about it in the prelim, heard it again today. I think to myself, this is maybe the first time I've actually heard a Petitioner blame a really bad due diligence job on subject imports. Not that the plant is not relevant and what happened there because it is relevant. You have a company with a global production base. It requires questions about when you produce, where you produce, what you produce and why you want to do it the way you want to do it. And when you disrupt that business strategy it causes problems. I submit that if you look at the public record and also
the BPI record about Kelco's assets and see what's going on and the challenges they face, I think there's another part of the story that hasn't been told here today and that they haven't told.

Finally, again the Petitioners' whole explanation about petition effects just doesn't work. I think the data bears that out. They are trying to assess this in a vacuum, totally ignoring the fact that there is growing demand in this market and elsewhere which you have to take into account to address things like increasing imports and also increasing invitations to bid.

On that point I'll pass it over to Mr. Waite.

MR. WAITE: I will make my comments without taking a breath.

I think all sides are agreed that the Xanthan Gum market is not a commodity product market. We've shown that the segmented market segments on a number of grounds lead to attenuated competition. Apparent domestic consumption increased by 35 percent during the POI. The market share for the domestic industry was stable, which means that their shipments were increasing. Their prices increased over the period.
The U.S. industry was profitable throughout the POI and we submit that on this record there is no material injury as a result of imports of subject merchandise.

On threat, again we submit that JBL -- that is Austria -- does not pose a threat to the U.S. industry. JBL operates at high capacity utilization rates. It's not increased its capacity since the bottlenecking exercise in 2011. There are no plans to increase capacity in the future. It is focused on the food and beverage market in the United States. It has a loyal group of customers to whom it sells.

And in summary I would say, paraphrasing both Commissioner Pearson as well as Admiral Stockdale in the 1992 Vice Presidential debates. Why am I here?

Thank you.

COMMISSIONER PEARSON: Okay. The closing statement. In accordance with Title 7 of the Tariff Act of 1930 post-hearing briefs, statements responsive to questions and requests of the Commission and corrections to the transcript must be filed by May 30, 2013.

Closing of the record and final release of data to parties on June 13.

And final comments are due on June 17.
Thank you all very much. This hearing is adjourned.

(Whereupon, at 4:36 p.m., the hearing in the above-entitled matter was adjourned.)
CERTIFICATION OF TRANSCRIPTION

TITLE: Xanthan Gum from Austria and China

INVESTIGATION NO.: 731-TA-1202 and 1203 (Final)

HEARING DATE: May 23, 2013

LOCATION: Washington, D.C.

NATURE OF HEARING: Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: May 23, 2013

SIGNED: LaShonne Robinson
Signature of the Contractor or the Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

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I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

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