

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:) Investigation Nos.:
1,1,1,2-TETRAFLUOROETHANE FROM CHINA) 701-TA-509 and 731-TA-1244 (FINAL)

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THE UNITED STATES
INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF:) Investigation Nos.:
1,1,1,2-TETRAFLUOROETHANE FROM CHINA) 701-TA-509 and
) 731-TA-1244 (Final)

Wednesday, October 15, 2014
Main Hearing Room (Room 101)
U.S. International Trade
Commission
500 E Street, SW
Washington, DC

The meeting commenced pursuant to notice at 9:30
a.m., before the Commissioners of the United States
International Trade Commission, the Honorable Meredith M.
Broadbent, Chairman, presiding.

1 APPEARANCES:

2 On behalf of the International Trade Commission:

3 Commissioners:

4 Chairman Meredith M. Broadbent (presiding)

5 Commissioner Irving A. Williamson

6 Commissioner David S. Johanson

7 Commissioner F. Scott Kieff

8 Commissioner Rhonda K. Schmidtlein

9

10 Staff:

11 William R. Bishop, Supervisory Hearings and
12 Information Officer

13 Sharon Bellamy, Program Support Specialist

14

15 Justin Enck, Investigator

16 Jeffrey Clark, International Trade Analyst

17 Cindy Cohen, Economist

18 David Boyland, Accountant/Auditor

19 Nataline Viray-Fung, Attorney

20 Elizabeth Haines, Supervisory Investigator

21

22

23

24

25

1 In Support of the Imposition of Antidumping and
2 Countervailing Duty Orders:

3 Mexichem Fluor, Inc.

4 Peter Geosits, Americas Commercial Director,
5 Mexichem Fluor, Inc.

6 John Pacillo, Americas Operations Director,
7 Mexichem Fluor, Inc.

8 Roger B. Schagrin, John W. Bohn and Paul W.
9 Jameson, Schagrin Associates

10

11 E.I. DuPont de Nemours & Company ("DuPont")

12 Greg M. Rubin, Business Manager, DuPont

13 Beth Sassano, Marketing Manager, DuPont

14 Jim Bachman, Combo Manager, DuPont

15 Deirdre Maloney, Senior International Trade
16 Advisor, Cassidy Levy Kent (USA) LLP

17 John D. Greenwald and James R. Canon, Cassidy
18 Levy Kent (USA) LLP

19

20 In Opposition to the Imposition of Antidumping and
21 Countervailing Duty Orders:

22 AutoZone, Inc.

23 John Lammers, Merchandising Director, Customer
24 Satisfaction, AutoZone, Inc.

25

1 Elizabeth Hein, Jason Waite and Chunlian Yang,
2 Alston Bird, LLP
3
4 Sinochem Environmental Protection Chemicals (Taicang) Co.,
5 Ltd.
6 Zhejiang Quhua Flour-Chemistry Co., Ltd.
7 Zhejiang Sanmei Chemical Industry Co., Ltd.
8 Weitron International Refrigeration Equipment (Kunshan) Co.,
9 Ltd.

10 Deborah Dayton, President, Weitron Inc.

11 James Dougan, Vice President, Economic Consulting
12 Services

13 Max F. Schutzman and Ned H. Marshak, Grunfeld
14 Desiderio Lebowitz Silverman & Klestadt LLP

15
16 National Refrigerants, Inc. ("NRI")

17 Jarrod M. Goldfeder and Jonathan M. Freed, Trade
18 Pacific PLLC

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8	Lebowitz Silverman & Klestadt LLP
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10	Paul W. Jameson, Schagrin Associates
11	
12	John Pacillo, Americas Operations Director, Mexichem Fluor,
13	Inc.
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15	Peter Geosits, Americas Commercial Director, Mexichem Fluor,
16	Inc.
17	
18	Greg M. Rubin, Business Manager, DuPont
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20	Roger B. Schagrin, Schagrin Associates
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22	John Lammers, Merchandising Director, Customer Satisfaction,
23	AutoZone, Inc.
24	
25	Deborah Dayton, President, Weitron Inc.

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P R O C E E D I N G S

(9:32 a.m.)

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2
3 CHAIRMAN BROADBENT: Good morning. On behalf of
4 the U.S. International Trade Commission, I welcome you to
5 this hearing on Investigations No. 701-TA-509 and 731-1244
6 Tetrafluoroethane from China. We will be calling it R134a
7 or Etra in house. If anyone has a better shorthand way, let
8 us know. You guys in the audience are the experts.

9 The purpose of these final investigations is to
10 determine whether an industry in the United States is
11 materially injured by reason of imports that are subsidized
12 by the government of China or sold in the United States at
13 less than fair value.

14 Documents concerning this hearing are available
15 at the public distribution table.

16 Please give all prepared testimony to the
17 Secretary. Please do not place it on the public
18 distribution table. All witnesses must be sworn in by the
19 Secretary before presenting testimony.

20 I understand the parties are aware of the time
21 allocations. But if you have any questions about time
22 please ask the Secretary.

23 Speakers are reminded not to refer to business
24 proprietary information in their remarks or in answers to
25 questions. Please speak clearly into the microphone and

1 state you name for the record supervisor that the court
2 reporter knows who is speaking.

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

7 Mr. Secretary, are there any preliminary matters?

8 MR. BISHOP: No, Madam Chairman.

9 CHAIRMAN BROADBENT: Very well. Let us now
10 proceed with opening remarks.

11 MR. BISHOP: Opening remarks on behalf of
12 Petitioner will be by John D. Greenwald, Cassidy Levy Kent.

13 CHAIRMAN BROADBENT: Welcome, Mr. Greenwald.

14 OPENING REMARKS BY JOHN D. GREENWALD

15 MR. GREENWALD: Good morning, Madam Chairman and
16 Commissioners.

17 I am John Greenwald from the law firm of Cassidy
18 Levy Kent. We are here today representing DuPont, a U.S.
19 producer of 134a -- R134a.

20 The evidence you will hear shows that the
21 condition of the domestic industry has deteriorated very
22 substantially over the period of investigation. At present
23 the industry's financials do not support reinvestment. And
24 that is material injury for any industry by any objective
25 standard.

1 The record you have before you also demonstrates
2 that imports from China have been a principle cause of this
3 injury. The economics of causation in this case are not
4 complicated. Competition between imports from China and the
5 domestic-like product is as the Chinese themselves recognize
6 heavily concentrated in the auto aftermarket segment of
7 broader R134a market.

8 In that segment imports in the domestic-like
9 product are universally viewed as near perfect substitutes.

10 During the period of investigation these were the
11 only two sources of significant supply to the U.S. market.
12 The evidence on volume will show that imports into the auto
13 aftermarket segment, that is, measured by shipments, were
14 significant at the beginning of the period, that these
15 imports shipped increase significantly over the period and
16 that they did so even as shipments from the domestic
17 industry were falling.

18 The evidence on pricing will show that the great
19 majority of imports into the auto aftermarket undersold the
20 domestic-like product and that prices in the auto
21 aftermarket fell substantially over the period of
22 investigation.

23 In a nutshell, the impact of the imports on the
24 domestic industry's auto aftermarket business is crystal
25 clear from the data. In the aftermarket domestic shipments

1 fell despite growing demand. In other segments of the
2 market that was not the case.

3 In the aftermarket prices fell significantly more
4 than in other segments of the market.

5 Now, let me be clear, there is a spillover price
6 effect when imports come into a specific segment over the
7 broader market. And for threat purposes, you have to
8 consider very seriously the prospect that in the near term
9 there will be imports into other segments. But for purposes
10 of present injury caused by imports from China, the question
11 is almost entirely a function of the increase in imports
12 into the auto aftermarket at steadily decreasing prices.

13 With the cause and effect relationship between
14 subject imports and the decline in this segment of the
15 market so clear the remaining question for you is, is the
16 auto aftermarket material in the context of the overall
17 R134a industry?

18 And here too the facts are crystal clear. The
19 auto aftermarket is by far the largest segment of the
20 broader R134a market. By our calculation the lion's share
21 of the period of investigation drop in the industry's
22 overall revenues and profits is directly attributable to
23 what happened in the auto aftermarket.

24 Interestingly, Respondents do not really quarrel
25 with any of these hard data. Instead, they have fashioned

1 an argument that can be fairly summed up as follows. First
2 there was a supply shortage in 2010-2011 that led importers
3 and some distributors and even retailers to open the supply
4 lines with China and they, by doing so, acquired a right to
5 maintain access to dumped imports even after the supply
6 shortage disappeared.

7 On price they argue that prices have returned to
8 what they call "normal levels". I would ask you when you
9 hear this first to question the data, but second, when
10 you're in business price as price is not what matters. What
11 matters is price relative to costs. And I have seen nothing
12 in their papers that suggests that they even acknowledge the
13 fact that what matters in terms of business is the
14 relationship between prices and costs.

15 In short, the defense that they are mounting, is
16 not consistent with the clear directive of the antidumping
17 statute or the Commission's regulation or any precedent that
18 I know of.

19 MR. BISHOP: Opening remarks on behalf of
20 Respondents will be by Max F. Schutzman, Grunfeld,
21 Desiderio.

22 CHAIRMAN BROADBENT: Welcome, Mr. Schutzman.

23 OPENING REMARKS BY MAX SCHUTZMAN

24 MR. SCHUTZMAN: Madam Chairman, members of the
25 Commission, for the record, I am Max Schutzman of Grunfeld

1 Desiderio and together with my partner, Ned Marshak, we are
2 here representing three principle Chinese producers of
3 R134a, Zhejiang Wuhua Flour-Chemistry, Sinochem
4 Environmental and Zhejiang Sanmei Chemistry.

5 I will briefly touch on some of the facts and
6 relevant issues I respectfully suggest you keep in mind in
7 listening to the testimony from both sides.

8 Seasonality is a key aspect of the story and must
9 be considered in analyzing the periodic data.

10 The principal market where competition between
11 Chinese imported R134a and domestically produced product is
12 most keen, as Mr. Greenwald pointed out, is the automotive
13 aftermarket. This market is serviced principally by
14 distributors who supply retailers with the 30-pound
15 cylinders and 12-ounce cans in which the product is sold to
16 consumers.

17 Yet, curiously only two of the three domestic
18 producers, Mexichem and Barkema will sell bulk 134a to
19 distributors for private-label packaging. Mr. Greenwald's
20 client will not. DuPont does not do that because it
21 competes with these distributors of private-label R134a with
22 its own DuPont brand for business at that level.

23 Thus, this huge segment of prospective purchasers
24 are foreclosed from purchasing from a major player in the
25 domestic market.

1 Next, the subject of shortages by domestic
2 producers also touched on by Mr. Greenwald in his opening
3 remarks. This is another topic that deserves your
4 considerable attention here as it contributed significantly
5 in 2010 and 2011 to the pronounced entry into the market of
6 Chinese product. When U.S. purchasers unable to satisfy
7 their customers' demands for product had no choice but to
8 seek alternative sources of supply.

9 These shortages were caused by domestic
10 producers' production problems, the phase out of R22 as an
11 acceptable refrigerant, and insufficient domestic
12 inventories.

13 That resulted in customers being placed on
14 allocation and lead times became stretched to unacceptably
15 long levels. And, of course, the effect of these shortages
16 played havoc with the prices of R134a as demand in the
17 automotive sector rebounded from recessionary levels, as the
18 foam blowing industry moved into R134a from other
19 refrigerants and as raw material stocks failed to keep pace
20 with demand. Under such circumstances anyone schooled in
21 the rudimentary economics of supply and demand could easily
22 have predicted the huge spikes in the price of R134a that
23 followed this confluence of factors and the resulting
24 exorbitant profits that producers would enjoy as a
25 consequence. But this, as with most radical market

1 conditions was a temporary phenomenon. And as the supply
2 shortages ebbed over time and the economy adjusted to the
3 changes wrought, prices sought and found their natural
4 equilibrium and came down to normal levels.

5 Simply, the lower prices in 2013 were not caused
6 by Chinese imports of R134a. Rather, Chinese imports were a
7 natural outgrowth of the economics of the time, and given
8 these economics the decreases in price in 2013 must likewise
9 be viewed in that light as a return to normalcy if we are to
10 make any sense of what occurred.

11 So when the domestic industry shortages eased and
12 the price increases began to first decelerate and then
13 recede to predictably lower levels, those who sought solace
14 of necessity in Chinese supplies of R134a continued to
15 patronize that source of supply. But not because of price,
16 then why? Because they were and are responsible businesses,
17 run by responsible business people. And they refuse to be
18 held hostage, again, by the domestic industry and the
19 possibility that supply constraints would again visit them
20 from circumstances beyond their control.

21 Now, the maintenance of continued supplies of
22 product from China was a prudent, reasoned response to a
23 crisis they did not create and a hedge against another
24 potential, similar disaster.

25 One word about critical circumstances. On behalf

1 of Weitron a repackager and distributor of U.S. and China
2 origin R134a, there was no surge within the meaning of the
3 statute, pure and simple. The market for this product, as I
4 mentioned earlier, is seasonal. It is used principally in
5 air conditioning systems when the weather is hot. In order
6 to be available for the selling in late winter and spring,
7 product needs to be ordered in late summer and early fall of
8 the preceding year. This is what happened here and others
9 who will speak during Respondent's presentation will address
10 that subject in greater detail.

11 I will leave the remaining argument to my
12 colleagues and witnesses. However, when all the rushes are
13 in the can, we are confident you will understand and find
14 that there has been neither material injury nor the threat
15 of material injury to the domestic industry by reason of
16 imports of R134a from China.

17 Thank you.

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

21 Madam Chairman, all witnesses on this panel have
22 been sworn in.

23 CHAIRMAN BROADBENT: Thank you, Mr. Secretary. I
24 would like to remind our guests to stick to the time limits,
25 please. I think we both had some extra time going into

1 this.

2 I want to welcome the panel to the Commission.

3 You may begin when you're ready.

4 MR. SCHAGRIN: Good morning, Madam Chairman and
5 members of the Commission. For the record, my name is Roger
6 Schagrin of Schagrin Associates on behalf of Petitioner
7 Mexican Fluor.

8 The domestic industry will begin its presentation
9 this morning with a PowerPoint presentation by Mr. Jameson
10 of Schagrin Associates.

11 STATEMENT OF PAUL W. JAMESON

12 MR. JAMESON: Thank you, Roger. For the record,
13 my name is Paul Jameson with Schagrin Associates.

14 The data gathered by the Commission and is in the
15 briefs demonstrate that the domestic industry has been
16 materially injured by reason of imports of R134a from China.

17 So let's first look at imports. This is indexed
18 data from Table 4-7. And it shows that in fact imports
19 increased during the period of investigation. First looking
20 at 2011 which is judging from the briefs, all you'll hear
21 about in this afternoon's session, you will see that imports
22 were at a certain level but they increased between 2011 and
23 2012 and continued into 2013. And if you'll drill down
24 further into the data, the import statistics, you will see
25 that the big difference between '11 and '12 was that in the

1 fourth quarter of 2012 imports surged when they had not
2 surged at all in that fourth quarter of 2011. So there was
3 a major change in the way the Chinese were bringing in
4 R134a. And keep that in mind for a couple charts down the
5 road.

6 So, then in the fourth quarter of 2013, we filed
7 a petition and then things changed. What we have here is a
8 comparison of first quarter by first quarter of each of the
9 years of the period of investigation. And this is imports
10 statistics just of R134a on the HTS that is dedicated to
11 that number. The actual numbers from the Commission are
12 higher because you included the misclassified R134a. And
13 this gives you a good idea of what happened.

14 There was a surge. Clearly when in October of
15 2013 the petitions were filed, the importers and the foreign
16 producers went to their council and said, how much time do
17 we have? And the council would say, well, normally speaking
18 you would have until June of 2014 to get all your material
19 in before duties are assessed. There may be a critical
20 circumstances determination by the Commerce Department if
21 you surge too much, but don't worry, the Commission almost
22 never votes affirmatively on critical circumstances. So
23 fire away.

24 And this chart shows that the imports were 96
25 percent higher in 2014 compared to the first quarter of 2013

1 or any other first quarter that you can see. So, if there
2 was a seasonality, it was totally distorted by the effort of
3 the respondents to get in as much as they can before duties
4 could be assessed.

5 So the Commission -- I'm sorry, the Commerce
6 Department did in fact make an affirmative determination of
7 critical circumstances. We should find soon enough whether
8 or not their determination was final. But assuming that
9 they did, that means that imports from the end of February
10 on would be subject to duties if you make an affirmative
11 determination. And as the briefs of the Respondents note,
12 the purpose of this critical circumstance is to deter
13 importers from bringing in stuff between the filing the
14 petition and the preliminary determination. And this is
15 your chance. If this case is not a critical circumstances
16 case, what is? There was this surge, it did have a huge
17 impact on the industry in the first quarter of 2014 after
18 the petitions were filed as will be discussed later on.

19 So what was the impact of price on the prices of
20 the producers' imports? And this is an average unit value
21 of the imports of the tariff number that Justice dedicated
22 to R134a. And as you can see, there was in fact high
23 prices, relatively high prices in 2011, and they decreased
24 at the end of 2011, but then we have 2012. There was this
25 -- there is not a peep anywhere in their presentations about

1 any sort of supply shortage taking place in 2012. And yet
2 you had a period in the fourth quarter of 2012 when imports
3 surged and lo and behold that is when prices fell the most
4 in 2012. There is no reason for that price decline between
5 2011 and 2012. And you have a price decline of 38 percent
6 in the 2011, but you have a price decline of 43 percent in
7 the fourth quarter of 2012. This is due solely to the
8 increase of imports of R134a. There is no other reason for
9 that price decline. So what was the impact of this price
10 decline on the industry and how did they respond?

11 Well, there's a couple things to keep in mind.
12 First of all, we're going to take a look at the facilities
13 of Mexichem. This is Mexichem's plant that is dedicated
14 solely to the production of R134a. That's a massive
15 facility that does nothing but make R134a and it is
16 extremely capital intensive. And you can kind of tell from
17 that there is no single on/off switch in that facility. You
18 cannot just shut down production and bring it back up again
19 to meet the lower demand that the industry faced. It takes
20 a lot of time and it requires a significant loss of
21 efficiency to turn your machines on and off to make R134a.

22 So they had to respond not by losing market
23 share, they had to respond by price.

24 The second thing to know about R134a is that it
25 is a fungible product. This is the can that you see right

1 there in front of you. And if you look more closely at the
2 edge there, you will see that the IDQ is happy to put on
3 their cans product of U.S.A. and China. And that's on that
4 can right there. They are happy to put R134a from either
5 United States or China into their cans and as far as they're
6 concerned, as far as the industry is concerned, there is no
7 difference between what is -- there is no difference at all
8 between the products.

9 So what was the predictable result of having to
10 compete solely on the basis of price?

11 This is an index of the table of Appendix D which
12 is what -- is how Mexichem actually does its books. But
13 either way, you do it either with the way that the
14 Commission adjusted the results or this way. You show that
15 operating profits just plunged during the period of
16 investigation. They went from fairly good profits in 2011
17 to very negative profits by the first -- by the end of the
18 period of investigation. So this is a clear indication of
19 injury. They had to respond by price because they could not
20 give up market share.

21 So the question is, who actually benefitted from
22 this price decline? Did the price of R134a -- a can of
23 R134a fell by about \$2 during the period of investigation?
24 And so what happened to the prices? When you look up here
25 on the Internet it never really goes away, so we're able to

1 find a website page from August 1st, 2011 which is during
2 the so-called "Perfect Storm" and there is the prices for
3 cans of R134a different types sold by Advanced Auto Parts.

4 So then we can compare that to the period that
5 was just last month and then we can compare the prices. So
6 you look and see that despite the drop in the cost of R134a,
7 the consumers benefitted not by a single penny. The prices
8 stayed the same.

9 And we look at it again scrolling down the page,
10 and you'll see that for all the products where we can
11 compare the prices, there was not a single drop in the price
12 to the consumer. It was all benefitted -- resulted to
13 AutoZone, to Advanced Auto Parts, to Home Depot, to the
14 importers, to the distributors, benefitted solely from the
15 price decline, consumers did not.

16 So, in conclusion, we believe that the evidence
17 before the Commission clearly shows and we request that the
18 Commission make an affirmative determination.

19 Thank you very much.

20 MR. SCHAGRIN: Thank you, Paul.

21 Our next witness is John Pacillo of Mexichem
22 Fluor.

23 STATEMENT OF JOHN PACILLO

24 MR. PACILLO: Good morning, Chairman Broadbent
25 and members of the Commission. For the record, my name is

1 John Pacillo. I'm the Operations Director of Mexichem
2 Fluor, Inc., and I have been in the chemical business for 37
3 years.

4 I was part of the team from Imperial Chemical
5 Industries or ICI that built and started up the plant in
6 Saint Gabriel, Louisiana in 1991 and 1992.

7 The cost of installing that plant then was
8 approximately \$140 million. Much more has been reinvested
9 in that plant and in the three major and three minor
10 expansions of the plant since that time.

11 ICI sold its refrigerant business to a company
12 called INEOS in 2001 and Mexichem bought the business in
13 April of 2010.

14 We operate a high hazard plant in strict
15 compliance with OSHA's Process Safety and Management
16 Regulation and EPA's Risk Management Plan. We produce
17 1,1,1,2-Tetrafluoroethane, or R134a. A safe, non-toxic,
18 non-flammable, and zero ozone depleting refrigerant. Our
19 trade name is KLEA134a. In order to produce CLEA134a we
20 handle a very hazard chemical called anhydrous hydrogen
21 fluoride or HF. And exposure to HF the size of the palm of
22 your hand can be fatal.

23 We handle nine rail cars a week. We take the
24 safe operation of our plant and the containment of our
25 chemical extremely seriously. It is our license to operate.

1 It is the most important thing that we do.

2 R134a is produced by combining trichloroethylene,
3 TCE, with hydrogen fluoride, HF, in two stages. In the
4 first stage TCE combines with the HF to produce R133A and
5 two HCL. This is an exothermic vapor phase reaction at high
6 temperature and high pressure over a chromium-based
7 catalyst. The HCL is removed by distillation. In a second
8 stage the R133A is reacted with additional hydrogen fluoride
9 to produce R134a and 1HCL. This is an endothermic vapor
10 phase reaction that again takes place over chromium-based
11 catalysts.

12 The chemical process is explained very well in
13 your preliminary staff report.

14 As you will hear further from Peter Geosits,
15 R134a is used primarily as a refrigerant and also as a
16 propellant.

17 From inception, the plant and all the equipment
18 in the plant was and has been, for the past 22 years,
19 dedicated to the production of R134a. We do not and cannot
20 produce other refrigerant gases in the plant. And as I will
21 explain later, we cannot retrofit the plant without great
22 difficulty to produce R1234YF.

23 Our process requires a catalyst to transform the
24 raw materials to R134a. We have become more efficient in
25 using this catalyst since the plant started. At the

1 inception of the plant we were replacing our catalysts
2 annually. We now replace the catalysts only once every
3 three years. This catalyst replacement requires a plant
4 shut down of approximately one month. And during the time
5 when we were shutting down the plant to replace the catalyst
6 we ended up taking major maintenance of the plant.

7 Given the fact that we were working with
8 hazardous and corrosive materials, the maintenance expense
9 as well as major repairs and replacement of equipment cost
10 an average of approximately \$9 million a year. As you can
11 see, these plants are both very expensive to build and very
12 expensive to operate in a safe and environmentally compliant
13 manner.

14 In fact, we are extremely proud of our safety
15 record. We have not had a lost-time accident at the plant
16 since it started up. The plant should operate 24-hours a
17 day, seven days a week in order to maintain production
18 efficiencies. We do our best to limit production
19 interruptions. Therefore, we do not want to shut the plant
20 down in order to reduce production to control inventory.
21 Unfortunately because of the massive increase in Chinese
22 imports over the last few years, we have had to shut the
23 plant down on several occasions just to control inventory.

24 In fact, we had a three-week shutdown in October
25 of 2013. Then again in February and March of this year, we

1 had to curtail production because of the massive surge in
2 Chinese imports after we filed the petition.

3 While cutting prices was the most significant
4 portion of our financial collapse, these production
5 curtailments also hurt our profitability. Shutting the
6 plant down and starting it up is a very inefficient and
7 costs us significant lost production efficiencies and
8 increases costs.

9 At the plant at Saint Gabriel, we have 78
10 full-time employees. We conservatively estimate another 300
11 jobs created in the community, the maintenance, support,
12 transportation, and other economic activity. Having
13 operated in East Iberville Parrish for 22 years, our plant
14 is a major supporter of community activities. We are part
15 of the East Iberville industry neighbor company's
16 organization which supports a number of activities in the
17 community including Habitat for Humanity, the Food Bank,
18 Reading Programs, health and educational charitable
19 programs, and a two-year scholarship program, PTEC for high
20 school graduates. This program provides the education
21 necessary to get a job in one of the participating
22 companies, or in any chemical company in the area.

23 You may have heard recently in the Washington
24 Post an article about attempts by EPA and industry to
25 replace current refrigerant gases like R134a with

1 non-greenhouse gases like R1234yf. The government would
2 like to make this mandatory for all new cars some time after
3 2020.

4 Unlike the transition from R12 to R134a, where
5 existing R12 systems could be retrofitted to accept R134a,
6 systems design for R134a will not be able to accept R1234YF
7 for safety reasons. Therefore R134a demand will continue
8 well into the 2030s to serve the aftermarket.

9 At the same time R1234YF will be installed in new
10 vehicles. That is why we will need to have separate plants,
11 one producing R134a, and one producing R1234YF for at least
12 a decade.

13 We have space on our land in Saint Gabriel to
14 build a new plant. We estimate the cost will be between
15 \$150 and 200 million. The Chinese already make 1234YF. Our
16 assumption is in making the investment in the United States
17 we are going to face unfairly traded imports from China, but
18 we will be able to obtain relief.

19 The Mexichem Fluor plant in Saint Gabriel is part
20 of a multinational corporation that has to choose where to
21 invest capital. Mexichem Fluor, Inc.'s parent company,
22 Mexichem Fluor SA de CV operates the single largest Fluor
23 spar mine in the world at San Luis Potosi, Mexico. Part of
24 the mine's output is made into hydrogen fluoride at its
25 plant in Mata Morris, Mexico.

1 Consistent with customs rules, GAAP, and IFAS our
2 big four auditor conducts transfer pricing studies and
3 requires that that Mexichem Fluor, Inc. pays our parent a
4 price different from the cost to producing fluor spar and
5 hydrogen fluoride. The prices that we pay Mexichem Fluor
6 SA de CV for hydrogen fluoride, a critical input into R134a
7 are the costs used in our own audited financial statements.

8 The revised data in your report based on
9 adjustments to our audited financial statement by your staff
10 accountant makes our company's financial performance appear
11 substantially better than it actually is. This would be
12 true for any business that could buy their raw material at
13 their suppliers' cost rather than the market price.
14 Unfortunately, their suppliers would then go out of
15 business.

16 As someone who has worked for three
17 multi-national chemical companies during my career, I can
18 tell you that the transfer pricing between businesses of a
19 single company must reflect market pricing, not the cost of
20 manufacture. This is especially true when borders or taxing
21 authorities are crossed.

22 A multi-national company should not support an
23 operation by transferring an input at cost which they could
24 sell that same input at market prices to unrelated parties
25 and make a profit. Thus, if our plant at Saint Gabriel

1 cannot operate profitably, we would face an asset impairment
2 and likely shut down the facility within a reasonably short
3 period of time. Therefore, on behalf of the 78 full-time
4 employees at Mexichem Fluor in Saint Gabriel, Louisiana and
5 the hundreds of additional jobs dependent on our plant in
6 East Iberville Parrish, I ask that you make affirmative
7 injury determinations so that unfairly traded imports from
8 China are addressed and our company could continue to do
9 what we do best, which is to produce R134a in a safe,
10 efficient, and environmentally compliant manner. Thank you.

11 MR. SCHAGRIN: Thank you John our next witness
12 is Peter Geosits.

13 STATEMENT OF PETER GEOSITS

14 MR. GEOSITS: Good morning Chairman Broadbent and
15 members of the Commission. My name is Peter Geosits and
16 I'm the Americas Commercial Director for Mexichem Fluor,
17 Inc. I have been in the chemical industry for 30 years and
18 have 17 years of experience in the refrigerants business.

19 I would like to begin by describing the various
20 market sectors for R134a. The largest use for R134a is as a
21 refrigerant in vehicle air conditioning systems. Almost 99%
22 of motor vehicles at this time operate with R134a as a
23 refrigerant. The vehicle market is composed of sales to OEM
24 producers who generally have yearly or multi-year contracts
25 and receive product in bulk tank trucks on a just and time

1 delivery basis.

2 At the present time there is very little Chinese
3 presence in the OEM market. However, OEM buyers for the
4 major auto companies are among the most knowledgeable
5 purchasers in the American industry and they are well aware
6 of pricing in the spot market at the time they negotiate
7 these contracts.

8 They also buy from manufacturers, foreign or
9 domestic, to resell for the replacement market to the
10 dealerships. As a result of the U.S. automotive fleet size,
11 the after-market sales of R134a for vehicle air conditioning
12 are approximately three times the size of the OEM market.
13 Sales in the after-market can typically be to distributors
14 who purchase R134a in bulk, trailers or tank trucks and then
15 repackage the gas into 30 pound cylinders or 12 ounce cans
16 for resale to auto dealerships, service centers, service
17 stations or to large auto parts chains and big box
18 retailers.

19 Competition with the Chinese is severe in the
20 after-market which is the largest market sector for R134a.
21 Until duties were imposed, the Chinese took an ever-larger
22 share by offering prices that were far below the prices of
23 the U.S. industry. Sales for the after-market are generally
24 done on a spot basis, although some large customers may
25 secure longer price guarantees for a specified volume of

1 purchase.

2 Another segment in the market for R134a is
3 stationary or commercial air conditioning. These are
4 typically large units that would provide cooling for office
5 buildings, stores or airports. Sales are made to large
6 OEM's who produce and fill these units. There are also
7 sales through distribution to the HVAC maintenance companies
8 that service the refrigerant gas in these built-in units.

9 There can be overlap in distributors who would
10 sell R134a to both the vehicle after-market and the HVAC
11 after-market. The largest national distributors for the
12 after-market are now making significant direct purchases of
13 R134a from Chinese suppliers.

14 R134a is also used as a propellant and as a
15 blowing agent. Since R134a is non-flammable, it is used as
16 an aerosol propellant in lubricants, free sprays and
17 insecticides as well as aerosol dusters that are used for
18 electronics cleaning. R134a is also used as a refrigerant
19 in domestic appliances like refrigerators, freezers and
20 dehumidifiers and it is sold direct to large OEM's or
21 through distribution.

22 Finally there is a very small portion of the
23 market for R134a in pharmaceutical applications. R134a
24 because of its extremely low toxicity is used to deliver
25 pharmaceutical actives into the lungs via metered dose

1 inhalers, MDI's, to treat chronic obstructive pulmonary
2 disease, COPD and asthma.

3 Pharmaceutical grade product is a purified form
4 of R134a which requires additional processing steps after
5 manufacture. Mexichem Fluor in the U.S. exports R134a to a
6 purification facility which is operated by our sister
7 company in the United Kingdom which produces the
8 pharmaceutical grade product.

9 My company imports pharmaceutical grade R134a
10 from our sister company and distributes it in the Americas.

11 The product is subject to FDA guidelines and the
12 purification plant is inspected by various regulatory
13 bodies. To the best of my knowledge, the Chinese do not
14 participate at all in the U.S. market for pharmaceutical
15 grade 134a however the pharmaceutical grade portion of the
16 R134a market is only about 2 to 3% of the total market.

17 As the head of our marketing efforts in the
18 Americas, I supervise our team of four sales people. Since
19 Chinese imports began increasing rapidly in 2011, we have
20 been constantly notified by our customers that our prices
21 have been undercut by imports from China. Our customers
22 tell us they cannot maintain their sales against these
23 significant price gaps and have asked us to reduce our
24 selling prices so that they can be competitive versus the
25 Chinese imports.

1 In the past couple of years the selling price of
2 R134a have fallen by more than half. This is entirely the
3 result of unfair Chinese sales competition. As I mentioned
4 previously OEM customers who also have their own
5 after-market programs for their dealerships are well aware
6 of the spot market prices and the collapse of spot market
7 prices will inevitably lead to significant price
8 deterioration in the OEM market.

9 To give you an idea of how price sensitive the
10 spot market is, prices have fallen for the past 4 years and
11 then started increasing within a month of the imposition of
12 duties. I think that connects the dots between unfair
13 import pricing from China and U.S. prices.

14 In the preliminary conference AutoZone testified
15 that Arkema and Mexichem did not want to deal directly with
16 them. They said and I quote, "we couldn't get supply from
17 domestic suppliers". This is not true. We have a 30
18 pound packaging line, but not a 12 ounce packaging line.
19 We can sell to AutoZone and other auto parts chains directly
20 by shipping in bulk to a toll packager for them who will
21 repackage the product into their brand name cans. In fact,
22 I've talked with three major re-packers who say they have no
23 issue providing private label cans for retailers.

24 I was contacted by one of these chains. They
25 wanted 360 day credit like they got from the Chinese. We

1 don't have a Chinese government owned bank throwing money at
2 us for free so we couldn't do that. Instead my
3 understanding is that this retail chain went to a
4 distributor re-packager who will package our's and maybe
5 other domestic producer's product into their 12 ounce cans.
6 They gave their retail chain long payment plans and then
7 factor the receivables. We don't use factors.

8 Our job, and I promise you that we do it well, is
9 to make sure that those distributors are always stocked with
10 product. You heard a nice story at the conference but ask
11 yourself do you think the Chinese kept lowering their prices
12 for the last three years because there were shortages in the
13 U.S. market?

14 AutoZone testified that Walmart chose to ship 12
15 ounce cans from the U.S. to China to have them filled with
16 R134a in China and shipped back to the U.S. Do you know
17 what will happen to our plant if every big box retailer in
18 the U.S. shifts their sourcing to China? We will be out of
19 business.

20 Exports represent a significant portion of the
21 sales from our St. Gabriel, Louisiana plant. There are no
22 R134a production plants in North and South America outside
23 of the U.S. Therefore these markets have long been served
24 by plants located in the United States or in Europe.
25 However, the Chinese have made significant inroads into our

1 export markets and prices for our exports are falling
2 rapidly because of unfair Chinese competition.

3 We would love to export less and sell more in the
4 U.S. market, thus absorbing less freight costs. This is
5 exactly what we began doing since the imposition of duties.
6 We make a major effort to stay abreast of the Chinese
7 industry as a competitor. Over the past several years a
8 number of new plants or expansions have been built in China
9 for the production of R134a.

10 In contrast the last new U.S. plant to be
11 constructed was over 10 years ago. Even though China may
12 have the fastest growing auto market in the world, the
13 growth and capacity to produce R134a in China greatly
14 exceeds the demand in China.

15 In fact, we believe the entire Chinese R134a industry is
16 operating at much lower utilization rates than we do and
17 that the excess capacity in China could serve the entire
18 demand in the U.S. for R134a.

19 In my 17 years of marketing refrigerant gases I
20 have never witnessed, even during the Recession, the
21 collapse in pricing that occurred between 2012 and 2014 in
22 the market. Almost every week we saw price offers from
23 China to our customers at ever lower prices. Those
24 delivered prices from China were below our cost of
25 production.

1 The imposition of duty has led to great
2 improvements to our business. Without the duties against
3 subsidized and dumped imports, I do not foresee Mexichem
4 Fluor able to remain in the R134a business. Therefore, on
5 behalf of our company and our valued employees, I ask that
6 you make an affirmative determination so that duties can be
7 imposed. Thank you.

8 MR. SCHAGRIN: Thank you Peter. I would now
9 like to turn things over to my esteemed colleague and mentor
10 John Greenwald on behalf of DuPont.

11 MR. GREENWALD: And I'm going to turn it
12 immediately over to Mr. Rubin from DuPont.

13 STATEMENT OF GREG M. RUBIN

14 MR. RUBIN: Madam Chairman, fellow Commissioners
15 I would like to thank you first of all for allowing me to
16 appear before you today and hopefully I can provide some
17 insight into the marketplace and help you in your
18 determination.

19 My name is Greg Rubin, I have been with DuPont
20 for 27 years and my entire career has been spent in the
21 fluoro-chemical and fluorine enterprise space. I'm
22 accompanied today by two of my colleagues Jim Bachman who's
23 our North American sales and marketing director and then
24 Beth Sassano who is our global marketing manager for our
25 refrigerants business.

1 I am the global business manager in DuPont
2 Chemicals in fluoro products enterprise and so I've been
3 associated with this business for my entire career. Before
4 I get into the specifics on 134a I thought it would be
5 appropriate to give a little bit of context for the history
6 of the industry.

7 Fluoro-chemical materials began being used after
8 the invention of CFC's back in the 1930's. In 1931 by
9 actually a General Motors scientist, DuPont General Motors
10 had a joint venture back in the late 20's, early 30's and
11 Thomas Midgley was the scientist who invented COC11 and 12
12 and R22 which is still used today in air conditioning
13 systems.

14 And those were the bell weather refrigerant
15 products for the next 50 years until the ozone depletion
16 issue arose and the industry began the effort to find
17 alternatives. The class of materials which were identified
18 that would not impact the ozone layer is the class of HFC
19 materials of which 134a is one of those materials.

20 134a is a very useful part of that portfolio of
21 alternative products because it can be used in such a wide
22 variety of applications. Peter made the comment and listed
23 out a number of the applications. I'll repeat them here
24 just again for the context. It's used in aerosol
25 propellants for electronic duster applications and other

1 propellant applications where non-flammability is required.

2 It's used in foam insulation applications because it's an
3 excellent insulating product, both in polyurethane and
4 polystyrene foam insulation.

5 It's used in the pharmaceutical application, Pete
6 talked about that with the meter dose inhalers and of course
7 it's used in the refrigerant industry for both industrial
8 chiller applications, home refrigerators and in the mobile
9 air conditioning application. It's delivered to the market
10 primarily in three sizes, the 12 ounce do it yourself can,
11 there was a picture in Paul's presentation of that can.
12 That is basically if you wanted to service your own car at
13 home you would be able to get one of these 12 ounce cans
14 from a local retailer and do the maintenance work if you are
15 into servicing your own car.

16 It's also sold in 30 pound containers. The 30
17 pound containers are sold to auto shops that are doing
18 multiple services. It's also used significantly in the
19 stationary service industry where they are coming out to
20 serve your home refrigerator or those types of applications.

21 And then finally it's sold in bulk containers.
22 These are 30,000 plus pound containers. They are generally
23 used to service the OEM sector. That would be because you
24 deliver in a bulk truck, you off-load into a General Motor's
25 tank that's at their facility and then they off-load from

1 that tank into the cars that they are filling on their
2 production lines.

3 It's also used to go to what are called
4 re-packers. You sell bulk to re-packers, these re-packers
5 take it and put it into either a 30 pound container or 12
6 ounce can and then that goes through the after markets,
7 either in the stationary like that the air conditioning
8 equipment or in the mobile after-market.

9 Now one of the reasons why as John had said in
10 his opening statement that a lot of the focus in this
11 investigation has been in the mobile after-market is the
12 majority of the imported material is going to that sector
13 and there are some reasons why that is the case.

14 First of all the mobile after-market is a heavy
15 package industry if you look at the imports this year, five
16 times as much as has been imported in the finished package
17 than in the bulk container. Historically that's been
18 closer to 2 to 3 to 1 so it's been a little bit more heavy
19 this year. The reason why that is important is to ship the
20 container load of packages costs about 7 cents per pound.
21 To ship a container, a bulk container, which would be like
22 an ISO container, a big bulk shipment is about 30 to 35
23 cents a pound.

24 So from a logistic standpoint there's actually a
25 cost benefit to ship in the finished packaged good than

1 shipping in this bulk container. In addition, this has
2 also touched on many of the other segments particularly the
3 OEM segments are contracted businesses. These are longer
4 term agreements, either annual or sometimes multi-year
5 agreements. Those purchasers while very aware of the
6 market dynamics have a lot of other issues that they are
7 trying to manage in operating a multi-functional facility.

8 And the refrigerant itself, or in the case of a
9 foam application, the foam expansion agent is a minor
10 portion of the total cost of the good while in the
11 after-markets that is the good. You have already sold the
12 equipment, now you are putting a re-charge into an auto car
13 and so the focus on the economics around the 134a itself
14 becomes high-lighted in the case where the 134a is the most
15 important finished good.

16 And the third element I'd say that makes the auto
17 after-market a primary target for imported 134a is there's
18 no mix of products. The industry is 134a, that's what is
19 used. Even in the stationary after-market which is another
20 service industry, you will see that there is a mix of
21 products and so there's a benefit to having the portfolio of
22 products in your offering. That doesn't mean you can't use
23 imported products in the stationary after-market, there is
24 imported products used in the service industry in the
25 stationary side as well.

1 But in terms of simplicity and ease of
2 penetration, clearly the mobile after-market has an
3 advantage so there are very real market reasons why 134a and
4 the mobile after-market are a closer fit if you are looking
5 for importing product from off-shore.

6 The last thing I just want to give a touch on now
7 and I'm sure there'll be lots of questions that we can try
8 and address is the basis for injury. There has been a lot
9 of focus in all of the hearing pre-briefs, pre-hearing
10 briefs concerning the pricing in the marketplace, but John
11 made the comment and I think this is critically important,
12 is that injury is based on profitability not based on price.

13 And profitability is a combination of price and cost.

14 And there's an argument that the market has come
15 back to a normal price which again I think there's a
16 question what is normal but comparing pricing before the
17 tightness of supply in 2011 to the pricing that exists
18 today. Even if you took that as true which I would argue
19 is not true, but even if you took that as true, the cost of
20 our manufacturing, the costs of manufacture for us to
21 produce 134a in the last 5 years has increased by over 30%.

22 So when you look at -- if you say the pricing is
23 exactly the same, profitability has dropped below what was
24 non-type supply historical levels and there's only one
25 difference between today and historical market behavior and

1 that is the significant presence of Chinese 134a.

2 So as we go through the questions I'm glad to
3 give more context to that but I think it's important to
4 remember that as we look at profitability it's not just
5 about price, I think price is certainly an important factor
6 in this but it's not the only factor.

7 The one last element of costs that I would like
8 to make a comment on before closing is when you look at cost
9 of manufacture there's two pieces of that. There's a
10 variable cost and there's a fixed cost. Variable is just
11 the raw materials. You take a chloro carbon to make 134a if
12 the carbon price goes up as it generally raw materials will
13 inflate over time, you will see your finished product costs
14 go up.

15 There's a fixed cost element. If you have a
16 million dollars of fixed cost to run your plant, you make a
17 million pounds your unit rate is a dollar a pound. If that
18 same plant makes a half a million pounds, your unit rate
19 becomes two dollars a pound. So as John had articulated
20 from Mexichem specifically, they are on record as saying
21 they have had to slow their plant down. Their unit rate
22 fixed cost is up because of the inability to run their plant
23 its most efficient way which is pull out all the time.

24 So with that I want to once again thank you for
25 allowing me the opportunity to appear before you and I look

1 forward to helping to answer any questions you might have.

2 STATEMENT OF ROGER B. SCHAGRIN

3 MR. SCHAGRIN: Thank you, Mr. Rubin.

4 Once again, Roger Schagrin on behalf of Mexichem.
5 As the Commission heard in Mr. Greenwald's opening and Mr.
6 Jameson's PowerPoint, and the testimony of all the industry
7 witnesses this morning, it's been focused on the massive
8 injury caused to the domestic industry by reason of the
9 unfairly traded imports from China.

10 While we all believe this is an ironclad injury
11 case, out of an abundance of caution, I thought it prudent
12 to address the statutory threat factors and the information
13 you have on the record on threat.

14 First, the domestic industry is presently very
15 vulnerable to increased, unfairly traded imports. From
16 historically strong profits, the affect of Chinese volume
17 and pricing in the U.S. market has to been to drive domestic
18 prices down to levels where the domestic industry was losing
19 money on both an operating and net basis in the first half
20 of 2014.

21 Secondly, while the data on the Chinese industry
22 is confidential in the staff report, I can characterize this
23 information on the Chinese R134-A industry as being just
24 like the rest of industries in China, whether it be the
25 chemical industry or virtually all manufacturing industries

1 in China. While demand in China has been increasing as
2 their economy has been growing and their auto market has
3 been expanding, capacity increases fueled by almost
4 unlimited government, state-owned bank money being thrown at
5 the continued construction of new plants in China has
6 significantly outstripped growth and demand, leading to
7 lower capacity utilization for the Chinese industry and more
8 capacity available for exports.

9 In the meantime, a major market for the Chinese
10 and a major part of the world market, given its size, India,
11 has imposed significant antidumping duties against imports
12 of R134-A from China and EU market demand is declining.

13 Third, the vast majority of Chinese import
14 volumes undersells the U.S. industry and underselling was
15 more prevalent as the POI progressed.

16 Fourth, as Mr. Jameson's PowerPoint demonstrated,
17 first quarter 2014 imports were almost twice as much as
18 first quarter 2013 imports. And based on HTS data, January
19 2014 imports were more than three times the previous monthly
20 high at any period in the past. Thus, during a period of no
21 alleged market tightness this rapid increase in imports from
22 China supports an affirmative threat determination because
23 rapid increases are one of your statutory factors.

24 Finally, the Commission has a public list of
25 importers in Table IV-1 of the staff report. It's quite a

1 long list. There's a number of major companies on that
2 list. The Commission also has information that some of
3 these importers only began importing R134-A at the end of
4 the POI. You have not heard, and you will not hear this
5 afternoon from Respondents, that there was any market
6 tightness at the end of the POI. And these importers
7 weren't continuing to buy R134-A as Mr. Schutzman says as a
8 prudent business decision to keep buying ever lower priced
9 dumped and subsidized imports from China.

10 No, these new importers were buying R134-A from
11 China for one reason and one reason only. The prices
12 offered to them by the Chinese were lower than the prices of
13 domestic product. Given these new major importers, Chinese
14 over capacity, underselling, and the rapid increase in
15 imports from China, which are posed to increase
16 significantly in case of a negative determination have
17 forced members of the domestic industry out of this business
18 if the Commission does not make an affirmative finding of
19 present material injury. The facts on the record strongly
20 support a finding of real and imminent threat. Thank you.

21 And that concludes the domestic industry's
22 presentation. We would be more than happy to answer the
23 Commission's questions.

24 CHAIRMAN BROADBENT: Commissioner Kieff, please.

25 COMMISSIONER KIEFF: Thank you very much.

1 Perfect timing.

2 You really benefit greatly from the input from
3 the lawyers and the factual witnesses, and this is very
4 helpful for us. I have a few specific questions I just want
5 to start with, if I could.

6 Mr. Geosits, you were mentioning cost of credit
7 as a concern, and I'm just curious can you provide in the
8 post-hearing brief; both for Dupont I guess as well, but
9 also for yourself. I'll ask both to provide in the
10 post-hearing information, factual information about your
11 cost of credit so that we have some sense of what it is.

12 MR. GEOSITS: We will.

13 COMMISSIONER KIEFF: Great. Also, if I could try
14 to make sure I'm -- one of the things that sometimes happen
15 in cases like this is that there are disagreements about the
16 facts, what actually happened. And then sometimes there's
17 basic agreements about the facts and disagreements about
18 their significance.

19 Sometimes to best understand significance it
20 helps to see the bigger picture. There seems to be an
21 emphasis by both -- well, at least by one side on what is
22 the appropriate price. What is the appropriate cost? We
23 look at 2011 in the chart. So, for example, in the slides
24 presented by Mr. Jamison, I believe it's either the third or
25 the fourth, depending on how you counted, but it's the slide

1 that shows the decreasing pricing data with the 38 percent
2 and then the 43 percent.

3 It begins in the first quarter of 2011. And so
4 let me just ask both sides for the post-hearing to help us
5 understand whether the information before the first quarter
6 of 2011 whether that information should be relevant to our
7 analysis, and if it should be relevant, what it is. It may
8 be the case that you both agree it's irrelevant. You might
9 both agree it's relevant, but helps your case. Just
10 whatever that information is tell us whether it's relevant
11 and then tell us what it is. And we can do that in the
12 post-hearing. There's no need to go through that now.

13 A related question then, the Respondents core
14 argument, in effect, is that -- seems to be. One of their
15 core arguments seems to be that there is a path dependency
16 to the consumer behavior. That the consumers got -- well,
17 in this case, I guess the distributors. That segment of the
18 market, the people who are distributors and buying product
19 to distribute that those folks had a need to look elsewhere
20 for their product and that over time they found their way to
21 the Chinese and that they found that a congenial
22 relationship, and they maintained it or grew it.

23 Mr. Greenwald, can you tell us, in a nutshell, if
24 that path dependency story is true, would that even matter
25 to your case? Do you in any way, or do you lose because of

1 that?

2 MR. GREENWALD: We clearly win. What the
3 argument, as I understand it is, is that in 2010 and 2011
4 there was inadequate domestic supply available to
5 distributors. There is no question that there is ample
6 domestic supply available to distributors post that period.
7 So, then the issue becomes having found, as you put it, the
8 availability of Chinese supply congenial does congeniality
9 give the person that finds the relationship congenial a
10 right to continue to purchase at dumped prices regardless of
11 the impact on the U.S. industry? And my answer to that, and
12 I think the statute unequivocal answer to that is absolutely
13 not. Nobody here -- and we had talks among ourselves, and
14 I'll let Mr. Rubin talk about the issue that you're raising.

15 It's not that we are seeking to keep the Chinese
16 out of the market. What we are seeking to do is to make
17 sure that when they are in the market they are in at fair
18 pricing.

19 COMMISSIONER KIEFF: And Mr. Rubin, as you talk
20 about that, can you say a little bit more about the
21 economics of shipping packaged product from China to the
22 United States because it sounded to me like you were
23 describing a system that's unfortunate for your own
24 industry, which is to say it just turns out to be so
25 inexpensive to ship canned goods compared to the cost of

1 shipping bulk goods. Does that factor into this at all?

2 MR. RUBIN: Commissioner Kieff, let me take the
3 two parts. I'm probably going to repeat a little bit of
4 what John just said, and I apologize for repetition. But I
5 think the important element to this case is not an anti --
6 if you affirm an antidumping duty that does not preclude
7 anybody who has a relationship with a supplier in China from
8 continuing to buy from China. If price is not the reason
9 why they're doing it. They're doing it because they just
10 happen to like them, then they can continue to do so and
11 place that product on the market.

12 So, this is not about whether or not a Chinese
13 manufacturer can continue to supply. And so that's why I
14 think, to John's point, I'm not the person who's the expert
15 on antidumping statutory, but it seems to me that that would
16 not be the driver as to whether or not they're selling below
17 a fair market price. The issue that we're expressing is
18 participate in market at a fair market price.

19 COMMISSIONER KIEFF: That's very helpful. I mean
20 I guess just being mindful of time one of the things that I
21 think is hard, at least for me to figure out, is what if it
22 turns out that a big component of the price affect is due to
23 the happenstance that it became worthwhile in the moment,
24 the moment of 2010/2011, it became worthwhile in the moment
25 to figure out the practice of shipping stuff that just

1 turned out to be really cheap to ship. Folks hadn't been
2 doing it for a range of reasons. Who knows? Who cares?
3 But having been nudged in that direction it just turned out,
4 wow, that's a nice thing for a lot of folks.

5 Now, if it turns out that a big affect of the
6 price is due to the very attractive conditions of the
7 overall industry, not the margins that Commerce has told us,
8 due to something else, would that be relevant? And the next
9 question would be, what if it turns out it's all due to what
10 Commerce says, but there are no volume affects?

11 Mr. Greenwald, you look troubled.

12 MR. GREENWALD: Troubled, I suppose, is a nice
13 way of putting it. Let me just go back to the basics of the
14 antidumping statute.

15 What the Commerce Department does is take a price
16 back to a factory, and if there are shipping efficiencies
17 that's factored into Commerce's analysis. So, if it is
18 cheaper to ship in cans rather than in bulk, that will
19 reduce Commerce's analysis for the margin and the economics
20 of shipping are always factored into the margin calculation.

21 Now, you may disagree with how Commerce does it,
22 but the idea that somehow trade moves because -- in
23 non-dumped ways because of -- the statute doesn't take
24 account of shipping efficiencies is just not true.

25 COMMISSIONER KIEFF: So, just to brief -- and

1 again, I'm asking you these questions because I assume we're
2 going to get some version of them this afternoon, and I
3 figured that's the best time to ask you is while you're here
4 rather than after you're done. And of course, we really
5 appreciate as much, both sides, engaging in the post-hearing
6 what we're able to engage with for each side during the
7 hearing. So, we look forward to that dynamic interaction.
8 Thank you.

9 CHAIRMAN BROADBENT: Commissioner Schmidtlein.

10 COMMISSIONER SCHMIDTLEIN: Thank you very much.
11 First, I'd like to thank the witnesses as well as counsel
12 for appearing here today.

13 Maybe I'll just follow up a little bit I think on
14 what Commissioner Kieff was getting at, at least, in the
15 beginning of his questions.

16 So I understand your position, do you all agree
17 that the domestic supply shortage in 2010/2011 was a cause
18 of price going up, or the cause of prices going up?

19 MR. RUBIN: Yes. R134-A, I think, has been
20 expressed, is a substitutable product from various sources
21 that can, having multiple countries of origin, would be an
22 illustration of that and the most powerful pricing element
23 to a pure commodity, and this goes across -- I think you
24 guys probably see lots of commodities come across your desks
25 -- is supply to demand.

1 COMMISSIONER SCHMIDTLEIN: Right.

2 MR. RUBIN: And when supply goes tight that's
3 when value goes up because typically the value a commodity
4 delivers is much higher than the price you can extract
5 because competitive forces constrain how much value you can
6 extract. That's the market forces. But in the case of a
7 tight supply, it becomes security of supply becomes much
8 more important to a user because they're extracting
9 significant value in the use of that product.

10 So, a longwinded answer to your question, but
11 yes, there's no question that the pricing dynamics in 2011
12 were driven predominantly by the tightness of supply in that
13 period.

14 COMMISSIONER SCHMIDTLEIN: But domestic producers
15 are no longer experiences problems supplying, correct? And
16 in fact, after 2011, that eased up.

17 MR. RUBIN: That's correct for Dupont.

18 MR. GEOSITS: And similarly for Metichem, the
19 supply issues have been eliminated.

20 COMMISSIONER SCHMIDTLEIN: So, we would, as you
21 just explained, in a normal commodity market or near
22 commodity market you would expect that once -- if there was
23 a supply constraint would cause prices to go up. Now,
24 supply has eased prices are going to come down, right? So,
25 how should we -- what portion of the price decline do we

1 attribute to the supply demand versus the fact that you have
2 imports in the market that came into meet the demand that
3 was there that couldn't be met by the domestic producers?

4 MR. GREENWALD: If I can take a crack at that
5 because I've looked at the record in a way that the business
6 witnesses haven't, and therefore, if I could direct you the
7 record.

8 This case is unusual in the sense that you have
9 the ability to compare what happens in prices across
10 segments where the Chinese are and where the Chinese aren't.
11 So, at the extreme, you can look at the Pharma segment where
12 all the domestic compete. There's the same sort of supply
13 issue, and you can track what happens to prices.

14 I don't think there's any question that when a
15 supply tightness eases everybody expects prices to fall, and
16 that's really the basis of the complaint here. What we are
17 saying, and what I think the evidence before you proves in a
18 way that is rare is that in the segment where the Chinese
19 imports were concentrated prices fell faster and further
20 than in any other segments were they were not. So, you have
21 an empirical test that allows you, in a sense, to answer the
22 question you asked, not with scientific precision, but with
23 a high degree of confidence that whatever the impact was of
24 the change in the supply demand balance, the sort of the
25 ending of the tightening, something beyond that that was

1 material in terms of pricing, and especially pricing
2 relative to cost went on in the auto aftermarket segment of
3 the market.

4 COMMISSIONER SCHMIDTLEIN: So, did the supply
5 shortage affect the other segments of the market back in
6 2010/2011. And if it did, why don't we see imports coming
7 in to meet that unmet demand back in those -- ?

8 MR. RUBIN: The answer to the first part is, yes,
9 across the industries there was an uplift of pricing because
10 of the supply tightness.

11 Again, I want to go back to the characteristics
12 of the mobile aftermarket where packaged goods, single
13 product -- there's no product mix. In other words, if I go
14 to a stationary OEM, a Trane, a York, a Carrier, or whatever
15 air conditioner you might have at your home and you go to
16 them and they buy R134a and they buy other fluoro-chemical
17 products and they're dealing with us in a portfolio. So,
18 having a low-priced offer on 134a has a different
19 implication to them than if you're a customer all you buy is
20 134a.

21 So, while there was an impact of the tightness on
22 market pricing across industries, the industry where it was
23 the fastest and easiest, plus the nature of the spot market
24 in the mobile aftermarket versus contractual -- when we get
25 constrained in supply we're going to fulfill our contractual

1 obligations first. So, the other segments are going to have
2 less opportunity for penetration by the imported product.

3 The spot market, single product, packaged volume
4 predominance in the mobile aftermarket lends itself to being
5 the import market of choice and so that's where the imported
6 product was best able to fill the supply gap. Does that
7 answer your question?

8 COMMISSIONER SCHMIDTLEIN: I think so. But I'm
9 trying to get at some of these other uses, the other
10 segments, right, for the aerosol foam, the pharmaceutical.
11 Are you saying that those purchasers didn't experience any
12 kind of shortages because you were able to -- because you
13 had contracts and so you had to fill those contracts first
14 and therefore that allowed the spot sales to be taken by the
15 imports?

16 MR. RUBIN: There's a dynamic that exists there
17 where you're going to fulfill your contractual obligations
18 before you fulfill your spot obligations where you have a
19 spot market. So, from the impact of supply I don't think
20 any of the stationary OEM customers, mobile OEM customers
21 had to shutdown a plant because of lack of supply and that's
22 because contractual obligations committed the manufacturers
23 of the 134-A to ensure that they would supply them first
24 from a prioritization standpoint.

25 So, again, it lends itself that the spot market

1 is the one that will be most open to the imported product.

2 COMMISSIONER SCHMIDTLEIN: And the U.S. producers
3 mostly sell in the automotive aftermarket on a spot basis
4 versus contract basis?

5 MR. RUBIN: Generally, yes.

6 COMMISSIONER SCHMIDTLEIN: And right now there's
7 no supply constraint? U.S. producers have not been unable
8 to supply any customers or unwilling to supply any customers
9 during the period of investigation?

10 MR. RUBIN: The Dupont view is the supply
11 tightness essentially ended at the end of 2011. We've not
12 been in a position with an inability to supply any of our
13 markets since the end of '11, so 2012, 2013, and into 2014
14 is not supply constrained from Dupont's perspective.

15 MR. GEOSITS: And that would be the same for
16 Mexichem.

17 COMMISSIONER SCHMIDTLEIN: Okay.

18 MR. SCHAGRIN: Can I just add, Commissioner
19 Schmidtlein that I think within your staff report, and given
20 the way the Commission analyzes these cases, fortunately,
21 you have the ability to not using a econometric analysis,
22 but you do have an ability to look at Chinese imports as a
23 cause of the price depression in this industry versus the
24 ending of this supply tightness. So, you have information
25 on underselling by quarter.

1 And not surprisingly, during the period of supply
2 tightness in 2011, you don't see a lot of underselling. And
3 then as we move forward in the POI, you find both more
4 instances of underselling, particularly, when you weigh it
5 by volume and look at the comparisons for the 30-pound
6 canisters and more significant margins of underselling. And
7 in this industry, undoubtedly, a condition of competition is
8 these plants have to run 24/7. So, in this spot market for
9 the auto aftermarket the domestic industry participants
10 can't sit back as they're hearing from their customers that
11 the Chinese are selling at ever lower prices and say, oh,
12 well, we'll just curtail production next week at a huge
13 cost.

14 So, people like Mr. Geosits and people on Mr.
15 Rubin's team have to react quickly to the Chinese lower
16 prices. And I think you'd have to also ask yourself in an
17 industry that's traditionally been profitable where there's
18 only three domestic participants, and in a situation where
19 after a supply tightness in 2011 and you have demand
20 relatively static in '12, '13, and '14, what would cause
21 prices to fall to below the domestic industry's cost of
22 production other than the increase in imports underselling
23 the domestic industry and I think that is your answer.

24 You don't need to way causes. You just have to
25 find that the increased imports of imports from China

1 underselling domestic industry was a cause of price
2 depression and a cause of material injury. Thank you.

3 COMMISSIONER SCHMIDTLEIN: All right. Thank you.

4 CHAIRMAN BROADBENT: Thank you. I have sort of a
5 stark memory of the demand in this product, moving to
6 Washington many years ago huge heat beating down on me in my
7 car that was about 10 years old. And I was trying to find a
8 job, and couldn't afford to get the refrigerant replaced.
9 And it was huge tradeoff between arriving at my job
10 interview very sweaty or could I afford to pay for this
11 stuff.

12 I mean you sort at a real basic level there's a
13 huge demand for refrigerants that we have to solve in this
14 market. And I understand that the price can really shoot
15 up. Can someone explain to me the bigger things going on in
16 this industry that lead to the shortage in 2010 and 2011?
17 I'd just like a succinct discussion, and if the companies
18 disagree, but just very short what happened in this market
19 and how much did it have to do with regulation and demand
20 and all the other swirling forces going on?

21 MR. GEOSITS: Chairman, there were a number of
22 issues that have probably lead to the shortage during the
23 time period in question. Certainly, one of the biggest was
24 we were coming out of a recession period where demand
25 dropped significantly.

1 Going back to 2007, I believe that the domestic
2 auto industry produced approximately 16.5 million vehicles.
3 After the depression or after the recession, the auto
4 production dropped to about nine million. So, within a very
5 short amount of time we had a significant crash in demand.
6 As a result, we had to react to that and people needed to
7 cut production on many things, besides R134a, but certainly
8 R134a was affected, so production was curtailed.

9 Then as we began to come out of that recession
10 the volumes dropped or jumped up very quickly. Maybe we
11 didn't react quickly enough to the signs and the recession
12 ending and production and volumes maybe didn't meet the
13 levels that they should have. So that is certainly one
14 factor.

15 CHAIRMAN BROADBENT: Volumes of cars?

16 MR. GEOSITS: Production of R134a.

17 CHAIRMAN BROADBENT: Volumes of R134a didn't
18 really keep pace with the demand.

19 MR. GEOSITS: That's certainly a possibility. In
20 addition, there were some new applications for R134a that
21 came on during that period. There was a shift to R134a from
22 some HCFCs for foam blowing that now use R134a. So, during
23 that time period there was a shift from HCFCs to R134a. We
24 had increasing volumes coming through in OEM sectors, so
25 those are some of the issues that probably affected that

1 shortage at the time.

2 MR. RUBIN: Just to add, and I think Pete
3 captured it well. Think of it during the recession the
4 biggest thing that happened there is everybody became very
5 cash conscious. I mean they didn't want to hold significant
6 inventory levels. You know, it was a difficult business
7 period cross the country. It was not just in this sector.
8 And during that period of time there was an emptying of the
9 channel from inventories.

10 Typically, as business is running in a normal
11 course we have inventory. Our customers have inventory.
12 Their customers have inventory and their customers have
13 inventory, depending on how extended the value chain is.

14 As you got to the end of 2009, there was a
15 de-inventory of the channel. So, when demand -- as Pete
16 just mentioned, as demand started to pick back up, it was
17 not only a need to fulfill the market demand. There was a
18 need to refill the channel from an inventory standpoint.
19 And while I don't think Dupont has perfect visibility on the
20 exact amount of inventory that's contained in every level of
21 the value chain, I do feel it's reasonable to say it's a
22 significant level. And so, the need to refill the entire
23 value change with inventory can't be understated in terms of
24 the short-term spike in market demand that occurred.

25 The other thing is, and Pete mentioned, is

1 because of the ozone issue, again, 22, which is still used
2 in refrigeration today, but it was banned from the use and
3 production of polyurethane foam, polystyrene foam for
4 insulating products, packages, at the end of December 31,
5 2009.

6 So, come January 1, 2010, we had this large
7 sector that used a significant volume of 22 that was now
8 transitioning to 134-A and other possible solutions, but
9 134-A was clearly one of the solutions that was part of
10 that.

11 So, we have the re-inventorying of the chain. We
12 have the up tick in actual market demand. We have the
13 transition of the scenario. In Dupont's pre-hearing brief
14 we have under our information about it, we had our own
15 operating issues. So, there were -- I don't want to make it
16 all demand. There were some supply side things that also
17 impacted this. So, you had a combination of many elements
18 that lead to what is I think a transient dynamic in the
19 marketplace, but it was a short-term tightness where the
20 suppliers were challenged to be able to supply their
21 customers.

22 MR. SCHAGRIN: Chairman Broadbent, let me add one
23 other item because I know at the staff conference the
24 Respondents, both AutoZone and their economist made a lot of
25 comments about fluctuations demand caused by temperature

1 changes.

2 I'm certainly not a meteorologist, however, the
3 Commission has a great staff report here. You cannot only
4 look at demand for the entire consumption of our 134-A, but
5 you can also see it for the auto aftermarket segments. And
6 not surprisingly, there's really not very significant
7 fluctuations in demand over your POI. So, they might come
8 in this afternoon and say, well, of course the industry lost
9 money in the first half of 2014. We all know this was the
10 coolest summer in Washington, D.C. in the past 24 years.

11 Well, while those of us who live and work in
12 Washington, D.C. think this is the only important city in
13 America, I happened to have three business trips to
14 California over the last three months. It was the hottest
15 summer in California in probably the last 20 years.

16 CHAIRMAN BROADBENT: Okay, Mr. Schagrín, I just
17 wanted to get a clear answer on this demand situation, and
18 I'm sorry about that because I got a little bit lost when
19 you talked about the different product numbers and what's
20 going on in the shift because I get my 134s and all the
21 numbers mixed up.

22 So, the shift that you were talking about to the
23 subject product there was a demand shift from this foam
24 industry?

25 MR. SCHAGRIN: Yeah, the ozone regulations

1 prohibited the use of another fluorochemical. I guess the
2 number really isn't that important. There was another
3 fluorochemical that was used in polyurethane and --

4 CHAIRMAN BROADBENT: But actually, that's the
5 only way I can keep it straight.

6 MR. SCHAGRIN: Okay.

7 CHAIRMAN BROADBENT: So, you got to tell me the
8 number.

9 MR. SCHAGRIN: It was R-22, ACFC-22.

10 CHAIRMAN BROADBENT: And that's the original old
11 product that was done with the joint venture of many years
12 ago.

13 MR. SCHAGRIN: 1933. That's right. So, that was
14 banned from use in polyurethane, polystyrene foam at the end
15 of 2009. So come January 1, 2010, a manufacturer of
16 polyurethane foam had to use something different than that.

17 One of the options that a number of the
18 manufacturers transitioned to was 134-A.

19 CHAIRMAN BROADBENT: Just one point of
20 clarification. What do you use polyurethane foam for,
21 generally?

22 MR. SCHAGRIN: That's for construction
23 insulation, things that goes on in building insulation.
24 These are all insulating products; both polystyrene foam and
25 polyurethane foam go into insulating buildings. Polystyrene

1 foam was also used in packaging.

2 CHAIRMAN BROADBENT: So, that's a huge market and
3 a huge impact of this phase-out regulation. I mean in this
4 curtailing at the end of 2009.

5 MR. RUBIN: It was versus just normal market
6 organic growth it was a significant increase, but the total
7 market compared to the refrigerant's market is not --
8 relative to other markets I would still not call it as
9 significant. The difference was that it happened in a point
10 in time, and so there's a sudden increase in demand combined
11 with the other elements that were going on that drove the
12 market to have the tightness.

13 CHAIRMAN BROADBENT: Okay.

14 MR. GEOSITS: Chairman, in addition, you asked
15 about the demand for foam.

16 During that time, a lot of the foam that is used
17 is in construction and the construction industry really
18 hasn't recovered since the recession, so the amount of
19 building that was taking place during that period compared
20 to 2006, 2007 was significantly less.

21 So, while it was new demand to 134-A in terms of
22 the total foam requirement it probably wasn't as much as it
23 had been in previous years.

24 CHAIRMAN BROADBENT: Okay. Thank you for that.
25 Let's see, Chairman Pinkert I think maybe on jury duty, so

1 we'll let him enter in if he gets here, but Commissioner
2 Williamson?

3 COMMISSIONER WILLIAMSON: Thank you. And I to
4 want to express my appreciation to all the witnesses for
5 presenting their testimony today.

6 I'm trying to understand the difference in price
7 among the different end use segments. Are prices determined
8 in different ways in the different segments, and what else
9 might explain the differing prices?

10 MR. GEOSITS: There are differences in prices in
11 the segments, Commissioner Williamson. There are contract
12 segments and there are segments that are spot pricing. Spot
13 pricing certainly fluctuate with market conditions up or
14 down, and they tend to lead the market. So, immediate
15 circumstances would affect those prices, and you'd see them
16 being affected first.

17 Contract prices may be in place for three, six,
18 twelve months at a time, so those prices would not be as
19 affected as a spot price. But certainly, at the end of that
20 contract period, you would see contract prices move as you
21 renegotiated with various companies and that happens either
22 up or down. So, in an up market where you see spot prices
23 moving upwards, the contract prices will be flat until that
24 contract period is over. And at that point in time, a
25 negotiation would take place and certainly if prices were on

1 the rise producers would look to increase the price in those
2 contracts.

3 Equally, as prices come down you'll see spot --

4 COMMISSIONER WILLIAMSON: Okay, I can understand
5 the relationship. Now, I want to know -- you look at OEM
6 aftermarket where the spot price is most predominant?

7 MR. RUBIN: Well, the spot prices are
8 predominately in the aftermarkets, the two aftermarkets, the
9 stationary aftermarket, and the mobile aftermarket. This is
10 this service industry, so the guy who comes to your house to
11 fix your air conditioner that would be the stationary
12 aftermarket. You take your car to the garage for Chairman
13 Broadbent's, you know, car back 10 years ago, yes, that was
14 going to the service industry and they would have a can or a
15 30-pound container.

16 I think a couple of the differences in pricing in
17 segments, if you're looking across segments why would
18 segments have different pricing? One is are they in
19 packages or are they in bulk? Package cost money. It's a
20 consumable. Think of it that way. A 12-ounce can cost
21 money. To put it in a 12-ounce can, you're generally paying
22 a loader, someone, a toll supplier to put it in the can for
23 you. You have to pay that service, so there are different
24 elements.

25 If you're just looking at the cost to produce,

1 there's a difference between a package price and a bulk
2 price. You would expect often a bulk price to be lower
3 because it doesn't have these other elements of cost. Yet,
4 I think when you look at the mobile aftermarket that's
5 actually not the case. The reason why it's not the case is
6 because we have the highest level of competitive intensity
7 of imported product from China.

8 There's other things. Take the pharmaceutical
9 application. Peter had mentioned this before. There's a
10 risk to serve that industry because it's all chain of
11 custody. There's FDA rules. People are inhaling the
12 product. So, generally, when you have a significant
13 difference in risk that you're assuming you're going to want
14 to require a higher price to compensate you for that risk
15 because business risks versus return.

16 I think so you'll see the Pharma industry will
17 tend to be higher because of that level of risk associated
18 with participating in it. So, price to a segment is a
19 function, obviously, of many things. But I think if you're
20 looking for some basics is it in a package that cost money?
21 What is the risk element associated or other what I'll call
22 intangible values that segment would truly require? That's
23 going to relate to what the pricing would be.

24 COMMISSIONER WILLIAMSON: In the aftermarket is
25 there any numbers or any estimates of what the percentage

1 might be in the package, which I guess is the do-it-yourself
2 versus the auto shop.

3 MR. RUBIN: For the mobile aftermarket it's a
4 higher percentage -- well, the marketplace receives
5 everything in packages. The question is whether or not from
6 a manufacturer does a manufacturer supply bulk to a
7 repackaging? Who puts it in the package? You go to an
8 AutoZone you're only going to see packages on the shelf.
9 You don't see a big 30,000-pound bulk container for a
10 consumer to come in and buy it.

11 So, what happens is depending on where you're
12 talking about in the value chain the supply from the
13 manufacturer from a percentage basis is higher for Dupont in
14 packages. We do not sell to bulk or sell very little bulk
15 to repackagers. We do not private label, so our product is
16 packaged by tollers for us into our packages and is placed
17 on the market through the same retail chains, but it'll be a
18 Dupont can in the marketplace.

19 If you look on the stationary side, almost all
20 the product is in packages. This is the contractors
21 carrying that propane tank up to your air conditioner or
22 inside your house for your refrigerator. The aftermarkets
23 are going to be much -- when you get to the consumer facing
24 it's going to be all packages.

25 COMMISSIONER WILLIAMSON: The stationary side is

1 that -- we have a category called "Other Refrigerants." I'm
2 looking at Table 3-6. I assume that's what that is.

3 MR. GREENWALD: There's a wide variety of things
4 in there, and I think it's better to get from each company
5 what they'd categorized as "Other." Can we do that in the
6 post-hearing brief?

7 COMMISSIONER WILLIAMSON: Sure.

8 MR. GREENWALD: Would that take care of the
9 issue?

10 COMMISSIONER WILLIAMSON: And also, I'm just
11 trying to link Mr. Rubin's stationary and mobile market to
12 what numbers I'm looking at. Good.

13 MR. SCHAGRIN: I would just point out,
14 Commissioner, another major item besides the stationary in
15 other refrigerants would be the propellant market, what goes
16 into all your aerosol cans, whether it's hairspray or God
17 knows what, under arm spray, all those propellants would
18 also be in the "other refrigerants." And we'll try to give
19 you some breakouts in the post-hearing, but those would be
20 the two main components, the stationary aftermarket and the
21 propellant/aerosol industries.

22 COMMISSIONER WILLIAMSON: And are those primarily
23 spot market or contract sales?

24 MR. GEOSITS: For propellant it varies,
25 Commissioner Williamson. For foam there are foam

1 manufacturers who have contracts, but for the propellant
2 industry there may be people in the propellant industry who
3 buy on the spot market, so it does vary.

4 COMMISSIONER WILLIAMSON: Thank you. And so in
5 addition to the way the prices are determined by spot or
6 contractor, and then there is the size. Those are the main
7 things that drive price I mean beside the --

8 MR. GREENWALD: And the presence of imports or
9 not. I mean it is also how many competitors or any
10 particular sector, and that obviously has an impact on price
11 as well.

12 COMMISSIONER WILLIAMSON: Thanks. Could you
13 elaborate more on why the mechanisms by which prices in the
14 auto aftermarket segment could affect prices in the other
15 market segments? I understand it's the OEMs will know what
16 the prices are, but could elaborate on that, given the
17 diversity of this market?

18 MR. RUBIN: Let me start by just making sure that
19 I clarify something, Commissioner Williamson. The Chinese
20 imported product is not only present in the mobile
21 aftermarket. The greatest use where it's penetrated is in
22 the mobile aftermarket for the reasons that I've already
23 said before -- packaging, single product, et cetera, et
24 cetera. But the awareness of the price offering to the
25 other segments is known by professional sourcing management

1 go to the OEM. This is what they do for a living. They
2 understand markets and they try to leverage whatever they
3 can leverage versus their suppliers to buy as effectively as
4 they possibly can.

5 So, the expression of the world is flat I think
6 is very appropriate here. There's an understanding of
7 market offerings. So, while I think it's clear from the
8 volume goes from all the information that's already
9 presented to the Commission that a large portion of the
10 imported product goes into the mobile aftermarket.

11 I think it would be a mistake to have a belief
12 that that's the only place it is having an impact, but the
13 most significant impact is clearly there because that's
14 where the significant share is being eroded. So, it's not
15 just price erosion. It's price erosion combined with share
16 erosion.

17 MR. GREENWALD: If I can elaborate on this, and I
18 don't want to get into confidential information, but you
19 have a list of importers and you have a list of who imports
20 over time.

21 When you think about an automotive company, a GM,
22 a Ford, a Chrysler, they will buy for their OEM for their
23 new vehicles, but they will also buy for their service
24 centers for the dealerships, et cetera, where you need the
25 smaller packages.

1 What I'd urge you to look at when you look at the
2 two is the information on who is importing and ask yourself
3 whether direct knowledge of imports in let's say for a
4 service application is likely to inform officials of that
5 same company that are negotiating an OEM contract, and I
6 think the answer to that is going to be clearly yes.

7 MR. GEOSITS: I'd just like to amplify Mr.
8 Rubin's comments. Certainly, the mobile aftermarket has
9 been the market that's been greatest effected by China's
10 imports, but there are Chinese imports in other areas. In
11 the propellant area we've seen significant imports of
12 Chinese product that have deteriorated prices as well, and I
13 just wanted to point that out.

14 COMMISSIONER WILLIAMSON: Thank you for those
15 answers.

16 CHAIRMAN BROADBENT: Commissioner Johanson?

17 COMMISSIONER JOHANSON: Thank you Chairman
18 Broadbent. And I would like to thank you all for appearing
19 here today. This is a very interesting hearing. I'd also
20 like to note that I like your product. Like Chairman
21 Broadbent, I showed up in D.C. right out of college and had
22 a car with a faulty air conditioner. In my case, it was a
23 1979 Volkswagen Scirocco. And I found out that summers here
24 are even worse than those in Texas. They really are.

25 But I understand that Tetrofluoroethane is being

1 phased out, so I encourage you all to come up with an
2 alternative, which functions well and which is not
3 flammable. That's a factor, as well I understand in the
4 development of new coolants.

5 I was wondering why aren't subject imports in use
6 much in end use markets outside of the automobile
7 aftermarket?

8 MR. GEOSITS: Commissioner Johanson, I don't
9 think it's a case where imports aren't being used in other
10 markets. As I just pointed out, in the propellants market
11 we've seen significant imports of Chinese product that have
12 come in at unfairly traded values and affected that market.
13 So, I don't think it's a case where product is not being
14 sold into other segments. It is. Certainly, the great
15 majority of it is coming into the mobile air conditioning
16 aftermarket as a result of several factors. Some of them
17 already being pointed out, packaging that made the ease of
18 transporting that product into that segment very convenient,
19 but that's not to say the product does not come in in bulk
20 containers from China and go to markets like the propellant
21 market or the foam-blowing market because it does.

22 COMMISSIONER JOHANSON: With the growth in U.S.
23 automobile sector, the U.S. automobile sector has come back
24 fairly strongly the past few years. Why isn't more imported
25 product going into OEM sector?

1 MR. RUBIN: I think a couple of the reasons that
2 are possible -- obviously, this is a question that you'd
3 also want to get feedback, I think, from the auto OEM, but
4 speaking for them from things that make sense one is it is
5 more expensive to ship bulk to the United States than it is
6 to ship the package.

7 Secondly, the 134-A, when you look at in the
8 total value of a car, you're putting about one pound of
9 refrigerant into that car. If you buy a \$25,000 car, and
10 you have essentially two dollars worth of refrigerant as
11 your cost of the car. So, while the auto OEMs from a
12 sourcing standpoint clearly want to leverage suppliers as
13 much as possible to drive cost down, other things may play a
14 more important factor in their minds in supply chain
15 security.

16 Having a shorter supply chain for them,
17 just-in-time delivery that doesn't mean it can't be overcome
18 with imported product, but there's infrastructure that needs
19 to be established and other elements that make it more
20 challenging. So, if you're an importer of product from
21 China and you're trying to say what's the path of least
22 resistance for me to get my product into the marketplace,
23 going to a large, multi-national OEM where you'd have to set
24 up infrastructure for staging of bulk tanks and things like
25 that would not be your first choice.

1 So, I think the lack of penetration is -- there's
2 an element of it's not as easy to get there, and there's
3 other values that the OEMs, the stationary or mobile OEMs
4 will place value on besides just the price of the product.
5 I think it's different in the mobile aftermarket or with a
6 stationary aftermarket for that matter, in that it's easier
7 for the imported product to get into the value chains. It
8 is, in the mobile case, it's a one product industry so
9 there's no mix impact. That's different than stationary.
10 Stationary we sell a portfolio of products to distributors
11 that sell refrigerant and they sell compressors and valves
12 and all different -- the whole product mix that they're
13 servicing the contract industry.

14 So, when you look across the applications, there
15 are, I think, logical reasons why the mobile aftermarket is
16 the path of least resistance for penetration in the U.S.
17 from imported product from China.

18 COMMISSIONER JOHANSON: Is the mobile aftermarket
19 growing? And the reason I'm asking this is because I know I
20 have someone who fixes my car, and I've asked them -- during
21 the recession I asked them how's your business doing? Are
22 you hurting from this? And he said, no, because people are
23 keeping cars longer for two reasons. First of all, the
24 economy's bad. They don't want to buy a new car. And
25 secondly, cars today last much longer than they did in prior

1 years. Is that impacting sales, and is that a reason why
2 China might be more interested in the aftermarket as opposed
3 to OEM market?

4 MR. RUBIN: I don't believe that's the driver for
5 why they're going after the aftermarket. Again, I think
6 it's the path of least resistance is the more attributable
7 factor.

8 In terms of the market size, the market size is
9 going to be dependent on two things, the number of cars on
10 the street and then how fast they have failed systems. One
11 thing that you said is definitely true. Over the years, the
12 auto manufacturers have improved the design, and so now --
13 in the old days, in the CFC days you'd have to go get your
14 air conditioner in your car recharged every one to two
15 years. It was the nature of the CFC systems, but those cost
16 50 cents a pound and it was not that much of an
17 inconvenience to go do it.

18 Things have gotten better as they transitioned to
19 134-A in the auto industry, and so that has now been
20 extended to I believe it's about every five years you have
21 to go and get your car serviced for its air conditioner.
22 But is the market growing? It's really going to depend on
23 the installed base. And so as the install base grows, the
24 market for service will grow. It's a natural connector.

25 MR. GREENWALD: Commissioner Johanson, if I may

1 -- again, this is in the confidential part of the report,
2 but the report is excellent in that it gives you shipments
3 by segments. And it gives you OEM segment. It gives you
4 shipments into the auto aftermarket. And you can look at
5 the period investigation data, and it will tell you two
6 things, which segments are growing and which aren't. And in
7 segments that are growing who is taking the growth. And
8 those, I think, make the essence of the case I want you to
9 look at, which is when you compare -- if you look at the OEM
10 segment and you look at the auto aftermarket segment in your
11 table what you will see is the growth over time. And you
12 will also see in each segment the extent to which the
13 domestic industry participates in that growth. And it seems
14 to me that is very instructive.

15 MR. PACILLO: Could I just add something? I see
16 it more as a process. The first process was get 30-pounders
17 into the aftermarket. That's the easy step. Take over that
18 market. Next, we're moving into bulk containers into
19 aerosol. And final step will be auto OEMs. I think you can
20 be certain of that if China is allowed to continue to trade
21 unfair product at low prices eventually the OEMs will move
22 across, and we'll be completely out of business. It's a
23 process. Easy thing, next hardest thing, and then the
24 hardest thing, but it's coming.

25 COMMISSIONER JOHANSON: Thank you. And Mr.

1 Rubin, I have another question for you. You spoke this
2 morning of high inventories in 2009 and the need for this
3 product to be sold because inventories were high. How long
4 is possible to hold this product in inventory, and how is
5 that done?

6 MR. RUBIN: Commissioner Johanson, actually, I
7 said the inventories entering 2010 were low.

8 COMMISSIONER JOHANSON: I apologize.

9 MR. RUBIN: As a result of the recession,
10 everyone was cash conscious, including Dupont. Everybody
11 was trying to batten down the hatches to get through the
12 recessionary period. And what happened during that period
13 of time is the value chain de-inventory in order to not tie
14 up cash in slow-moving product because the market demand was
15 down.

16 As the market began to recover, what I was saying
17 is that not only did the instantaneous demand, what the
18 customer needed that day needed to be filled, but also the
19 entire value chain needed to be restocked, re-inventoried
20 because Commissioner Broadbent was asking the question why
21 was the tightness -- why did the tightness occur. One of
22 the key elements from the demand side was that the value
23 chain needed to be restocked, so inventory was not high. It
24 was actually very low entering 2010.

25 There's what I would generally call a steady

1 state inventory level. Now, a steady state actually may
2 have varying inventories at different times of the year.
3 The cost of the seasonality of a mobile aftermarket you'll
4 carry more inventory in March than you might carry in
5 October because less people are going to be looking for
6 service. So, companies have a rhythm to the inventory they
7 want to carry under normal conditions.

8 What happened was is that they de-inventories,
9 and then as you're coming into the season -- we're entering
10 2010. The economy is picking back up. Demand is starting
11 to be seen. The signal of demand is starting to be seen by
12 the retailers. And all of a sudden, nobody's got any
13 inventory on their shelves. That generates a spike in
14 demand in a very short period of time.

15 And that combined with the foam and the other
16 factors lead to the tightness that lasted from about
17 mid-2010 all the way through 2011.

18 COMMISSIONER JOHANSON: Thank you. And Chairman
19 Broadbent, can I follow up? I will not take too much time,
20 but this is relevant I think to what Mr. Geosits was stating
21 about that you cannot shut -- it's very expensive to stop
22 operating the plant or a plant that produces this product.
23 Can it be held? Can it be stored, however? Let's say you
24 are producing too much. How would it be stored and how long
25 could that be done for?

1 MR. GEOSITS: Our 134-A inherently is extremely
2 stable, so you could store 134-A for several years without
3 having the properties degraded. So, the storage of product
4 over several years time is no issue.

5 COMMISSIONER JOHANSON: But it would, of course,
6 drive down the price I assume if you have extra inventory
7 sitting out there.

8 MR. GEOSITS: That would. You asked how we would
9 store product?

10 COMMISSIONER JOHANSON: Yes.

11 MR. GEOSITS: I don't know if the pictures that
12 we had shown before the plant showed two large spheres on
13 our plant at St. Gabriel. We have spheres that store
14 significant amount of refrigerant on site. In addition, we
15 have a fleet of railcars and product could be stored in
16 railcars as well. So, there's the ability to store
17 thousands of tons of refrigerant should that be required.

18 COMMISSIONER JOHANSON: All right. Thank you for
19 your responses.

20 MR. RUBIN: And Commissioner, if I could just add
21 one thing because I think in the natural "rhythm" of the
22 business because the refrigerant portion of the business has
23 a seasonality to it the way the manufacturing plants are
24 designed is that they're not designed to make to the peak
25 demand.

1 In other words, at the peak demand the plant
2 actually can't make that much. The way Dupont works, and
3 I'm fairly confident the way Mexichem works is we run the
4 plants full through the year, so when the second half of the
5 year you're actually building inventory. So, we need to
6 have significant storage capability in order to store this
7 product. And then as the season approaches, you began to
8 deplete inventory because demand actually outstrips your
9 ability to make on an instantaneous basis and that cycle
10 goes.

11 So inventory goes up and then comes down as you
12 go through the season. You hit a bottom around midyear and
13 then you begin building inventory again. So, there is a
14 natural storage capability that exists because of the need
15 in order to meet the peak demand when the plants are not
16 designed for that because if you designed it for that peak
17 point you've got way too much capacity for what the overall
18 because there's a part of the year that requires less demand
19 than during the peak season.

20 COMMISSIONER JOHANSON: All right. Thank you for
21 your responses.

22 CHAIRMAN BROADBENT: Commission Kieff?

23 COMMISSIONER KIEFF: Hi. This is all very
24 helpful. Just to follow up on a few of these exchanges, for
25 the industry witnesses, can you give me kind of a thumbnail

1 sketch of the relative magnitude of the different channels?
2 So in particular, what rough fraction or percent of your
3 volume goes into aftermarket OEM mobile? You know, is it a
4 big, a small?

5 MR. RUBIN: From a -- if you look at it from an
6 industry perspective, about 70 percent of the volume goes to
7 the aftermarkets and 30 percent goes through the OEMs on the
8 refrigerant side.

9 COMMISSIONER KIEFF: Oh, interesting.

10 MR. RUBIN: So think of it that way. It's a
11 service-based business. You buy an air conditioning
12 equipment, you want to keep it for 15 years, you probably
13 have to service it a couple of times over that life
14 expectancy. Well, that means you have two times as much
15 goes in that example.

16 COMMISSIONER KIEFF: And what now in the modern
17 world of the world in which we have shifted our foam
18 production our pharmaceutical production and all of the
19 other channels have flowed into the streams here, what
20 percentage of the total output goes to the aftermarket
21 market.

22 COMMISSIONER KIEFF: Is it still almost 70 or is
23 it now down around 50 or 20 or --

24 MR. GEOSITS: The automotive market comprises
25 about 60 percent of the total number.

1 COMMISSIONER KIEFF: Okay. So it's still a
2 pretty big --

3 MR. GEOSITS: Yes.

4 COMMISSIONER KIEFF: So your kind of view of the
5 impact of the Chinese participation in that market is that
6 there really are two mechanisms by which that impact is
7 significant, one is, it's big on its own, and then the other
8 is, pricing in the other channels inevitably follows to some
9 extent pricing in this channel. And so you're saying there
10 are two different mechanisms for that impact. Okay. That
11 makes sense.

12 Next kind of line of thinking, can you tell me
13 more about how your costs have changed? So is it your
14 variable costs that have changed in the last several years,
15 or is it your fixed costs, or both? Can either of the
16 industry witnesses tell me a little bit about that?

17 MR. PACILLO: I suppose we can each speak for our
18 own companies. And in our case it would be both. You have
19 an increase in raw material input costs, then you have
20 increase in fixed costs driven by increases in wages as well
21 as increases in the cost of maintenance materials and maybe
22 surprisingly here, but in the south where our plant is,
23 there's an enormous amount of investment going on so there's
24 a large increase in the cost of craft labor as well. So you
25 have the raw material cost impacts followed by fixed cost

1 impacts in both our own people, our contractors and the cost
2 of the materials in maintaining the plant.

3 COMMISSIONER KIEFF: Is there one raw material
4 that in particular is driving that?

5 MR. PACILLO: Well, we have two major raw
6 materials in our case hydrogen fluoride and
7 trichloroethylene and I believe you got our cost breakdowns
8 in the information that you have. Rather than me saying it
9 right out here in public.

10 COMMISSIONER KIEFF: That's fine. Totally
11 helpful.

12 On the fixed costs, to what extent is the
13 recently changed view of long-term capital depreciation
14 impacting your fixed costs? So, more specifically, if I buy
15 capital equipment, I, you know, invest to make it. When I
16 make that decision I think to myself typically, I assume you
17 do this, this is what we're all taught in business schools,
18 we think to ourselves, okay, what is the projected life, x
19 number of years, and you depreciate, in effect, the asset
20 over those number of years. But if a shift in the operating
21 environment, in this case, the legal part of the operating
22 environment tells you, we're going to basically go to
23 alternative refrigerants in a big way, in -- I forget the
24 year -- 2020, some specific year, if that year is before
25 your event horizon for full depreciation, you will then have

1 to re depreciate your accountant's -- especially if you're
2 publicly traded -- you will have to radically rethink the
3 way you're costing and you'll now have to depreciate much
4 faster and that will cause a spike in your cost that is due
5 to a change in the legal environment. To what extent is
6 that happening in your case?

7 (Simultaneous conversation.)

8 MR. PACILLO: You may be beyond where I'm able to
9 answer, but first I was mostly talking about cash costs.
10 Okay. What are we laying out in terms of money outside the
11 business.

12 COMMISSIONER KIEFF: Okay.

13 MR. PACILLO: Depreciation is not a cash cost.
14 It affects the profitability of your business, but it
15 doesn't take cash away from your business.

16 COMMISSIONER KIEFF: Okay. So that's very
17 helpful. And, again, if this is better to do in the
18 post-hearing, that's fine. But it would help us to
19 understand the extent to which changes in your accounting
20 profit are a big part of the costs you're discussing or
21 you're asking us to envision when we think about your
22 increased costs. And you can tell us later, it will be
23 fine, but just please provide that information. If it turns
24 out it's small or a zero, that's helpful. If it turns out
25 it's big, please tell us why that's not relevant to your

1 case.

2 Because I hear that a big part of your case is
3 that your costs are increasing.

4 MR. PACILLO: Our costs are increasing. That's
5 why you just can't look at price. You have to look at the
6 profitability of the business. The impact of rules of
7 accounting rules that is a real and present danger to us is
8 an asset write down because the value of the business falls
9 apart because our prices are so low and we can't compete.
10 So our business value falls and that's a real write off that
11 you have to take against your profitability. That's a
12 current threat.

13 The longer-term one, we'd have to respond.

14 COMMISSIONER KIEFF: And, again, I'll just ask a
15 follow up and invite the discussion in the post-hearing
16 rather than here. Please tell us in the post-hearing
17 whether that shift caused by the new event horizon that
18 plants that make this particular product have an
19 obsolescence date that's earlier than was otherwise
20 anticipated, whether that is impacting the decision to
21 invest, and a part of the opening statement in the morning
22 was, look, folks aren't investing in capital equipment in
23 this space anymore. And I'm just asking you to please tell
24 us afterwards, is that at least in part because no one is
25 going to be buying this particular product after 2020 at the

1 same rates they are today? Obviously cars last longer than
2 a year or two and the change in law doesn't cause everybody
3 to throw away their old equipment. But there will be a
4 change at that earlier event, does that change impact the
5 argument you made this morning about folks not investing in
6 -- maybe it does, maybe it doesn't. Tell us in the
7 post-hearing whether it does or doesn't and whether that's
8 relevant to the outcome. It may impact, but not in a way
9 that actually drives our decision.

10 MR. PACILLO: We will.

11 COMMISSIONER KIEFF: Can you also tell us, and,
12 again, this may be easier to do in the post-hearing, but an
13 you describe a little bit more about how the U.S. producers
14 compete with each other in the different end-use markets and
15 in particular are you each selling the same size containers?
16 Are you each in the same channels of distribution? And
17 whether you are or are not, can the lawyers tell us whether
18 that matters to our analysis? It may not matter.

19 MR. GREENWALD: I take it you would like that in
20 the post-conference --

21 COMMISSIONER KIEFF: Absolutely.

22 MR. GREENWALD: Okay.

23 COMMISSIONER KIEFF: And then along the way, if
24 you could talk about the role of the repackagers in that
25 market. Do they somehow compete against the domestic

1 producers in some way? And if they do, does that matter or
2 not matter to our analysis in this case?

3 MR. GREENWALD: Let me raise -- again, the answer
4 -- we'll give you a full answer in the post-conference
5 brief. But let me raise an issue that matters precisely
6 because of repackagers. What you frequently have if you're
7 a repackager is a choice between buying in bulk from an
8 Archima or from a Mexichem, or buying either in bulk or in
9 containers from China. In other words, you have a lot of
10 direct imports that compete directly. You're pricing
11 analysis did not capture that level of trade competition.
12 And it is all in the data. I don't quite know how we're
13 going to be able to fill it, if at all. But when you raise
14 the level of trade issue and how the competition works, that
15 matters.

16 COMMISSIONER KIEFF: Thank you. I apologize for
17 going over, but I'm done for the panel. So, thank you very
18 much.

19 CHAIRMAN BROADBENT: Commissioner Schmidtlein.

20 COMMISSIONER SCHMIDTLEIN: Thank you.

21 I apologize if this question -- I think
22 Commissioner Kieff may have answered it, and I was talking
23 to my aide, so just so I'm clear before we leave today,
24 because I just want to make sure I understand, Mr. Schagrin
25 and Mr. Greenwald, the relevance of the fact that in these

1 pricing products where there's no U.S. product, or the one
2 where there's no Chinese product and you see the prices
3 falling, I know one part of your argument is this can be
4 used to show causation because where you see competition
5 head on head the prices are falling greater. Is it your
6 position that that's the extent of the relevance or that the
7 price declines there are being also caused because of the
8 spillover effects and therefore are causing injury to the
9 domestic industry?

10 MR. GREENWALD: And I'll speak for myself and
11 then Roger can give you his answer. You have a direct
12 impact where there is clear head-to-head competition and you
13 see whatever you see and the data show what the data show.
14 You have an indirect spillover effect on other markets. I
15 mean, it is true that purchasing managers for large
16 companies know what's going on in the broader market and
17 they will use that in their negotiations with the domestic
18 producer and the potential for Chinese supply in an area
19 where the Chinese aren't as -- or the presence isn't as
20 great.

21 So you have the direct analysis and then you have
22 an indirect effect. What I am asking you to do in the first
23 instance is look at the direct data where there's the most
24 vigorous hint in competition between domestic production and
25 the imports. And then look elsewhere including the one area

1 where the Chinese supply and this is pharmaceuticals, really
2 isn't qualified. Where you have zero. Or you would have
3 not zero, but less of an impact. And I have reached -- I
4 mean, I have looked at the data. To me the conclusions are
5 obvious that you see a cause and effect relationship between
6 the imports from China and the area of direct competition
7 you see less of an impact, you also see an impact across the
8 broader market. And it's also true, it's something we can't
9 pretend that when you're at a tight supply high, prices
10 aren't going to go down. That's obviously true. So part of
11 the price decline over the period is in fact related to the
12 end of tight supply, but not the full amount. And that's
13 the point we're making.

14 Then there's a delta between where prices should
15 be now and where they actually are that we believe is
16 entirely attributable to the imports from China.

17 MR. SCHAGRIN: I completely agree with John and I
18 would only add, Commissioner Schmidlein, that probably your
19 best indicator of the overall impact both direct and
20 indirect on pricing in this industry is the incredible
21 decline in the profitability of this industry. People have
22 been in it for anywhere from 22 to 27 years. They've seen
23 various cycles. They've never -- as Mr. Goesits testified
24 to, they've never seen this happen before. And this is not
25 a situation where it was just natural and Mr. Schutzman

1 said, for people to go from extraordinarily high profits to
2 steep losses because you went from tightness to normalcy,
3 the reason for the change from high profits during a period
4 of tightness in the market to losses is because of the
5 continued increase in volumes at ever-lower prices by a very
6 substantial competitor. And that's why the distributor
7 repackagers who play the biggest role in the automotive
8 aftermarket, why they're obviously buying more and more
9 Chinese product at low prices and pushing the domestics
10 down, that's why you have purchasers and purchaser
11 questionnaires, the vast majority say the Chinese lead the
12 market in lower prices. Some purchasers say because of this
13 competition that prices are comparable. Only one purchaser
14 out of almost 30 said domestic prices are lower than the
15 Chinese.

16 So I think you just have an overwhelming record
17 here that shows that it's the Chinese that are contributing
18 the most, the price depression of the market and the result
19 of which has been losses in this industry.

20 COMMISSIONER SCHMIDTLEIN: So in terms of the
21 witnesses that are here today, have you all personally
22 experienced this phenomenon where purchasers in other
23 segments of the market are aware of what's going on in the
24 aftermarket for autos and they're quoting that to you in
25 terms of pharmaceuticals, or, you know, other segments where

1 the Chinese are not --

2 MR. SCHUTZMAN: Yes.

3 MR. RUBIN: Yes, there's no question. When we
4 sit down across the table from buyers in the other segments,
5 they will highlight the competitive pricing coming out of
6 China. It's part of the negotiating strategy that they will
7 use in order to try and get as cost effective, buy as they
8 possibly can. So they're going to use it as leverage. And
9 our job is to try and articulate the other values that we
10 try to deliver in order to defend and not have to go to
11 those levels in those segments. And how close you have to
12 go to those levels depends on how well you do at
13 articulating the values you deliver. But there is no
14 question, we have a litany of examples of where the pricing
15 coming from China has been used in the negotiations.

16 MR. GEOSITS: The same is true for Mexichem,
17 Commissioner. We've had many, many different companies in
18 various market segments come to us and report low prices
19 available from China and that has had an effect, certainly.

20 COMMISSIONER SCHMIDTLEIN: Okay. Thank you.

21 I just had a couple questions about critical
22 circumstances before I wrap up. And these may be best
23 answered by one of the counsel.

24 In terms of evaluating one of those critical
25 circumstances, what should we -- how should we factor in

1 inventory levels here? Is the focus only on the overall
2 increase in volume or how does the inventory level affect
3 our analysis?

4 MR. SCHAGRIN: Commissioner Schmidtlein, I think
5 you can take both into account. Under the statute,
6 obviously you have an analysis of the increase in volumes
7 over periods. It's interesting that the respondents both at
8 the Department of Commerce and we'll find out what they have
9 to say maybe during our lunch break on the final margins and
10 their final decision on critical circumstances as well as
11 here in their brief say, gee, don't just look at the three
12 months to three months as Commerce does, or six months as
13 six months as the Commission does, look at it on a seasonal
14 basis. And yet when you look at the imports on a seasonal
15 basis, you see a massive increase of imports.

16 We had comments which are confidential in our
17 prehearing brief that a question -- a comparison of import
18 volumes, sales, and reported inventories, but I think you
19 should -- obviously the Commission does take inventories
20 into account and I think that you and your staff should pay
21 attention to our comments on the reported inventory levels
22 by some of the responding importers or purchasers and decide
23 which box that went into to shift from an importers'
24 inventory box to a purchasers' inventory box and how does
25 that affect the reporting?

1 And, finally, as to the severely undermining the
2 relief, you know, we believe that when a domestic industry
3 is forced from profits to losses during the period in which
4 the import volumes spike after the filing of the petition
5 and when producers such as Mexichem which was in Mr.
6 Pacillo's testimony, are not operating full out in February
7 and March when in every other year in their existence, they
8 always did because that's the time you pump this product out
9 into the automotive aftermarket. And you've got this high
10 fixed-cost industry and losses mean an inability to reinvest
11 in an industry that is really governed by environmental
12 regulations and extreme attention to safety issues that
13 allowing this kind of massive import increase after the
14 filing of the petition severely undermines the relief. It
15 already has for Mexichem and I would posit for the entire
16 domestic industry as well.

17 COMMISSIONER SCHMIDTLEIN: Okay. I just had one
18 more quick question having to do with Weitron and the
19 evidence that it points to that it had contracts in place
20 prior to the filing of the petition that account for some of
21 the subject import coming after the post petition. And I
22 was wondering, and if not now, you can address it in the
23 post-hearing brief since we're almost out of time, that
24 would be fine too.

25 MR. SCHAGRIN: We would like to address that in

1 our post-hearing brief.

2 COMMISSIONER SCHMIDTLEIN: All right. Thank you
3 very much.

4 CHAIRMAN BROADBENT: Okay. Do petitioners agree
5 with the Chinese respondents that the spike hike for R34A in
6 2010-2011 was higher in the aftermarket than the price
7 increases in the other R134a markets?

8 MR. RUBIN: Yes, it's true. I think Peter had
9 made the comment that the reason for that was the speed with
10 which the tightness would begin to have an impact in that
11 market space because of the difference between a contracted
12 market and a spot market. In a contract market you have
13 price commitment for 12 or 24 months, or whatever the length
14 of that agreement is, you're going to honor the pricing for
15 the length of that agreement. On the spot market, as price
16 began to rise, it's going to be impacted by the marketplace
17 as soon as that dynamic begins to occur.

18 So the timing of the impact of the tightness is
19 going to be seen more quickly in the spot markets which
20 would be the aftermarkets.

21 CHAIRMAN BROADBENT: I notice that all the major
22 producers here export the product. Maybe I can get somebody
23 in the back row to answer this since they've all been pretty
24 quiet. How is global demand changing? How much do domestic
25 producers rely on their export shipments in their business

1 models?

2 MR. BACHMAN: Hello. My name is Jim Bachman and
3 as Greg introduced me, I'm the North American sales leader.
4 So I'll comment by default on the question. There is growth
5 outside the U.S. in the Asia market particularly in the
6 automotive segment. Obviously it's not keeping up with the
7 growth and capacity that's been added to meet that growth
8 out there in that market.

9 In Europe there are regulations already going
10 into place which will limit the growth of 134a in that
11 market and over time reduce 134a demand.

12 I would say probably in the rest of the world,
13 market growth is pretty static. Maybe a little bit of
14 growth in the Latin American market. But these are much
15 smaller markets to begin with. So the Latin American market
16 really is insignificant relative to the size of the U.S.
17 market.

18 MR. GEOSITS: I would agree with Mr. Bachman's
19 comments. Just to point out that in Europe I think the
20 demand is probably on the decline. And certainly folks in
21 Europe are seeing the same kind of situation that we see
22 here that there are imports from China that are drastically
23 reducing prices in those markets as well.

24 CHAIRMAN BROADBENT: What is the extra
25 purification required for the pharmaceutical grade product?

1 Can any R134a producer make the pharmaceutical grade?

2 MR. RUBIN: It's a distillation process. You
3 basically purify -- you get the quote, "refrigerant grade"
4 and then you purify to reduce the low-level impurities to
5 even much lower level. I think the other thing with
6 pharmaceutical is not just the purity of the product, but
7 there's a significant amount of requirements in what's
8 called "chain of custody". In other words, you have to keep
9 track of that product at every step until it gets into a
10 consumer.

11 CHAIRMAN BROADBENT: Right.

12 MR. RUBIN: And so the good manufacturing
13 practices that are required and the analytics that are
14 required and documentation that are required are all of
15 those things have a higher level of requirements than
16 refrigerants would have. So there's a processing step that
17 does take place, but it goes beyond that in terms of
18 differentiating the material.

19 CHAIRMAN BROADBENT: Okay. I'm going to take
20 advantage of having the witnesses here today because they're
21 just experts in this industry. I want to understand kind of
22 what we're rejecting for the future here in terms of what
23 product is going to replace R134a. How long that's going to
24 take? You know, when you all are kind of projecting phasing
25 out manufacturing of this product?

1 MR. GEOSITS: I think there will be a number of
2 products, not just one product in particular that will
3 replace R134a in various applications. And I would point
4 out that I would consider it a phase down rather than a
5 phase out. For example, in medical applications, I think
6 R134a will be around for a long, long, time. So to
7 characterize it as a phase-out, I think is incorrect. It
8 will be phased down in various areas. In the mobile air
9 conditioning area, there is certainly a potential candidate
10 and I'm sure Greg could talk a little bit about that. But
11 in the full market there are other potential substitutes as
12 well. So it's just not one particular product that will be
13 used in place of 134a, it could be many, or it could be
14 products that are not in kind, that are different
15 technologies, maybe people would use hydro carbons as
16 opposed to fluorocarbons. So there are many different
17 things that could potentially be substitutes.

18 MR. RUBIN: Just to add to that because I think
19 one of your points of your question is trying to address
20 what's the timeframe here. And I'll give you two
21 perspectives on that that hopefully will give you a sense
22 that 134a is going to be around for a pretty long time.
23 Europe has adopted a regulation, it's called an F-gas
24 regulation. And fundamentally it's a cap and reduction on
25 the amount of HFC products that are allowed to be placed in

1 the marketplace. That regulation is just going into effect
2 next year. And the phase down -- it never goes to phase
3 out, so it doesn't go to zero, it goes to a final point of I
4 believe 15 percent of some original level -- is in 2033.

5 So as just one example, for the type of time
6 horizon you're looking at, even in Europe which has a cap
7 and phase-down reg, there is a long period with which 134a
8 will continue to be used in the European marketplace. So
9 it's not going to happen next year. The reg comes in next
10 year, but it will actually be a transition over a couple of
11 decades.

12 In the case of the mobile air conditioning
13 sector, how long 134a is required is how long are 134a cars
14 are still on the street. The alternative, which Kieff
15 referenced, that we're publicly out there promoting as an
16 alternative for 134a, is the mildly flammable HF01234YF.
17 But for that, the U.S. is looking to regulate that possibly
18 by the end of the decade. So any car that is sold prior to
19 that is going to contain 134a. And then the lifetime of
20 those cars, which the lifetime of cars is actually longer
21 and it's getting longer versus shorter, as people try -- the
22 secondary market has grown, so lots of dynamics as to why
23 134a will continue to be used. There's 150 million plus
24 cars on the street today. All of those will continue to
25 need reservice. So I think when you're looking at how long

1 will 134a be needed, even for the mobile service market in
2 the United States, you're talking about decades. We're not
3 talking about two years, three years, you're talking about
4 20 years plus.

5 CHAIRMAN BROADBENT: Cars at this point are
6 still being made with 134a until the end of the decade?

7 MR. RUBIN: Right and at this time it's still
8 the EPA is under consideration what they are going to do, it
9 is not an actual regulation as of yet.

10 COMMISSIONER BROADBENT: Okay and then what was
11 the European regulation that went into effect in 2013 but
12 it's unclear whether they are enforcing it?

13 MR. RUBIN: Okay there was an original F gas
14 that was passed in 2005 that banned the use of a refrigerant
15 that had a global warming potential above a certain
16 threshold of which 134a is above that threshold. Starting
17 in 2011 for new platform cars with the complete transition in
18 2017. The controversy in Europe is that the OEM's may be
19 being very flexible in what's considered a new platform car
20 because the new refrigerant has a higher cost point than
21 134a and so obviously they would like to continue to use
22 134a as long as possible.

23 And so by 2017 F gas 1 as it's called in Europe
24 is going to be fully -- it's really the Mac Directive, which
25 is part of the F gas 1 will be fully implemented by January

1 of 2017 provided there is enforcement.

2 CHAIRMAN BROADBENT: Okay and then the product
3 that they are switching cars to in Europe in the OEM market
4 will be this HF01234YF?

5 MR. RUBIN: HF01234Y.

6 CHAIRMAN BROADBENT: The mildly flammable one?

7 MR. RUBIN: That's correct.

8 CHAIRMAN BROADBENT: Okay.

9 MR. GEOSITS: But there is no directive to say
10 what product you have to use. The product has to be less
11 than 150 in terms of GWP. There may be other alternatives
12 other than the product 1234YF that people may go to.

13 CHAIRMAN BROADBENT: Okay, thank you, really
14 interesting, sorry to go on. Commissioner Williamson.

15 COMMISSIONER WILLIAMSON: Thank you, a few more
16 questions. Do you agree with our staff's methodology for
17 determining import data or are there other measurements you
18 would suggest?

19 MR. SCHAGRIN: Commissioner Williamson, Roger
20 Schagrin. It's complicated I would say yes and no. It
21 sounds like a lawyer answering a question. So what the
22 Commission staff has done because we brought to the
23 attention of the Commission in the preliminary phase of the
24 investigation that a lot of imports were being
25 misclassified. Our basis for that is that and I think this

1 both Mexichem and DuPont keep track of imports of R134a from
2 PIERS reports because you are required on our 7501 custom's
3 entry forms to list the product imported and if it's R134a
4 that's what you have to put on your custom's entry form and
5 PIERS publishes information from those entries.

6 What PIERS does not give, because they are not
7 allowed to by customs, is the HDS used. So we brought to
8 the attention of the Commission at the preliminary phase
9 that there was a tremendous difference between the reported
10 data and a new custom's classification that began on January
11 1, 2009 instituted by this Commission's Office of Tariff
12 Classifications that was 112 Tetraflouroethane which is
13 exact product that is under investigation and the
14 information from PIERS.

15 As a result in your questionnaires, you asked
16 importers did they have imports in any categories other than
17 the proper classification and for those importers who
18 responded to your questionnaires and coverage is very good,
19 it's never entirely complete, the staff has added all
20 misclassified imports reported by importers to the totals
21 reported for the proper HDS and I think that's appropriate.

22 It's still, just because not all importers have
23 reported, it's still some under-reporting compared to the
24 PIERS data but we think it's perfectly adequate and
25 demonstrates the trends and rates.

1 COMMISSIONER WILLIAMSON: There's no need for
2 further adjustments at this point?

3 MR. SCHAGRIN: Probably not, we will provide the
4 PIERS data again in our post-hearing brief but I think the
5 staff has done an excellent job and I think has taken the
6 right approach to adding misclassified imports to properly
7 classified imports.

8 COMMISSIONER WILLIAMSON: Okay, thank you. How
9 easily can producers shift between export markets and the
10 U.S. market and during the supply shortages in 2010 and 2011
11 did the producers reduce exports in order to serve the
12 domestic customers?

13 MR. GEOSITS: I can speak for Mexichem. I would
14 say that yes that did happen. In the U.S. we probably
15 shipped less product than we might have otherwise shipped to
16 our export markets to keep it in the home market.

17 MR. RUBIN: For DuPont I think it would have
18 been dependent, I don't have the date in front of me but
19 without having the date it would have been dependent on what
20 our contractual obligations were. If we had a contractual
21 obligation with the company in Mexico we are going to
22 fulfill that obligation before we would service the spot
23 market and so the level of domestic sales versus the level
24 of export it really would depend on the mix of what our
25 contractual obligations were at the time.

1 Once we fulfilled those, I would say we would be
2 more apt to fulfill spot markets that were going to be the
3 most logistically efficient to fulfill. But we would have
4 to go back and we can supply that data if appropriate in the
5 post-hearing brief.

6 COMMISSIONER WILLIAMSON: Good, thank you. How
7 important is branding in this marketing and can branding
8 lead to a price premium?

9 MR. RUBIN: Well DuPont thinks branding is very
10 important which is why we don't private label. We think
11 there is an inherent value in the brands we sell and we
12 certainly work very hard to extract a premium but every
13 market opportunity is a little bit of a case by case basis
14 as to how much value because value is a very subject thing
15 and its very dependent upon individuals, market spaces et
16 cetera so we do think brand has value but it would be a
17 stretch to say that it is an overwhelming value compared to
18 other ailments.

19 MR. GREENWALD: I don't know that you've hung on
20 every word in our pre-hearing brief but one of the things we
21 did do was quote a questionnaire response from an importer
22 on that very topic. I can't say what it was publicly but
23 it's there.

24 COMMISSIONER WILLIAMSON: Okay, good.

25 MR. GEOSITS: From Mexichem standpoint I think

1 that it clearly has been shown in this hearing through the
2 data that this product is a commodity product and is
3 tremendously influenced by price. I personally don't
4 believe that brand carries that much weight. That's coming
5 from a company called Mexichem as opposed to DuPont but I
6 don't believe that branding for this commodity product
7 carries a lot of weight.

8 COMMISSIONER WILLIAMSON: It depends on where
9 you sit, thank you. Last question, Respondents argue that
10 one of the domestic producer's financial results are
11 anomalous and that the Commission should take this into
12 account in its analysis. In post hearing can you respond,
13 because it doesn't need to be done now?

14 MR. GREENWALD: Yeah I'll give you a short
15 answer. They are not anomalous. What the Respondents
16 miss is how the business models differ and the associated
17 costs. You have heard about costs in packaging and the
18 like and that explains differences in how the financials
19 look where the costs are et cetera but I won't say any more
20 than that now, we'll address it in the post-conference.

21 COMMISSIONER WILLIAMSON: Good, thank you and
22 with that I have --

23 MR. SCHAGRIN: We'll do that in the post
24 hearing.

25 COMMISSIONER WILLIAMSON: Good, thanks, okay,

1 with that I have no other questions. I want to thank the
2 panelists for their answers.

3 CHAIRMAN BROADBENT: Commissioner Johanson? Do
4 you all have any more questions?

5 COMMISSIONER JOHANSON: Thank you Chairman
6 Broadbent. If you all look this is actually a question for
7 Mexichem. If you look at page 14 of your pre-hearing brief
8 there is a chart towards the bottom of the page which talks
9 about domestic producers AUV's. Could you all in the
10 post-hearing brief explain -- discuss the prices of OEM's
11 versus after-market in AUV's?

12 MR. SCHAGRIN: Yes, we'll do that in the
13 post-hearing brief.

14 COMMISSIONER JOHANSON: You probably see what I'm
15 getting at? This is a BPI issue.

16 MR. SCHAGRIN: Some of the data is BPI so we
17 will do that in our post-hearing.

18 COMMISSIONER JOHANSON: All right thank you Mr.
19 Schagrin.

20 MR. SCHAGRIN: You're welcome.

21 COMMISSIONER JOHANSON: Now I would like to turn
22 to Mr. Geosits and you spoke earlier today about what
23 happened in 2009 in the market and how there were perceived
24 issues with the domestic producers supplying the product to
25 purchasers and I believe you stated that the domestic

1 producers can produce in the 30 ounce size, but the
2 purchasers alternatively could hire a toller to put it I
3 believe in the 12 ounce package, is that correct?

4 MR. GEOSITS: Yes we produce product and package
5 it in 30 pound.

6 COMMISSIONER JOHANSON: 30 pound.

7 MR. GEOSITS: 30 pound cylinders but we don't
8 produce in 12 ounce cans. However, we sell to re-packagers
9 who will re-package in 12 ounce cans or other types of cans
10 and put private label on those cans.

11 COMMISSIONER JOHANSON: Would that not have put
12 an additional financial burden upon the purchases who have
13 to arrange for the re-packaging?

14 MR. GEOSITS: No because somebody would have to
15 do that repackaging regardless.

16 COMMISSIONER JOHANSON: Okay.

17 MR. GEOSITS: If you have bulk product you have
18 to put it into some container, either a truck, a railcar, a
19 30 pound cylinder or a 12 ounce can. Somebody is going to
20 do that.

21 COMMISSIONER JOHANSON: All right thank you for
22 your answer there and I think an issue I have because I'm
23 having a hard time seeing what happens when the product is
24 packaged and maybe part of that deals with the size of the
25 retail size can. One unusual aspect of this market is that

1 there is only one government approved manufacturer in the 12
2 ounce retail size can and this as you can see, this is
3 discussed at page 22 of the staff report. How does this
4 factor affect the pattern of trade with China and the
5 re-packaging of the product Mr. Schagrín?

6 MR. SCHAGRIN: Commissioner Johanson it is
7 interesting and it's because you know these issues are
8 governed by DOT so I know there's been a number of questions
9 today about 12 ounce cans, I know that there were some
10 comments by Mr. Rubin about it being less expensive per
11 pound for the Chinese to ship product in these cans than it
12 would be in bulk but I don't think one aspect that he talked
13 about and I wanted to bring it to the attention of this
14 Commission. Every 12 ounce can shipped by any Chinese
15 company, be it a producer of R134 or a re-packager in China,
16 is made in the United States of America.

17 So a 12 ounce can -- imported a 12 ounce can from
18 China, has traveled from the U.S. manufacturer to China with
19 all of that ocean freight for the empty can. Then been
20 packaged in China and shipped back to the United States.
21 The alternative for companies such as IDQ and IDQ is one of
22 the largest distributor re-packagers selling to retailers in
23 the United States.

24 Before the Chinese came here in 2009 a company
25 like IDQ which has been around for a long time would have

1 bought just domestic product, put it in a 12 ounce can, sold
2 it to the AutoZones, Advanced Auto Parts, Walmarts, Home
3 Depots, Lowe's, et cetera. Now IDQ, and they are listed as
4 an importer in your 4-1 puts on their can product of the
5 U.S.A. and China.

6 So IDQ and probably every other distributor
7 re-packager, they can buy product from either domestic or
8 Chinese producers and put it in 12 ounce cans. I actually
9 believe the domestic industry has a significant natural
10 competitive advantage over the Chinese but commerce deals
11 with this in their dumping calculations because the cans are
12 made in this country. The cans can be shipped to a
13 re-packager in this country and they can buy on a bulk
14 basis, generally loaded on a train car from somebody like
15 Mexichem Fluor product of the United States and all that
16 additional freight costs, not to mention all the
17 fluorocarbons produced when we ship things 5,000 miles to
18 one place and 5,000 miles back in ships, you know can be
19 taken care of.

20 So I think you've made a good point Commissioner
21 Johanson. It's very unusual when I got into this case and
22 found out that we import a lot of 12 ounce cans from China
23 and every single one of them is made in the United States
24 because of DOT rules. They haven't licensed a can maker
25 yet to make DOT regulations, so I hope that answers your

1 question.

2 COMMISSIONER JOHANSON: Yes you have and this
3 next question is perhaps best seeded for this afternoon's
4 witnesses but I'll ask you in case you do know. Do you
5 know if Chinese manufacturers have tried to earn the
6 qualification to produce this can? I believe that what
7 would probably happen is that they would have to petition
8 the Department of Transportation I just don't know.

9 MR. GEOSITS: And I don't know the answer to
10 that either Commissioner Johanson.

11 COMMISSIONER JOHANSON: Okay, I will ask that of
12 this afternoon's witnesses. And with that I have asked all
13 of the questions that I would like to ask but thank you all
14 for appearing here today.

15 CHAIRMAN BROADBENT: Okay it looks like we are
16 winding down here. Mr. Rubin I just have one question.
17 What are the other alternatives for R134a? What other
18 products out there are known substitutes that we can keep
19 our fingers crossed will work in the future? Because
20 listening to you guys I'm getting a little worried about we
21 may have been living in a very cool world that we may not
22 get in the future at the same price.

23 MR. RUBIN: Well there's a number of different
24 alternatives that are being evaluated by different
25 suppliers, different manufacturers in the marketplace so

1 there is a process with which these different alternatives
2 are going to be evaluated. The EPA has a snap list which
3 is a significant new alternative policy. That's where they
4 will list the things that are acceptable for use as a
5 replacement.

6 Snap, S-n-a-p, there's already products that they
7 have listed as approved to replace 134a for specific
8 applications.

9 CHAIRMAN BROADBENT: For some of those products.
10 Maybe in this -- relevant here would be for the --

11 MR. RUBIN: I guess the best way to do it
12 without trying to turn this into a marketing comment is that
13 the products are generally reliant on the new technology of
14 what's called a hydrofluoro-olefins. That's HFO and
15 HFO1234YF stands for hydrofluoro-olefin and this is a
16 category of materials which will have a lower global warming
17 potential, significantly lower global warming potential than
18 the current HFC products and so some of the alternatives for
19 some of the applications are blends of the existing HFC's.
20 They have 134a in them with a hydrofluoro-olefin which gives
21 you a net global warming reduction of the finished product.

22 Some of these are 100% hydrofluoro-olefins in the
23 case of HFO1234YF in a mobile air conditioning system so I
24 think if you -- really there is a series of these
25 hydrofluoro-olefins that have already been developed and are

1 being evaluated in various blends by various manufacturers
2 and I would try and comfort you by saying I feel fairly
3 confident that there will be a very healthy portfolio of
4 products that the industries that are currently served by
5 fluorochemicals will have in the future to continue to use a
6 fluorochemical base product when that is the best option for
7 them to use.

8 Some of them will be DuPont products and some of
9 them will not be DuPont products.

10 CHAIRMAN BROADBENT: Okay, but probably at a
11 much higher price point?

12 MR. RUBIN: Generally these products are going
13 to be higher costs than the current products, so yes.

14 CHAIRMAN BROADBENT: Okay, anybody else? Okay,
15 all right. Commissioners have no questions does our staff
16 have any questions for this panel?

17 MS. HAINES: Elizabeth Haines, staff has no
18 questions.

19 CHAIRMAN BROADBENT: Do Respondents have any
20 questions for this panel?

21 MR. MARSHAK: No.

22 CHAIRMAN BROADBENT: Okay in that case, I want
23 to thank all of the witnesses for taking time out of their
24 schedules. It's now time for the lunch break, we will
25 resume at 1:15. Please be reminded that the hearing room

1 is not secure so do not leave confidential business
2 information out and I want to thank all the witnesses again
3 for coming today.

4 (Whereupon the meeting was recessed to be
5 reconvened at 1:15 p.m.)

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1 A F T E R N O O N S E S S I O N

2 MR. BISHOP: Will the room please come to order.

3 CHAIRMAN BROADBENT: Mr. Secretary are there any
4 preliminary matters for the afternoon session?

5 MR. BISHOP: Madam Chairman I would note that
6 the panel in opposition to the imposition of anti-dumping
7 and countervailing duty orders have been seated, all
8 witnesses on this panel have been sworn in.

9 CHAIRMAN BROADBENT: Thank you Mr. Secretary.
10 I want to welcome the afternoon panel to the ITC. I would
11 like to again remind all witnesses to speak clearly into the
12 microphone and state your name for the record for the
13 benefit of the court reporter. You may begin when you are
14 ready.

15 MR. SCHUTZMAN: Good afternoon Madam Chairman,
16 members of the Commission. Again I'm Max Schutzman.
17 Respondent's panel will have three witnesses for your
18 consideration. We will begin with Mr. John Lammers of
19 AutoZone to be followed by Deborah Dayton to my immediate
20 left of Weitron and then the economic testimony by Jim
21 Dougan, John?

22 I apologize, one more. Jarrod Goldfeder behind
23 me will speak to the issue of critical circumstances for
24 NRI.

25 STATEMENT OF JOHN LAMMERS

1 MR. LAMMERS: Good afternoon. My name is John
2 Lammers and I am the merchandising director at AutoZone.
3 With me is Jason Waite, our international trade counsel from
4 Alston and Bird and I'm here to testify on behalf of
5 AutoZone with two goals.

6 First I would like to explain to the Commission
7 why AutoZone needed to supplement its domestic R134a
8 purchases with sources from China and second I would like to
9 offer AutoZone's perspective on the R134a market.

10 A little background on AutoZone, AutoZone is a
11 leading retailer and distributor of automotive replacement
12 parts and accessories in the United States. AutoZone began
13 operations in 1979 and has evolved into a public company
14 traded on the New York stock exchange and listed among the
15 Fortune 500. We currently operate over 5,000 retail stores
16 in the United States, Puerto Rico, Mexico and Brazil.

17 We have more than 71,000 employees and more than
18 60,000 are in the United States. Each of our stores
19 carries an extensive product line for various types of
20 vehicles including new and remanufactured automotive parts,
21 maintenance items and accessories and non-automotive
22 products. Our products are also available online.

23 We also have a commercial sales program that
24 provides commercial credit and prompt delivery of parts and
25 other products to local, regional and national repair

1 garages, dealers, service stations and public sector
2 accounts. We do not derive revenue from automotive repair
3 or installation services.

4 I have been with AutoZone for nearly 2 years,
5 prior to that I was with Advanced Auto Parts for over 4. I
6 have been in the automotive aftermarket for 18 years and
7 have 18 years of experience in the refrigerant market. As
8 merchandising director at AutoZone I am responsible for
9 sales margin and sourcing for motor oil, filtration products
10 and select chemicals.

11 With respect to R134a I am responsible for the
12 sourcing, supply chain and price negotiations. R134a has
13 many uses, but its primary use is as a refrigerant for
14 automotive AC systems. Within the automotive sector, there
15 are two subcategories of end users or distribution channels.

16 The first distribution channel is the original equipment
17 manufacturers or OEM's who are automotive manufacturers
18 sourcing R134a in bulk directly from the U.S. producers.

19 To my knowledge, the Chinese do not supply any
20 R134a's to U.S. OEM's.

21 The second distribution channel and the channel
22 in which AutoZone specializes is the automotive aftermarket.
23 This segment of the market includes automotive repair shops,
24 car dealerships and auto parts retailers like AutoZone.
25 AutoZone has been supplying R134a to the automotive

1 aftermarket since approximately 1994 when its predecessor
2 R12 was phased out due to environmental regulations.

3 Our expertise is in supplying vehicle repair
4 shops and do-it-yourself individuals who need R134a for the
5 AC systems in their cars. R134a is a seasonal product.
6 Negotiations for our purchasing begin in the fall. We
7 arrange for delivery towards the end of the year and
8 continuing through the spring of the following year. Our
9 R134a gas business consists of two segments that are
10 primarily sourced out of the U.S.

11 One is the straight gas business and the other is
12 R134a with additives. The straight gas business is only
13 about 30% of our total R134a business. The remaining 70%
14 of our R134a business consists of R134a with additives which
15 has been and continues to be sourced domestically simply
16 because there is no other source for these products outside
17 the U.S.

18 AutoZone supplies two sizes of R134a to its
19 automotive aftermarket customers. 30 pound cylinders to
20 repair shops and 12 ounce cans to our DIY or do-it-yourself
21 customers. Prior to 2010 AutoZone sourced entirely from
22 the U.S. In 2010 as a direct result of shortages in U.S.
23 product produced R134a and in order to secure our supply
24 chain and supply our customers, AutoZone looked to China for
25 additional supply.

1 Our products can be broken down to the following
2 categories based on the source and channels of distribution.
3 First, 12 ounce cans -- these products include 12 ounce cans
4 of R134a that AutoZone buys from re-packagers such as IDQ
5 and National Refrigerant who purchase bulk R134a and package
6 it into 12 ounce cans.

7 Beginning in 2011 AutoZone imported R134a from
8 China in ISO containers and re-packaged in the United States
9 into 12 ounce cans. This model enabled AutoZone for the
10 first time to have direct access to R134a producers and for
11 the first time to exercise control over the re-packaging
12 process. In the past 12 months domestic cans represented
13 87% of our total R134a business, including both straight gas
14 and gas with additives.

15 Next is 30 pound cylinders -- these products are
16 30 pound cylinders of R134a that AutoZone either buys
17 domestically from re-packagers who purchase bulk R134a or
18 import from China. In the past 12 months domestic
19 cylinders represented 67% of our total R134a business.

20 It is a misnomer that AutoZone only returned to
21 sourcing R134a domestically after the initiation of this
22 case. To the contrary, we have always looked primarily at
23 the U.S. market for our supply and it was not until the
24 domestic producers could not supply R134a that we had to
25 turn to foreign sources.

1 We have never been able to buy any R134a products
2 directly from domestic producers. Domestic producers such
3 as Mexichem and Arkema have always sold their products to
4 U.S. re-packagers or distributors from whom we purchase the
5 majority of our supply. They never had any direct sales to
6 AutoZone although it is common knowledge that we are in the
7 market for bulk materials like their re-packaging customers.

8 Mexichem and Arkema have never solicited our
9 business and what we believe is because they have exclusive
10 relationships with the packagers and do not want to undercut
11 the packagers who are their primary customers and represent
12 their preferred distribution channel.

13 We requested quotes from DuPont many times over
14 the years but they have never quoted us. Most recently in
15 2013 and again in August of 2014 we met with DuPont to
16 discuss possible supply. On two occasions, including
17 before the initiation of this trade case, DuPont agreed to
18 provide us with quotes on truckloads of 30 pound cylinders
19 of R134a but we have never received any quote from them.

20 As a leading distributor to the automotive
21 aftermarket, AutoZone is dependent on its vendors to provide
22 on-time sourcing of quality products. As I noted before up
23 until 2010 AutoZone had been sourcing all of its R134a from
24 U.S. packagers like IDQ. Beginning in late 2009 and
25 extending into 2011 AutoZone suppliers struggled to obtain

1 U.S. produced R134a due to severe shortages on the market.

2 We understand that certain U.S. producers
3 significantly reduced their production of R134a following
4 the 2008 economic downturn. In addition to decreased
5 production beginning in 2009 there was a worldwide shortage
6 of raw materials which resulted in high raw material cost.
7 Around the same time demand in the automotive aftermarket
8 had surged as a result of record-setting summer temperatures
9 that caused customers to increase their dependence on their
10 vehicle's air conditioning systems.

11 The usual convergence of all these factors
12 resulted in supply for R134a being down while demand for
13 this product was extremely high. Unable to meet increased
14 demand, domestic producers of R134a either declined to
15 supply buyers or institute allocation systems and allocation
16 preferences.

17 In the preliminary phase of the proceeding, we
18 provided the Commission staff with substantial proof of the
19 domestic producer's inability to supply the U.S. market
20 including AutoZone. Left with no other choice AutoZone
21 turned to Chinese R134a manufacturers and obtained the much
22 needed supply. To adapt to this fundamental shift in its
23 R134a sourcing model, AutoZone was forced to develop a new
24 strategy in which we imported bulk ISO containers of R134a
25 from China and separately negotiated with re-packagers in

1 the United States to package the product in 30 pound
2 cylinders and 12 ounce can containers. These are the
3 patented cans that were mentioned earlier this morning.

4 This decision to source R134a from China was made
5 out of necessity, not by choice and not because of price.
6 In fact the prices we paid for Chinese R134a in 2011 were
7 significantly higher than the domestic prices during 2007
8 and 2010 before Mexichem acquired INEOS and the well-known
9 supply shortages that followed.

10 The prices we pay for Chinese R134a in 2011 were
11 also higher than what we were paying domestically. The
12 lesson AutoZone learned from this experience in 2010 and
13 2011 is that we must have greater control over our supply of
14 R134a rather than be entirely dependent on the U.S.
15 packagers and less than a handful of U.S. suppliers.

16 Being forced to source from China also enabled
17 AutoZone to have greater control and oversight of the
18 re-packaging process. Chinese imports have never pushed
19 low price R134a into the U.S. market, either before or after
20 the 2010 and 2011 shortages,
21 to the contrary, Mexichem and DuPont are generally regarded
22 as the price leaders.

23 For example, over this past summer AutoZone
24 received a 12% cost increase announcements from one of our
25 domestic suppliers. The cost increase was purportedly

1 based on the increase in the costs of raw materials.
2 Beginning in 2012 as our global sources came online after
3 our validation and factory auto process, the prices of R134a
4 began to return to pre-shortage levels.

5 The market is rationalizing and the prices we
6 have seen from 2012 to 2014 are similar to what we saw prior
7 to the shortages of 2010. While the prices are returning to
8 historical levels, we do not believe relying on U.S.
9 packagers for 100% of supply is an option for AutoZone.

10 First, it would be irresponsible to our
11 shareholders and customers to put such an important product
12 line for AutoZone at risk of short supply which we feel is
13 likely to recur if the Petitioner is successful in this case
14 and thereby solidifies its already tight hold on the U.S.
15 market.

16 On the demand side, the need for R134a in the
17 U.S. will fluctuate, mainly due to weather but it is
18 unlikely to decrease significantly. The pricing of the
19 product does not have significant impact on consumer's
20 purchasing decisions as consumers buy R134a when their air
21 conditioners are broken, even if they may not like the
22 price.

23 On the supply side, U.S. production of R134a is
24 dominated by only three domestic producers. These three
25 companies really act like one company. The Petitioner

1 appears to have a significant control over the raw materials
2 for making R134a. All it would take is a combination of
3 hot weather, shortages in raw materials made available to
4 U.S. producers and reduced domestic production for there to
5 be another perfect storm of widespread shortages as we saw
6 in the market in 2010.

7 Second, AutoZone needs control and flexibility in
8 its supply chain. The domestic producers do not appear
9 willing to change their entrenched distribution miles to
10 meet the needs of AutoZone and the automotive aftermarket.
11 AutoZone is over a 9 billion dollar company. We procure
12 most of our products in the U.S. and generally buy products
13 directly from manufacturers. R134a is one of the only
14 products which we cannot obtain directly from the domestic
15 producers. Indeed there are many can't dos with
16 domestically produced R134a.

17 AutoZone can't buy bulk directly from U.S.
18 producers. AutoZone can't source our private label
19 directly from U.S. producers however we can purchase them
20 only from re-packagers. AutoZone can't get certain
21 re-packagers to re-package bulk R134a that was directly
22 purchased by AutoZone due to these re-packager's
23 relationships with domestic producers.

24 And AutoZone can't ensure that domestic producers
25 maintain a steady supply of raw materials necessary to make

1 R134a to satisfy demand. As a result, while continuing to
2 buy most of its R134a domestically, AutoZone has begun
3 exploring other non-U.S. sources such as India and Europe in
4 anticipation of future shortages that we believe will ensue
5 if the Commission makes an affirmative finding.

6 We actually brought in some containers of 30
7 pound cylinders from a European manufacturer over the
8 summer. We have also invested significant resources in
9 establishing new overseas sources in anticipation of future
10 shortages in the U.S. sources. We understand that domestic
11 producers claim they lost significant automotive aftermarket
12 sales to Chinese R134a because the Chinese keep shipping
13 more into the market. However, in our view, assuming they
14 have the capacity to produce more, the domestic producers
15 could have made sales if they were willing to meet the need
16 of certain segments of the market.

17 We are one of the largest purchasers on the
18 automotive aftermarket yet two domestic producers never
19 solicited our business and the third has yet to supply a
20 price quotation. We believe removing China from the market
21 is bad for the health of the U.S. market and consumers. We
22 disagree with the domestic producer's claim that Chinese
23 R134a would flood the market if there is no anti-dumping
24 order.

25 The fast growing demand for R134a in foreign

1 markets makes those markets more attractive than the U.S.
2 market. For example, our experience from operating in
3 Mexico indicates that this is a fast growing market for
4 R134a. In addition, the domestic producers have natural
5 advantages over certain Chinese in certain segments of the
6 markets. For example, the OEM market is dominated by its
7 domestic producers. Certain products with additives are
8 only available from domestic sources and demand for such
9 product is growing.

10 I want to conclude my remarks with the following
11 three comments for the Commissioner's consideration.

12 First the R134a prices in 2010 and 2011 were
13 unusually high. The market now has begun to rationalize.
14 The market conditions since 2012 should be evaluated in
15 proper context and 2010 should not be taken out of the
16 picture when the Commission evaluates the market trend.

17 Second our experience in the market shows that
18 the allege injury by the domestic producers if any, was not
19 caused by the Chinese imports, but was of their own making
20 because they were inflexible and unwilling to adjust their
21 distribution chains and business models to meet the demand
22 of the automotive aftermarket and major buyers on the
23 market.

24 It seems to us that the trade action is
25 Petitioner's efforts to maintain abnormally high prices and

1 profit margins it enjoyed in 2010 and 2011. The Commission
2 should not allow the trade laws to become the Petitioner's
3 instrument to maintain a stranglehold on supply in the
4 market.

5 Finally the price anomalies in 2010 and 2011 hurt
6 AutoZone as well as American consumers and the Commission
7 must not allow history to repeat itself. The majority of
8 our sales are to average hard-working Americans who have
9 difficulty affording professional vehicle care and struggle
10 to maintain their aging cars themselves.

11 We are committed to preserving a market that
12 allows us to serve our customers. Thank you and I'm happy
13 to answer any questions you may have.

14 STATEMENT OF DEBORAH DAYTON

15 MR. DAYTON: Good afternoon, Madam Chair and
16 Commissioners. I am Deborah Dayton, President of Weitron,
17 Inc. As one of the largest U.S. importers of 134-A and one
18 of the so-called repackagers everybody's referring to, I'm
19 here today to discuss the subject of critical circumstance.

20 As a little background on our company, our
21 headquarters office, main warehouse, and plant are located
22 in Elkton, Maryland and Newark, Delaware. We also have
23 regional warehouse and storage facilities in Santa Fe
24 Springs, California, Springfield, Virginia, Richmond,
25 Virginia, Orlando, Florida, Tallahassee, Florida, and

1 Mobile, Alabama.

2 We are a 100 percent American-owned company that
3 has been in business in the U.S. since 1995. We purchase,
4 package, and sell a variety of refrigerant products,
5 including 134-A, that we procure from both domestic and
6 Chinese sources. We purchase bulk 134-A from the
7 Petitioner, Mexichem and Arkema and package it into 30-pound
8 cylinders and 12-ounce cans in our Elkton, Maryland
9 facility.

10 We also purchase bulk 134-A from Chinese
11 producers, and likewise, fill the same products in our
12 Taichang, China facility. These products are sold
13 principally to automotive aftermarket distributors for the
14 replacement market, both here in the U.S. and in China. The
15 prices at which we sell in the U.S. are no different for
16 U.S.-source material or Chinese-origin product.

17 When we started Weitron, we purchased all of our
18 134-A actually from a Japanese supplier, Daiken, as none of
19 the domestic suppliers would sell to us. As the years have
20 progressed, we have established ourselves, both in the
21 automotive and in other refrigerant markets as the high
22 quality, high level of service, high integrity and reputable
23 firm in the industry. And now I am proud to say that we
24 purchase all kinds of refrigerants from all of the major
25 domestic manufacturers.

1 When we opened up our facility in Taichang,
2 China, it was with the original intent to supply quality
3 refrigerants to the Chinese domestic market. However, as
4 our business in 134-A grew in the U.S., we began to
5 supplement our purchases from China for the U.S. for
6 strategic reasons sometimes even with the okay of the
7 domestic suppliers.

8 I would like to bring up specifically a few
9 points related to critical circumstances. As you've heard,
10 and are well aware, and I think everybody agrees 134-A is a
11 seasonal product for which demand is driven primarily by the
12 weather. For sales during the spring and summer seasons, we
13 generally place our orders with Chinese producers the
14 preceding fall with delivery of bulk material over the
15 course of the late fall and winters.

16 For this reason, import volumes are much higher
17 between November and April, as compared to May through
18 October. The largest shipments to our distributor customer
19 base typically occurs in the first and second with
20 inventories ordinarily highest in January and lowest by the
21 end of the season in August/September.

22 Therefore, it should not be surprising at all
23 that our imports from China during the post-petition period,
24 November 13 through January 14, are much higher than the
25 pre-petition period, July through October '13. Our domestic

1 purchases are also much higher during the post-petition
2 period than the pre-petition period. That is simply a
3 result of how we purchase product year after year, as we
4 have to allow for lead times and we don't have the filling
5 capacity to purchase everything during the short and
6 unpredictable selling season.

7 Of particular significance this year is that in
8 September 2013, before this petition was filed, before I
9 knew anything about a petition being filed, I signed
10 purchase contracts with three Chinese suppliers to acquire a
11 quantity of bulk 134-A, the details of which are in our
12 pre-hearing brief. The contracts were all executed in the
13 month before the petition was filed and were for the volumes
14 that we ended up importing in the post-petition period.

15 Therefore, the petition that Mexichem filed in
16 October 2013 put me in a most unenviable position. Subject
17 myself to critical circumstances or renege on contracts that
18 I had signed. I chose not to breach the contracts for four
19 reasons.

20 (A) Because they're legal documents and therefore
21 for which we could have been subject to legal action. (B)
22 Because defaulting might have jeopardized our ability to
23 supply the product commitments that we had already made to
24 our very loyal customer base for the 2014 season. (C)
25 Because a default would have hurt our relationships with our

1 Chinese vendors, and we also buy Chinese product for our
2 Chinese domestic use to sell over in China. And (D) Most
3 importantly, because a default would have reflected upon my
4 integrity as a person. I have never ever reneged on a
5 written or verbal agreement I've made and I never will.

6 You can feel free to verify this even with any of
7 the witnesses sitting in this room today, whether on the
8 Petitioners' side or the Respondents' side.

9 Furthermore, if you look at the data that we
10 submitted over a longer period that more accurately
11 mitigates the effect of seasonality, you can see that we
12 actually imported less Chinese material during the full year
13 2013 than full year 2012 and purchased more domestically
14 manufactured 134-A during the same period.

15 We would've purchased even more domestic-origin
16 material, but for the inability and/or unwillingness of the
17 U.S. producers to supply us with the 134-A that we need. Of
18 the three manufacturers, one will not sell us 134-A, as they
19 compete against us. A second had warned that 134-A would be
20 in tight supply during the first six months of 2014. And
21 the third had budgeted us for a certain volume that we did
22 not feel was enough to meet our needs. Therefore, we felt
23 our domestic supply was limited, and the only other feasible
24 option was from China.

25 I've also provided the Commission with Weitron's

1 purchases for the period August 2012 through January 2013,
2 as compared with the same period a year later. Again, we
3 feel that a period like this more accurately describes a
4 season's worth of purchases and therefore mitigates the
5 effect of seasonality. And again, this data demonstrates
6 that our purchases of Chinese-origin product, both
7 absolutely and as a percent of total purchases, were lower
8 in the 2013/'14 period than the 2012/'13 period and that
9 purchases of U.S.-origin 134-A by Weitron almost doubled on
10 an absolute basis during those comparable periods.
11 Quarterly data is simply not accurate to be used in a case
12 like this.

13 Finally, in the Tariff Act, the Commission must
14 consider for critical circumstances if there's indication
15 that "the remedial effect of the antidumping order will be
16 seriously undermined." Clearly, this is not the case as
17 evidenced by domestic pricing since the petition was filed.

18 For example, I have purchased bulk product from
19 one vendor in August 2014, very currently, at a price that
20 is 65 percent higher than the price that I purchased product
21 from that same vendor in November of 2013 right after the
22 petition was filed. Other domestic vendors have realized
23 similar increases and I think Mexichem even said early this
24 morning that they've seen increases in pricing since the
25 petition was filed. And this is all despite the fact that

1 antidumping order is not yet even finalized.

2 Obviously, the purchases and inventory of imports
3 that were made during the critical circumstances period have
4 not undermined even the preliminary dumping order, as the
5 increase in prices is certainly an unbiased market evidence
6 of that.

7 While I cannot speak for other companies, I can
8 tell you unequivocally that the data presented to the
9 Commission for the so-called critical circumstances period
10 by Weitron are typical of our purchasing inventory and
11 selling activities in the seasonal market from year to year.
12 While there may be variations based upon the weather or
13 shortages that occur, our post-petition experience in
14 2013/'14 was essentially no different than in any other
15 season. That all of Weitron's post-petition imports
16 resulted from pre-petition purchase contracts demonstrates
17 the absence of any intent by Weitron to subvert the affect
18 of any ensuing antidumping or countervailing duty order.

19 I listened intently to the Petitioner talk about
20 the potential hardships on their employees, but I would like
21 to also point out that I, too, have many dedicated and
22 talented American employees all across the country whose
23 spouses, children, and family members depend on. They too
24 go to little league games, volunteer, struggle with children
25 with disabilities, support elderly parents, have car,

1 mortgage payments, et cetera.

2 An affirmative critical circumstance ruling will
3 definitely impact my company, and most importantly, for me
4 at least, my employees. Given that the timing and volume of
5 the imports are consistent with seasonal fluctuations, that
6 there was no intent to subvert the effect of an antidumping
7 order, and that the inventory that was imported
8 post-petition has not had an undermining affect on the
9 antidumping order as evidenced by increased domestic
10 pricing, I urge you to consider a negative ruling on
11 critical circumstances.

12 STATEMENT OF JAMES DOUGAN

13 MR. DOUGAN: Good afternoon. I'm Jim Dougan of
14 ECS, testifying on behalf of Chinese Respondents.

15 Petitioners argue in their briefs that this case
16 is not about what happened in 2010 and 2011. Respondents
17 understand that the Commission must weigh the totality of
18 the record evidence before it and cannot and should not
19 focus on only one or two years.

20 However, what the domestic industry really would
21 like is for the Commission to forget that the market
22 conditions of 2010 and 2011 ever happened at all, and to
23 begin its analysis afresh as if 2011 were a normal, steady
24 state year consistent with historical trends, and an
25 appropriate baseline for the Commission's analysis.

1 The truth is 2011 was an aberrational peak year
2 in virtually every respect, and wildly inconsistent with
3 historical trends. Whatever the year the Commission chooses
4 to begin its official POI the supply shocks of 2010 and 2011
5 provide absolutely crucial context for the Commission's
6 analysis of injury and causation. The supply shortages of
7 2010 and 2011 set the stage for the rest of the POI.

8 First of all, as you've heard, these shortages
9 were driven entirely by domestic producers who had their own
10 supply issues and who held an even more dominant market
11 share than they do now.

12 Mr. Lammers from AutoZone has spoken to the
13 actual market experienced during that period, but as also
14 well documented in Respondent's pre-hearing brief, the
15 shortages were most acute in the automotive aftermarket
16 segment. In fact, as corroborated by the testimony of Mr.
17 Rubin and others this morning, domestic producers served
18 their contract customers and customers in other market
19 segments first and then essentially let everyone else get in
20 line for what remained of the shrinking available supply.
21 Given the lack of this available supply, purchasers in this
22 segment had no choice but to look to subject imports for
23 supply, even as Mr. Lammers said, at higher prices.

24 Petitioners claim that subject imports
25 established themselves in the U.S. market on the basis of

1 low prices, but this is not so. In its preliminary
2 determination the Commission did not find that there was
3 significant underselling and price depression in 2010 and
4 2011 when subject imports achieved their greatest gains in
5 market share. And market share gains after the crisis
6 period of 2011 by subject imports have been modest, at most.

7 Mr. Jameson this morning presented a slide
8 showing a 40 percent increase in import volume, but this is
9 misleading because it relies on segment data from the staff
10 report that is incomplete. It doesn't rely on the full U.S.
11 shipments of imports from the apparent consumption tables,
12 and those are the shipments that Mr. Schagrín referred to as
13 being appropriate for the analysis, that is, Census Bureau
14 data for the relevant HTS category added to the imports that
15 might have been classified under other HTS numbers. So, we
16 agree that that's the appropriate way to measure apparent
17 consumption, but that is what this chart uses and the actual
18 increase in subject imports between 2011 and 2012 is far,
19 far less than what Mr. Jameson is claiming.

20 In addition, they said that there weren't any
21 supply shortages or any difficulties after the crisis
22 period, and that I think is largely true, but we note also
23 that in 2012 one of the U.S. producers shutdown its plant
24 for scheduled maintenance for part of the year. Now, this
25 was anticipated and they probably informed their customers,

1 but in a market where they've just had a severe supply
2 shock, you know, purchasers would reasonably view this as
3 additional reason to diversify their supply chain.

4 The automotive aftermarket is, all parties agree,
5 the segment in which the shortages were most acute and where
6 the corresponding price increases from 2010 to 2011 were the
7 sharpest. Petitioners also corroborated that point with
8 their testimony this morning. It is, also, the only market
9 segment, effectively, in which there is significant
10 competition from subject imports. These things are not
11 unrelated.

12 Subject imports from China were pulled into the
13 U.S. market by demand that domestic producers could not or
14 would not satisfy. And Petitioners concede that imports
15 from China are a minor factor in segments in the R-134-A
16 market, other than the automotive aftermarket.

17 Why didn't subject imports penetrate other market
18 segments? If Chinese producers were bent on dominating the
19 U.S. market, wouldn't they at least have tried in the four
20 years that they've been in the market? And if it's true
21 that this is a commodity that sells solely on the basis of
22 price, and if subject imports and domestic merchandise are
23 fully interchangeable, and if subject import prices are
24 always and everywhere lower, regardless of what the
25 questionnaire data might say, why haven't subject imports

1 taken an even greater share of the market than they have?
2 Petitioners' story doesn't bear very close scrutiny.

3 They mentioned this morning; witnesses from the
4 domestic industry pointed out a number of non-price reasons
5 why the other segments are still completely, if not largely,
6 dominated by the domestic producers and where subject
7 imports have made little, if any, inroads.

8 Now, pricing effects of the supply shock can be
9 seen at Slide 1, which shows a weighted average of the
10 pricing products for domestic producers. And it shows that
11 they more than doubled from the first quarter of 2010 to the
12 second quarter of 2011. This was attributable entirely to
13 the supply shock, as demand grew as measured by apparent
14 consumption grew little between 2010 and 2011.

15 As supply conditions returned to normal in 2012
16 and 2013, prices you can see returned to effectively their
17 2010 levels. To capture the 2010 to 2011 change this chart
18 uses preliminary phase data, but final phase data, which is
19 also shown in the blue dashed line shows nearly identical
20 change from the peak prices of second quarter 2011 to the
21 third quarter of 2013, and both lines have been indexed to
22 Q-1 2011 for purposes of comparison.

23 Petitioners point out that the decline in prices
24 from the 2011 peak level were most severe in the automotive
25 aftermarket. That is the segment in which the subject

1 imports have the greatest penetration. But this is not a
2 reflection of adverse price affects, but rather that subject
3 import penetration is greatest in the segment where the
4 shortages were most severe, i.e., the last to be served by
5 domestic producers. And also, (B) the segment where the
6 most severe price increases, which they conceded this
7 morning, during the supply shock will have the most severe
8 decreases as supply and pricing returns to equilibrium.
9 When prices go up due to the supply shock rather than any
10 underlying demand fundamentals, prices must also come down.

11 Domestic producers have lamented their inability
12 to push through further price increases in 2012, but as you
13 can see from the chart, these prices were already at a
14 highly elevated level, about 30 percent higher than at the
15 beginning of 2010 when demand in the intervening years had
16 grown slightly, if at all.

17 As demand flattened out and decline from 2011 to
18 2012 to 2013, it was inevitable that U.S. market prices
19 would return to a long-term historical equilibrium level.
20 Imports from China remain in the U.S. market not because of
21 a desire to dominate the market, but because U.S. customers
22 like AutoZone understandably were frightened by the supply
23 shortages in 2010 and 2011, and are unwilling to return to
24 U.S. producers as their only source of supply.

25 In some cases, as with AutoZone, they have

1 completed reconfigured their supply chain to guard against
2 falling victim to another such crisis. Domestic producers
3 would like the Commission to believe that their inability to
4 sustain aberrationally high prices arising from a temporary
5 and severe supply shock should be evidence of injury. But
6 Respondents submit that the Commission should not find that
7 the inability to take economic rents constitutes injury.

8 The lack of price affects by reason of subject
9 imports can be observed in the underselling data. These
10 data show a mix of underselling and overselling to a degree
11 unusual in a case where China is the subject country. While
12 the data in the final record will be slightly different,
13 based on some conversations with staff, the public staff
14 reports shows t hat the underselling occurred in only 31 of
15 65 instances and the average margin was 9.6 percent.

16 Conversely, the average margin of overselling in
17 the remaining 34 instances was a much larger 18.5 percent.
18 Moreover, in contrast to Petitioners' claims this morning,
19 the frequency of underselling did not increase over the POI.
20 It did not. Those are facts. We can agree that we will
21 disagree about interpretation of facts, but those are the
22 facts.

23 Petitioners also point out that the majority of
24 subject import volume in the pricing data corresponds to
25 quarters with underselling; however, those comparisons are

1 only a small minority of domestic industry volume, and we
2 discussed this in our pre-hearing brief, which is heavily
3 concentrated in other products. Again, this is consistent
4 with the fact that there is in most of the market very
5 limited competitive overlap between domestic producers and
6 subject imports.

7 Moreover, as discussed at pages 34 to 35 of
8 Respondents' pre-hearing brief, the pricing product
9 accounting for two-thirds of subject import volume was
10 Product 4, 30-pound containers sold to distributors. For
11 significant portions of the POI, the lowest price offered in
12 the market was by one domestic producer or another, and
13 significantly the supposed underselling did not lead to a
14 corresponding shift in market share from domestic producers
15 to subject imports. Therefore, we submit that any observed
16 underselling should not be found by the Commission to be
17 significant evidence of adverse price effects.

18 Coupled with the truly tiny number of confirmed
19 loss sales and revenue allegations, the Commission should
20 not find adverse price effects by reason of subject imports
21 at all.

22 With regard to the domestic industry's overall
23 financial condition, Petitioners and Mr. Greenwald and Mr.
24 Rubin this morning discussed the impact of increasing cost
25 of production, but I invite the Commission to look at their

1 staff report, Tables 6-1 and 6-2. If you look at the unit
2 costs of the domestic producers I ask you to look at that
3 and compare it to the testimony of the panel this morning.
4 I'm not sure that you'll find that the data support their
5 claims.

6 Respondents also note that the overall
7 profitability level of this industry is much greater than
8 most industries appearing before the Commission claiming
9 injury. Petitioners point to a declining trend in industry
10 profitability, but that is largely due to their use of 2011
11 in which the industry earned windfall profits as a baseline
12 year. Moreover, the observed decline in profitability is
13 driven to a great degree by the results of one domestic
14 producer whose data are wildly out of line with the other
15 two.

16 And I note also that when Mr. Schagrin talks
17 about losses, he isn't talking about the industry on
18 average. But it's difficult to discuss in more detail in a
19 public hearing, but at pages 39 to 45 in Exhibits 15 to 18
20 of Respondents' pre-hearing brief we lay out an analysis
21 that shows the discrepancy between a producers results and
22 those of the others are related to internal accounting
23 practices rather than any market-driven factors.

24 We're not arguing that the Commission should make
25 any sort of official adjustment to the data to reflect these

1 factors, but rather that it should recognize (A) the
2 disparity between this producer and the others is the
3 largest driver of the observed decline in profitability and
4 (B) that the accounting practices given rise to that
5 disparity have no causal link whatsoever to subject imports
6 and should be set aside when analyzing causation.

7 There is, however, an adjustment to financial
8 data that the Commission has made and that Respondents would
9 endorse wholeheartedly. That is the Commission was correct
10 to adapt its long-standing practice of valuing inputs
11 transferred between related parties at cost rather than at a
12 transfer price. The facts in this case do not warrant a
13 deviation from that practice.

14 Moreover, the fact that the point has been argued
15 so vigorously by Petitioners indicates that they perceive
16 their profitability levels to be a weakness in their injury
17 case, and rightly so.

18 This issue also is difficult to discuss in
19 specifics because of the confidential data involved, but I
20 can address the general concept at hand.

21 Petitioners argue that the Commission should
22 value these purchases at the transfer price because it is an
23 arm's length price as if the use of the term "arm's length"
24 price were in itself sufficient to settle the issue and
25 preclude any further discussion.

1 But while the domestic producers transfer pricing
2 policies may be appropriate for financial reporting and tax
3 purposes, it doesn't mean that they're appropriate to use in
4 the Commission's analysis. This is because whether a
5 transfer price is arm's length or not is not a singular,
6 ironclad, indisputable data point, but rather something that
7 the taxpayer and the tax authorities apply some discretion
8 in determining.

9 As often as you see my colleagues and me in front
10 of you, my firm, ECS, doesn't only provide economic
11 consulting with respect to trade proceedings, but we also do
12 it for purposes of international tax and transfer pricing.
13 So, given that this has become a point of contention in this
14 case, I think it may be helpful to provide the Commission
15 with some context as to how transfer pricing analysis is
16 conducted.

17 Transfer pricing policies between a parent, in
18 this case a non-U.S. company and a subsidiary, in this case
19 a U.S. producer, are generally developed to maximize the
20 profitability of the company in a lower tax jurisdiction
21 while leaving just enough taxable income in the subsidiary's
22 country so as not to run afoul of the local tax authority,
23 or in this case the IRS.

24 But companies have fairly wide latitude in
25 determining whether prices paid by the U.S. company to its

1 non-U.S. affiliate are arm's length. This isn't generally
2 done by examining individual prices paid for individual
3 transactions for particular goods, although it can be, but
4 rather by examining the profitability of the U.S. subsidiary
5 generally using a metric called the Profit Level Indicator
6 or PLI. This could be a gross profit margin or operating
7 profit margin, mark up on cost, some other similar
8 indicator.

9 The POI for the tested party need not be at any
10 particular point, but need only be within what's know as an
11 arm's length range that is determined by reference to a set
12 of guideline-comparable companies that perform similar
13 functions and assume similar risks.

14 This range is generally defined as the
15 interquortile range, which encompasses the middle 50 percent
16 of observations from peer group data from the 25th
17 percentile to the 75th percentile. If the POI for the U.S.
18 sub is within the interquortile range, it is generally
19 considered by the tax authorities, i.e., the IRS to be
20 earning arm's length profits from its intercompany
21 transactions and therefore, by extension, that the prices
22 charged for those intercompany transactions are arm's length
23 in nature.

24 For example, see Slide 2. Let's assume that the
25 relevant PLI is operating profit margin, and hypothetically,

1 the comparable company's indicator range of operating margin
2 is from 5 percent to 30 percent. With the 25th percentile
3 being, let's assume, 10 percent and the 75th percentile
4 being 20 percent. If the tested party earns an operating
5 margin between 10 percent and 20 percent, their intercompany
6 prices would be considered to be at arm's length. In
7 practice, the range could be wider or narrower, but that
8 gives you the general point.

9 Now, I'm not sure of the PLI used in the relevant
10 transfer pricing studies, nor the set of companies used as
11 comparables, but in general, looking at the margins reported
12 at Appendix D to the pre-hearing report, they aren't at
13 levels that would tend to raise eyebrows at the IRS. It
14 follows that anything above that level would be even more
15 acceptable to the IRS, but that would mean lower transfer
16 prices and less profit transferred from the U.S. sub to the
17 non-U.S. parent. Thus, the margins expressed should be
18 viewed effectively as a floor of profitability for the U.S.
19 subs and that any lower prices that the non-U.S. parent
20 could charge, raising the U.S. company's profits, would be
21 entirely at their discretion.

22 The non-U.S. parent has the ability to set prices
23 that would result in profits effectively anywhere between
24 the results reported in Appendix D and the results reported
25 Table VI-1 and still satisfy the requirements of the arm's

1 length standard. Given the wide latitude given to the
2 non-U.S. parent under transfer pricing rules, the Commission
3 need not base its analysis on a set of U.S. financials
4 designed to maximize profit in the parent's country as
5 opposed to in the United States.

6 It should reject Petitioner's arguments and use
7 the data as reported at Table VI-1 to its pre-hearing
8 report.

9 Now, finally, not only is the domestic industry
10 not suffering current material injury by reason of subject
11 imports. It also is not threatened with injury by reason of
12 subject imports in the imminent future.

13 First, Chinese producers operated at high levels
14 of capacity utilization throughout the POI and did so
15 despite adding substantial amounts of additional capacity.
16 Moreover, despite this additional capacity, Chinese
17 producers shipments to the United States declined as a share
18 of total shipments even before the case was filed as
19 shipments to the Chinese home market increased.

20 This doesn't fit with Petitioner's story of a
21 Chinese industry looking to target and exploit the U.S.
22 market because presumably if they had wanted to they
23 would've done so much more aggressively by now. Rather this
24 support Respondents' contention that the Chinese industry
25 was pulled into the market by shortages and unsatisfied

1 demand and is remaining in the U.S. market because customers
2 are unwilling to rely on the domestic industry as a single
3 source after having been burned so severely not long ago.

4 Secondly, as discussed earlier, Respondents argue
5 that import pricing during the POI caused no injury.

6 Moreover, whatever underselling was observed over the POI
7 did not increase in either frequency as measured in number
8 of instances, nor in intensity, as measured in underselling
9 margin. Thus, import prices are not likely to enter the
10 market at prices that would have a significant depressing or
11 suppressing affect on prices or increased demand for further
12 imports.

13 Third, foreign producers inventories remained
14 remarkably steady over the POI relative to both production
15 and shipments, and provide no indication of threat of future
16 injury to the domestic industry.

17 In its pre-hearing brief, DuPont presents
18 calculations that can be characterized as slight of hand.
19 They compare foreign producer inventories to the volume of
20 exports to the United States and claimed that the increasing
21 ratios are evidence of threat to the domestic industry. But
22 as I just mentioned, inventories are steady. So, the reason
23 that the ratios calculated for the Chinese producers
24 increased is because the denominator, exports to the United
25 States, shrank. DuPont is attempting to use data that show

1 Chinese producers declining participating in the U.S. market
2 as evidence of threat, but the Commission should not be
3 fooled.

4 Finally, there is no evidence that the subject
5 imports have had or will have a negative effect on the
6 domestic industry's development and production efforts.
7 Total capital expenditures more than doubled over the POI
8 and R&D expenses remain fairly constant. And whatever
9 reasons Petitioners may point to for these levels of
10 investment being insufficiently high it certainly wasn't
11 from the lack of available capital.

12 Petitioners have claimed that they need to earn
13 very high operating profit margins to fund their
14 investments, but a look at their data over the POI is
15 instructive. In other words, early in the POI, when the
16 industry was inarguably earning extraordinarily high profit
17 margins and generating enormous amounts of cash flow what
18 did they do with it? Did they invest it?

19 We'll get into this in more detail with
20 confidential data in the post-hearing brief, but suffice to
21 say that the domestic industry had far greater amounts of
22 cash available with which to invest than they actually did
23 invest. Slide 3 withholds any confidential data, but gives
24 a graphical comparison of the differences in magnitude
25 between domestic industry cash flow, capital expenditures,

1 and R&D expenses. And this pretty much is the same, by the
2 way, even if you use the financial data from Appendix D.

3 In summary, the domestic industry is neither
4 materially injured nor threatened with material injury, and
5 the Commission should reach a negative determination. Thank
6 you.

7 STATEMENT OF JARROD GOLDFEDER

8 MR. GOLDFEDER: Thank you. For the record, I'm
9 Jarrod Goldfeder of Trade Pacific, appearing today on behalf
10 of National Refrigerants, an importer and purchaser of
11 R134-A.

12 National Refrigerants takes no position on this
13 case with one exception, which is the retroactive
14 application of antidumping duties based on critical
15 circumstances.

16 We ask that the Commission consider the following
17 six aspects of the record data before it, which support a
18 negative critical circumstances finding. First, while
19 record evidence shows that subject imports were higher in
20 the six or seven months following the petition filing than
21 in the comparable pre-petition period that fact alone does
22 not justify an affirmative finding.

23 Unlike the Commerce Department, the Commission
24 does not apply a bright line threshold for examining
25 post-petition import increases. Page 5 of our pre-hearing

1 brief identifies several cases in which the Commission
2 reached a negative determination, even where the
3 post-petition import increase was deemed significant.

4 Second, the staff report correctly notes the
5 seasonal nature of this product with imports typically
6 higher in the first and fourth quarters of the year in
7 advance of the spring and summer months. We've also heard a
8 lot more about seasonality today. The post-petition period
9 in this case covers those two higher-volume quarters, and
10 even the Petitioner concedes at page 37 of its pre-hearing
11 brief that "Undoubtedly, some of this increase resulted from
12 seasonality."

13 Now, it's not possible to quantify exactly how
14 much of the post-petition increase was attributable to
15 seasonality versus other demand or supply factors, but the
16 fact remains that the seasonal nature of R-134-A reduces the
17 meaningfulness of the observed increases in imports
18 following the filing of the petition.

19 Third, the Commission has consistently found that
20 even where imports increased after a petition filing, a
21 negative determination is warranted where U.S. importers
22 inventory levels declined or increased only slightly. Pages
23 9 to 10 of our brief cite several examples, and there are
24 many others, where the Commission has made this
25 determination.

1 While the specific inventory data in Tables IV,
2 V, and VII-3 of the staff report are confidential, it is
3 clear that these inventory levels do not support a finding
4 that subject imports have rapidly increased post-petition or
5 have been stockpiled for future sales. In fact, you didn't
6 even hear this morning's panel mention inventories in their
7 prepared remarks regarding this issue. This record simply
8 does not support a finding that existing inventories would
9 somehow undermine seriously the remedial effect of any
10 potential order.

11 Fourth, perhaps recognizing that the reported
12 inventory levels damage its critical circumstances claim,
13 the Petitioner argues that the 40 responding U.S. importers
14 must have understated their shipments or their inventories
15 for the first half of 2014. In essence, the Petitioner
16 posits that if the data show that importers shipped more
17 than they imported well then that data contradicting its
18 claims must be wrong.

19 However, the Petitioner has presented no
20 affirmative evidence to support its allegation regarding
21 this aspect of the importers' questionnaire responses. Its
22 argument must be rejected.

23 Fifth, the Petitioner also argues that the
24 post-petition increase in imports contributed to declines in
25 its performance in the first half of 2014. However, as

1 described at pages 11 to 12 of our pre-hearing brief, which
2 cites confidential data, the staff report does not support
3 this claim for the domestic industry as a whole, especially,
4 when considering factors such as the domestic industry's
5 market share and commercial shipments in the post-petition
6 period.

7 Sixth and finally, you heard this morning in the
8 panel a statement along the lines that if this is not a
9 critical circumstances case what is? Well, we definitely
10 disagree with that statement. As cited at pages 13 to 15 of
11 our pre-hearing brief, the Commission has reached
12 affirmative, critical circumstances determinations in only a
13 few exceptional cases since the provisions entered the law.
14 There's a reason for that.

15 The Commission has a very high standard when it
16 evaluates critical circumstances, and that very high
17 standard has rarely been met, and that high standard has not
18 been met here for the reasons that I've already explained.

19 For these reasons, the law Commission practice
20 and the facts of this case should compel the Commission to
21 reach a negative critical circumstances determination.

22 Thank you again.

23 MR. SCHUTZMAN: Madam Chairman, that concludes
24 Respondents' presentation, and we welcome your questions.

25 CHAIRMAN BROADBENT: Great. I want to thank the

1 witnesses for coming and taking time from their businesses
2 to be with us today.

3 We'll start the questioning with Commissioner
4 Schmidtlein.

5 COMMISSIONER SCHMIDTLEIN: Thank you Chairman
6 Broadbent. And also, I'd like to join the Chairman in
7 thanking the witnesses for being here today.

8 I want to start by following up on the last
9 couple of points that Mr. Dougan made in his presentation
10 with regard to the transfer pricing issue and the
11 Petitioner's argument in that regard, and then also the
12 adjustments that you referred to with regard to one of the
13 producer's financial performance. And I think this question
14 is for you, Mr. Dougan, but if not, feel free Mr. Schutzman
15 or anyone else to join in.

16 My question is this. Even if we accept and stick
17 with the Commission's practice with regard to related party
18 transfers, and if we accept your adjustments, aren't the
19 trends the same? And they are. I know the answer to that
20 question, so I guess the real question is where are you
21 drawing the line, or why does that indicate to you that
22 there's not injury?

23 MR. DOUGAN: Sure. I think the trends are the
24 same if you mean that there was a decline in profitability
25 from 2011 to 2013. My response to that is 2011 was a year

1 of windfall profits brought about by a supply shock and
2 very, very high market pricing, let's say, and the ability
3 to command higher prices in the marketplace that was not
4 necessarily reflective of a cost base, but rather a supply
5 shortage.

6 So, in that instance, if that's your baseline, if
7 something approaching an all-time high and profitability is
8 your baseline, almost anything is going to be a decline from
9 that. But we would argue that the decline that's observed
10 is not attributable to the impact of imports because the
11 profits would've come down eventually anyway. So meaning
12 they weren't sustainable at the 2011 levels under any set of
13 circumstances.

14 COMMISSIONER SCHMIDTLEIN: So, are you saying
15 then, at least with regard to the financial performance
16 indicators, that we don't really need to make all of your
17 adjustments because either way the argument's the same,
18 either way?

19 In other words, what's the relevance of the
20 difference in the numbers, as you present them versus as
21 they really are?

22 MR. DOUGAN: The relevance is that the decline
23 appears to be more severe if those adjustments aren't made
24 in a way that could be construed as unusual and different
25 from or apart from a return to a normal profitability level

1 from a windfall profit. And the purpose of making the
2 adjustments was to say not only was this a high place to
3 start, but where they ended up was not very far down as
4 compared to what was reported because what was reported was
5 attributable to these other factors that aren't related.

6 COMMISSIONER SCHMIDTLEIN: Okay. So, in terms
7 of, and maybe this would be best for the post since it's a
8 little bit hard to dance around the confidentiality, the
9 numbers. But at least with regard to the second adjustment
10 that you make in the brief, I should say, and you average
11 with the -- you take the average of the other two companies
12 basically and say, well, why don't we use that instead. So,
13 I guess my question is why are they the normal in terms of
14 is there any other way to adjust for that, you know, similar
15 to what you just explained with transfer pricing where
16 there's indexes or that you look at to determine whether or
17 not it's norm. So, something -- why should we just look at
18 the other two companies and assume that that's what we
19 should all be fact. That should be the --

20 MR. DOUGAN: And that's a fair question. I can
21 give it some more thought for the post-hearing.

22 The initial response would be when the Commission
23 sees -- depending upon how many companies are in the
24 industry you often see divergent results, not all companies
25 always move the same direction in the same way in the same

1 magnitude. But what I noticed looking at these data was one
2 was very, very different from the other two. And from what
3 we could determine from the various questionnaire responses
4 and filing with the SEC is the reasons for that weren't
5 attributable to market-driven factors related to this market
6 or market-driven factors at all.

7 Therefore, the other two companies would seem to
8 have performance that would be more reflective of competing
9 in this market during this time period because the reason
10 for the difference wasn't related to what we believe to be
11 market-driven factors. The consistency of the other two
12 producers would seem to be a more reasonable baseline for
13 how a U.S. producer might fair during this time period.

14 COMMISSIONER SCHMIDTLEIN: Okay. Maybe you can
15 follow up in the post-hearing and elaborate on that because,
16 obviously, it's a little bit conclusive.

17 MR. DOUGAN: I'm trying to be very careful.

18 COMMISSIONER SCHMIDTLEIN: I know.

19 MR. DOUGAN: Yes. Thank you.

20 COMMISSIONER SCHMIDTLEIN: My next question has
21 to do with the volume effects. And if you look at the
22 Chinese pre-hearing brief on page 22 where you talk about
23 this and you refer to -- and you know we're focused on the
24 aftermarket here -- and you refer to the fact that what's
25 happened to Chinese imports in that particular market. And

1 my question is, and so when you look at that table, which is
2 I-23. It's Table I-3. And you see what's happened to the
3 U.S. producers' share in the aftermarket how does that fit
4 into our volume analysis? And this may be better for
5 counsel.

6 So, you don't refer to that in particular in your
7 points that you make with regard to volume effects. It
8 seems to be a bit conspicuously absent. Does that not show
9 there's volume effect there?

10 MR. DOUGAN: What it shows is what we know, which
11 is that imports from China played an increasingly important
12 role in this segment of the market, and that had to do with
13 that segment's experience during the shortage period.

14 COMMISSIONER SCHMIDTLEIN: Well, but it continued
15 after the shortage period. That's sort of the question
16 here. Doesn't that continuation, and how does that affect
17 our volume analysis?

18 MR. DOUGAN: Again, it goes back to --

19 COMMISSIONER SCHMIDTLEIN: the upward trend.

20 MR. DOUGAN: Well, again, I think it goes back to
21 the point of the domestic industry would argue, look, you
22 know we had this horrible shortage, but that's all better
23 now, so bring your business back to us. And I think that
24 AutoZone and others are just not willing to do that anymore,
25 and I think that they've been willing to reconfigure their

1 supply chains on that basis.

2 It was, I think most would agree, a temporary
3 supply shock. But there are things, and I think Ms. Dayton
4 even said she had received word from her -- she'd testified
5 that she'd received word from one of her domestic suppliers
6 that supply would be "tight" in the first half of 2014.
7 When you've gotten notices like that before, you are --
8 there are still folks who buy most of their stuff domestic,
9 but are you going to look to get more of it from someone
10 other than the domestic producers? I think yes.

11 COMMISSIONER SCHMIDTLEIN: I mean but I think
12 just in looking at the volume, right, like that's obviously
13 getting into causation and what's causing them to chose one
14 supplier over the other, but just in terms of -- because
15 that's what I was looking at. This was the section dealing
16 with volume and is volume significant. Would you agree that
17 volume's significant in t his case or no? And if not, where
18 does this trend fit into that?

19 MR. DOUGAN: I think domestic producers overall
20 volume indicators, and I'm careful about what I can say.
21 Their overall volume indicators improved over the POI, but
22 production capacity utilization and things of that nature.
23 I'll have to think more for post-hearing about direct
24 response to your question without --

25 COMMISSIONER SCHMIDTLEIN: For subject imports.

1 Yeah.

2 MR. DOUGAN: Yes. I mean with basically
3 everything here being BPI, I'll look at it in more detail
4 for post-hearing.

5 COMMISSIONER SCHMIDTLEIN: Okay. All right.
6 Thank you. My time is up.

7 CHAIRMAN BROADBENT: Mr. Lammers from AutoZone
8 you had some interesting comments about sort of this close
9 relationship between the domestic producers and their
10 distributors, and the fact that you weren't really free to
11 buy in bulk from domestic producers. What do you think
12 explains that type relationship between the domestic
13 producers and their distributors?

14 MR. LAMMERS: Well, I can't speak for them. I'm
15 assuming that they have contracts and they have preferred
16 suppliers and customers that they want to service. And they
17 do not want to jeopardize any of those contracts by looking
18 at other sources of distribution.

19 CHAIRMAN BROADBENT: I mean why would they not
20 benefit from selling to you?

21 MR. LAMMERS: That's a very good question. I
22 wish I had the answer, but I do not.

23 CHAIRMAN BROADBENT: Okay. Anybody else?

24 MS. DAYTON: I think, traditionally, it's always
25 been since I've been in this business there's three major

1 producers. DuPont has chosen to sell direct to the people
2 like -- not in this case AutoZone -- but people like
3 AutoZone, the retailers. And the others have chosen, like
4 Arkema and Mexichem have chosen to supply through
5 repackagers like ourselves, and that's a long-standing
6 thing. Why they do it? They have bulk equipment. They
7 sell bulk product. They don't want to put it in a packaging
8 line, which has a lot of labor. They may not want to take
9 the credit risk. There could be a whole lot of reasons, but
10 for a long period of time they have sold to repackagers,
11 myself, National Refrigerants, Technical Chemical Company.

12 There's several large repackagers that probably
13 take out the majority of the market share in this country
14 for 134-A automotive aftermarket. So, AutoZone, going in
15 and trying to buy direct from them would be kind of trying
16 to circumvent a level of distribution in the chain, and
17 those people chose not to circumvent that level of
18 distribution. They just said I have my established chain
19 and this is the way I go through, just like you wouldn't be
20 able to go and buy from a manufacturer a refrigerator.
21 You'd have to go through Home Depot or one of their chains
22 of distribution.

23 So, it's always been, as long as I've been in it,
24 which is now 15 or 20 years, it's always been DuPont has
25 sold direct to the customer and Mexichem and Arkema have

1 chosen to sell bulk to people like myself and other
2 repackagers in the industry, and there's several of us. And
3 as I say, between the whole group of us, we probably take up
4 the majority of the market share in the automotive
5 aftermarket.

6 CHAIRMAN BROADBENT: Okay. Mr. Lammers, can you
7 buy from DuPont?

8 MR. LAMMERS: We had tried to. We've had several
9 meetings with DuPont, as noted in my testimony. At the
10 conclusion of each meeting, we were told that -- we'd asked
11 for them to supply us with price quotations on 30-pound
12 cylinders. We were told by their national sales manager,
13 who was calling us, that we would receive such quotation
14 within a few weeks at the meeting. And as of now we have
15 never received any of those quotations.

16 CHAIRMAN BROADBENT: So, this has been a
17 conversation that's been going on years or just recently?

18 MR. LAMMERS: Well, our first meeting we had with
19 them was on September 4, 2013. So, this is prior to the
20 complaint issued by Mexichem. Again, at the conclusion of
21 that meeting, we were told that we would receive a quote on
22 30-pound cylinders. We did not receive such quote. In
23 November 4, 2014, we had another meeting with DuPont and the
24 same sales person. And at the conclusion of that meeting,
25 we were also told that we would receive a quotation on

1 30-pound cylinders. We did not receive such a quote.

2 Our most recent meeting took place in August of
3 2014, and again, we asked for a quotation on 30-pound
4 cylinders. And as of yet, we have not received one.

5 CHAIRMAN BROADBENT: So, your testimony really is
6 that you were forced to look at imports, that it wasn't a
7 choice that you were seeking, but you just had limited
8 options domestically.

9 MR. LAMMERS: During the time of the shortage,
10 yes, we were told by all our suppliers and repackagers that
11 there was limited supply and they were not sure if they
12 could fill our orders. This has been documented through
13 letters that we've provided in the pre-trial hearing from
14 some suppliers. So, with not knowing for sure if we would
15 be able to get the supply that we needed from the domestic
16 suppliers that is when we sought global sourcing for
17 product.

18 CHAIRMAN BROADBENT: And then what would be the
19 practical impact of not being able to get your supply? I
20 mean is there any way to put a finer point on that? I mean
21 I know you'd get a lot of hot people madly slamming doors at
22 AutoZone, but --

23 MR. LAMMERS: Well, there's an old saying in
24 retail, "You can't sell from an empty shelf." And
25 basically, everyone at AutoZone is measured on two factors,

1 sales/margin. In sales, you got to have product. And
2 particularly, in commodity, seasonal commodity items you
3 have to have product. That is the number one concern. So,
4 we need to do whatever it takes to make sure we have product
5 for the season, and that's what we did.

6 CHAIRMAN BROADBENT: Okay. How would prices
7 between domestic and imported product differ? I mean what
8 were the trends overall in the period of investigation?
9 What were you all observing between domestic and importer
10 product? Was the importer product dramatically lower in
11 price?

12 MR. LAMMERS: I would not say dramatically.
13 There was some cost differences, but they were not dramatic.

14 CHAIRMAN BROADBENT: What is your long-term
15 outlook on R-134? How long do you expect to keep selling
16 it?

17 MR. LAMMERS: For the foreseeable future. As I
18 think was brought up earlier today, there is -- we don't see
19 a substitute product being in the OEM or new cars to be
20 manufactured well into after 2020. And again, the average
21 age of a car right now is 11 years, so we think this is
22 going to be a very viable market for at least another 20
23 years.

24 CHAIRMAN BROADBENT: And then you mentioned you
25 had stores in Mexico, is that right?

1 MR. LAMMERS: Yes.

2 CHAIRMAN BROADBENT: And are the trends the same
3 there, or would you say it would be a longer projected
4 market?

5 MR. LAMMERS: Yes, I would say it's longer there.
6 They're not quite as stringent on environmental regulations
7 as we are in the States. And to my knowledge, there is no
8 legislation being brought up in Mexico that would ban our
9 134-A at this time or into the future.

10 CHAIRMAN BROADBENT: And then do you sell in
11 other markets? You said Brazil?

12 MR. LAMMERS: Yes, Brazil is a new market for us.
13 We only have five stores there. We just opened that market,
14 but we do have a presence there.

15 CHAIRMAN BROADBENT: And how does that market
16 compare to Mexico's say?

17 MR. LAMMERS: It's difficult to say right now. I
18 mean we've been in Mexico since 1998. We have over 400
19 stores there. We've only been in Brazil operating there for
20 just over a year with five stores. We think the potential
21 is there, obviously. It's a growing marketplace. We're in
22 San Palo, which has over 20 million residents, so we think
23 the market is strong there. I just don't have a good feel
24 for the R-134-A market at this time.

25 CHAIRMAN BROADBENT: Good. Thank you. Do you

1 have a sense of how prices are determined in end use
2 markets? We have the different end uses, and I know you
3 only have the auto. Your focus is on the auto segment, but
4 how are prices determined, say, in some of the other markets
5 for R-134?

6 MR. LAMMERS: Make sure I understand your
7 question correctly. So, maybe repairs shops, how they price
8 or?

9 CHAIRMAN BROADBENT: Well, in terms of the other
10 end uses, we're talking about air conditioning machines, and
11 this may not be a question for you as much as maybe the
12 counsel in terms of the different forces on end use pricing,
13 the price determinates of end uses in the different
14 segments.

15 MS. DAYTON: I would say, as stated by the
16 Petitioners this morning, I agree that automotive
17 aftermarket is generally a spot-based market. The other
18 OEMs, the aerosols, the foam-base are all contract markets.
19 So, for example, as I understand it, I've never been
20 involved in this, but they come to the major suppliers, like
21 GM or somebody. Would go a major supplier and say I'd like
22 to purchase for the next three years or two years or
23 whatever period of time they chose and they would elicit
24 prices from whoever they chose were qualified suppliers and
25 then they'd purchase on that price for that period of time

1 on a contract basis.

2 The automotive aftermarket in the bulk form is
3 more of a spot kind of situation, a month-to-month.
4 Sometimes shipment-to-shipment price negotiation, and the
5 price can change month-to-month and shipment-to-shipment.

6 CHAIRMAN BROADBENT: Got it. Thank you very
7 much. It's very helpful.

8 Commissioner Williamson.

9 COMMISSIONER WILLIAMSON: Thank you. I too want
10 to thank the -- my appreciation to all the witnesses for
11 presenting their testimony today.

12 The pre-hearing report at Table V-12, this is on
13 page V-23, shows underselling and overselling by subject
14 imports by a total volume. Is there any reason why the
15 Commission should not give substantial weight to this
16 information? Mr. Dougan?

17 MR. DOUGAN: I addressed this in the pre-hearing
18 brief, and we can address it more in post-hearing. The
19 exact reasons maybe BPI, but I will say a couple of things.

20 One, and as I testified, the volume of subject
21 imports is concentrated in those comparisons where there was
22 lower subject import price. The volume of domestic
23 shipments was heavily concentrated in elsewhere. So, there
24 wasn't -- I mean while there may have been a comparison in
25 the sense that there was a sale versus a sale it was very

1 little comparative domestic volume in those same
2 comparisons.

3 So, the coverage overall the pricing data is very
4 good, but what it shows is they're concentrated in different
5 products. And so, I could point you to, without getting
6 into BPI, point you to page V-6. There's a table there
7 where you can see that it kind of makes sense that you would
8 see a different concentration in volume between where the
9 subject imports are and where the domestic shipments are.
10 And the underselling is -- I'm sorry. The subject import
11 volume is higher in instances of underselling, but in the --
12 I'm really having to be very careful here because there's so
13 much BPI.

14 COMMISSIONER WILLIAMSON: Well, maybe you want to
15 address it post-hearing.

16 MR. DOUGAN: Yes, I'll address it
17 post-conference.

18 COMMISSIONER WILLIAMSON: And maybe address the
19 question does what you see there indicate that underselling
20 by the subject imports took sales away from domestic
21 producers for those products and in those quarters?

22 MR. DOUGAN: Okay, that I can address, which is
23 what you would expect if that were the case would be shifts
24 in market share from the domestic industry in those products
25 to the subject imports. You absolutely do not see that.

1 You also do not see increasing occurrence and frequency of
2 underselling as the period progressed. So, I will say that
3 I think we're not asking for the Commission to give less
4 weight to the underselling analysis. In fact, I think the
5 underselling analysis show some very valuable things, and
6 the coverage is very good. But what we would argue is that
7 the totality of the underselling data do not show
8 significant adverse price effects.

9 COMMISSIONER WILLIAMSON: Okay. Thank you.

10 So the graph on page 7 of the Mexichem's brief,
11 if you look at that, given the data that that graph shows,
12 why shouldn't I find that the increase in subject imports in
13 the six months since the petition was not something more
14 than a seasonal effect? And how can seasonality explain all
15 of that when you look at that table? If you want to address
16 it now or post-hearing.

17 MR. DOUGAN: Yes, I want to be careful about
18 this. In terms of its significance with regard to a
19 critical circumstance and determination, I think the
20 testimony of Ms. Dayton goes a long way towards that. In
21 terms of the actual numbers, we can get into that more in
22 the post-hearing.

23 COMMISSIONER WILLIAMSON: Okay. Because that
24 would seem -- looking at that, I just think that --

25 MR. DOUGAN: And one other thing --

1 (Simultaneous conversation.)

2 COMMISSIONER WILLIAMSON: -- seasonality going
3 here.

4 MR. DOUGAN: But if I may also, as Mr. Goldfeder
5 said, the petitioners' arguments are -- I don't want to say
6 "silent" but are much deemphasize the issue of inventories
7 which we understand is also an important consideration of
8 critical circumstances. And their response to the trends in
9 inventories is essentially to say that, well, the
10 questionnaire data are wrong and that the importers
11 misrepresented their shipments which we obviously disagree
12 with. But, again, we can get into that more.

13 COMMISSIONER WILLIAMSON: And they can address
14 post-hearing the inventory question that you raised.

15 MR. DOUGAN: Sure.

16 COMMISSIONER WILLIAMSON: Ms. Dayton, I was
17 wondering, you mentioned a number of contracts that I guess
18 you entered into before the petition was filed.

19 MS. DAYTON: Sure.

20 COMMISSIONER WILLIAMSON: I don't know whether we
21 have that documentation of that on the record, is it
22 possible to provide that post-hearing?

23 MR. SCHUTZMAN: Commissioner Williamson, Max
24 Schutzman, we have detailed those contracts in our
25 prehearing brief. We have not supplied the actual

1 contracts. We would be happy to do that as exhibits to the
2 post-hearing brief if that's something you would like to
3 have.

4 COMMISSIONER WILLIAMSON: Let's just check
5 post-hearing, I mean I don't want to over-document, but
6 we'll take another look at that.

7 MS. DAYTON: They are all signed contracts and
8 the Chinese companies actually stamped them witness that
9 their seal and they're all dated and signed with my
10 signature.

11 COMMISSIONER WILLIAMSON: Okay.

12 MS. DAYTON: But we will provide them to you. We
13 would be glad to provide them.

14 COMMISSIONER WILLIAMSON: Okay. Thank you.

15 Let's see, just for the record, and I asked this
16 question this morning, do you agree with our staff's
17 methodology for determining the import data? Are there
18 other adjustments you would suggest? I had asked this
19 question of Petitioners this morning and I just wanted to
20 see what --

21 MR. DOUGAN: Yeah, with respect to the import
22 data for say apparent consumption, the methodology of using
23 the Census Bureau data for the HF, we're fine with that. We
24 think that that is appropriate.

25 COMMISSIONER WILLIAMSON: Good. Okay. Thank

1 you.

2 I think you've sort of already addressed why the
3 AUVs for the domestic producer sales to the auto aftermarket
4 -- were higher and for others in 2000 were lower and so much
5 -- excuse me a second.

6 We know the shortages may have accounted for some
7 of the height of the AUV's in 2011, but I'm not sure I
8 understand why in the end they were so much lower.

9 MR. DOUGAN: Lower than what?

10 COMMISSIONER WILLIAMSON: Than the change, and
11 that sector was so much greater than it was for the others.

12 MR. DOUGAN: I think our response is that because
13 the increase was higher, the decrease was also more severe.
14 I mean, from the graph at slide --

15 COMMISSIONER WILLIAMSON: One, two?

16 MR. DOUGAN: -- whichever, that they were
17 essentially -- now, this isn't average -- in fact, these
18 data are even more precise, right, because they're quarterly
19 as opposed to annual. And so the annual numbers, you get
20 some averaging going on because the price increases began in
21 2010. They didn't -- at the beginning of 2010, and in 2010
22 an annual average would capture a lot of the increase that
23 had already happened. So, if you look at an AUV say from
24 '10 to '11 and then '11 to '12, it's going to -- you know,
25 you're maybe not seeing as much of the severity, but you are

1 seeing -- if you look at this, you see severe increase,
2 severe decrease about back to the level where they started.

3 So I'm not sure that they --

4 (Simultaneous conversation.)

5 COMMISSIONER WILLIAMSON: Say in post-hearing,
6 take another look at that chart because, yeah, I can
7 understand, you know, how the percentage change might be
8 different, but exactly where they ended up --

9 MR. DOUGAN: And what --

10 (Simultaneous conversation.)

11 COMMISSIONER WILLIAMSON: -- this would be Table
12 3-6 on page 3-10.

13 MR. DOUGAN: Now, one thing that I can say --

14 COMMISSIONER WILLIAMSON: I suggest maybe doing
15 it during post-hearing.

16 MR. DOUGAN: No, that's fine. I think the
17 averaging of values of the segment data are also influenced
18 by product mix. So some of those, it's going to reflect the
19 sales in cans versus containers, versus other things. So to
20 the degree that that mix may have shifted over time, I mean,
21 that may have affected it as well, where if you look at the
22 pricing data, you're comparing product -- equivalent product
23 to equivalent product.

24 COMMISSIONER WILLIAMSON: And I know there are
25 always problems to AUVs, but --

1 MR. DOUGAN: Okay. We can get into --

2 (Simultaneous conversation.)

3 COMMISSIONER WILLIAMSON: -- see if that explains
4 it, because I'm not sure it does.

5 (Simultaneous conversation.)

6 COMMISSIONER WILLIAMSON: Okay. Actually, that's
7 all I have for this round. Thank you.

8 CHAIRMAN BROADBENT: Commissioner Johanson.

9 COMMISSIONER JOHANSON: Thank you, Chairman
10 Broadbent. And I would also like to thank the witnesses and
11 their counsel for appearing here today.

12 Mr. Dougan, I have a question for you. You spoke
13 on the charts at page 2 of the Mexichem slides from this
14 morning.

15 MR. DOUGAN: Yes.

16 COMMISSIONER JOHANSON: And that chart describes
17 a jump of 96 percent when comparing first quarter 2013 to
18 first quarter 2014, as you noted.

19 MR. DOUGAN: Sir, I was referring to the slide
20 preceding that.

21 COMMISSIONER JOHANSON: Okay.

22 MR. DOUGAN: But if you want to ask me about the
23 other --

24 COMMISSIONER JOHANSON: Yes. Actually, let's go
25 back to the slide preceding that.

1 MR. DOUGAN: Okay.

2 MR. JAMESON: And you contended that that
3 increase is too high due to the factors that were considered
4 by Petitioner's counsel; is that correct?

5 MR. DOUGAN: Right. It's because it's relying on
6 incomplete data.

7 COMMISSIONER JOHANSON: Hopefully this will not
8 be too hard for you, but could you perhaps put your
9 additions into that chart or make your own chart from which
10 we could compare this morning's chart, the Petitioner's
11 chart to the numbers that you claim should be used?

12 MR. DOUGAN: Sure.

13 COMMISSIONER JOHANSON: Would that be possible?

14 MR. DOUGAN: Yes. Yeah, we'll do it for
15 post-hearing. I'm being careful about what I can say here.

16 COMMISSIONER JOHANSON: I understand. I
17 understand. I think it would be useful.

18 And, secondly, discussing the chart on the next
19 page --

20 MR. DOUGAN: Uh-huh.

21 COMMISSIONER JOHANSON: In which it compares
22 first quarter 2013 and first quarter 2014.

23 MR. DOUGAN: Uh-huh.

24 COMMISSIONER JOHANSON: Do you contest that
25 number 96 percent? And this is looking, of course, at the

1 situation of critical circumstances.

2 MR. DOUGAN: Right.

3 (Pause.)

4 MR. DOUGAN: I'll have to look at it more closely
5 for post-conference because it wasn't --

6 COMMISSIONER JOHANSON: I understand. I'm kind
7 of putting you on the spot here.

8 MR. DOUGAN: Pulling together the HGS data and
9 whatnot is a little bit different.

10 COMMISSIONER JOHANSON: Okay.

11 MR. DOUGAN: But we understand that there was an
12 increase, but --

13 COMMISSIONER JOHANSON: I know you contest the
14 reasons for that. I'm just wondering if the numbers you
15 used would come out the same.

16 MR. DOUGAN: And I don't know the answer to that.

17 COMMISSIONER JOHANSON: Okay.

18 MR. DOUGAN: So I will have to answer that in
19 post-conference -- post-hearing.

20 COMMISSIONER JOHANSON: All right. Thank you. I
21 appreciate it.

22 Next I would like to ask a question which I asked
23 this morning to the Petitioners, and of course, they did not
24 have the answer since it is an issue which deals with the
25 production in China. But do you all know if Chinese

1 producers have sought to earn the qualification to produce
2 the 12-ounce can in China?

3 MR. SCHUTZMAN: Commissioner, the answer to that
4 is yes. But I'll ask the industry witnesses to speak to
5 that.

6 MR. LAMMERS: Currently the manufacturer -- the
7 one manufacturer who produces that can has a patent on the
8 can and that is preventing any Chinese from producing the
9 can themselves and shipping it to the United States.

10 COMMISSIONER JOHANSON: All right. Well, that --

11 MS. DAYTON: I have a little different answer to
12 that.

13 COMMISSIONER JOHANSON: Yes.

14 MS. DAYTON: There is a producer in China down in
15 Yiwu that has DOT approval on the can. The way the DOT
16 exemption is, is it tests the can for a pressure rating.
17 And if the can passes that pressure rating, it can be
18 approved for DOT exemption. And this Chinese producer has
19 gotten the DOT exemption for 134a on that can.

20 The reason that everybody uses the one producer
21 in the U.S. is because -- and this is kind of what John was
22 saying, is not only is that can approved for that pressure
23 rating, but it also has a patented pressure relief valve on
24 it that the Chinese manufacturers have been unable to
25 reproduce within saying within the IP. So nobody wants to

1 use them because, okay, I don't know what the -- I don't
2 know off the top of my head what the pressure rating is, but
3 let's say it's 350 psi, the Chinese manufacturer can say
4 their can withstands to 350 psi, but nobody wants a can to
5 blow up at 350 psi. They prefer a can that has a pressure
6 relief on it that will allow the refrigerant to controlled
7 -- be controlled release rather than be an explosive can at
8 a much lower pressure rating in the hundreds of psi. So
9 because of everybody being very safety conscious in the
10 U.S., which is a good thing, even though the Chinese
11 manufacturer has a DOT exemption, I don't know of any U.S.
12 purchaser that has purchased cans that have not been made
13 with the U.S. producers' can.

14 COMMISSIONER JOHANSON: All right. Thank you,
15 Ms. Dayton, for your explanation and also to you Mr.
16 Lammers.

17 But this leads back to the question, wouldn't the
18 importation into China of cans which would then be filled in
19 China and then shipped back to the United States, wouldn't
20 that add to the cost of producing the product in China?

21 MS. DAYTON: We were one that imported cans from
22 China and I will say that we did import from -- ship from
23 the U.S. the U.S. cans over to China, and we did ship those
24 cans back from China into the U.S. And I will say that the
25 cost of those cans with all those costs that Mr. Schagrin so

1 eloquently laid out this morning, did make our can price
2 actually higher for that particular product. The reason we
3 did it is because we happened to move one of our -- or build
4 a can line of which is a significant investment over to
5 China to supply our domestic Chinese market. We wanted to
6 supply the Lexuses and the Fords and whatever that are
7 operating plants in China. So we moved one of our can lines
8 over there and so we had a can line over there. So we did
9 it for capacity reasons. We didn't then have enough
10 capacity in the U.S. to fill these cans. So we used our can
11 line in China and we shipped over the cans and ship them
12 back. But that is correct, our costs for that particular
13 product turned out to be higher than if I had just purchased
14 the material from Mexichem or Archima and packaged it in our
15 U.S. facility in that particular instance for those cans.

16 COMMISSIONER JOHANSON: Thank you for your
17 response, Ms. Dayton. And actually, I have another question
18 for you. I had a question that I was going to ask earlier
19 on what the situation is in China with regard to consumption
20 of tetrafluoroethane and, for example, how large market is
21 there, is it growing, et cetera? It seems like you would be
22 the appropriate person to ask since you have experience in
23 that market.

24 MS. DAYTON: Yes, I do think, you know, as
25 everybody reads in the newspaper, you know, the OEM market

1 for cars is growing over in China. It's certainly a slow
2 growth just like all the other industries in China over the
3 recent past. But certainly as the petitioners also pointed
4 out, you need the cars on the road to be able for them to
5 need 134a to put in the cars. So I say the market is
6 growing over there. It's not at the really rapid pace that
7 it was three or four or five years ago, everything has
8 slowed down in China. But it's certainly a growing market.
9 There's more people driving cars, there's more OEM cars
10 being produced over there. So it is a growing market over
11 there.

12 COMMISSIONER JOHANSON: Thanks for your response.

13 Respondents argue that the drop in prices
14 observed during the period of investigation is merely the
15 market returning back to its normal state before the alleged
16 supply shortage of 2010 and 2011. However, the market is
17 different today here in the United States. Chinese imports
18 are now present in the U.S. market in greater volumes than
19 before the alleged supply shortage. How should we make
20 sense of all of this?

21 MR. LAMMERS: I will answer that. From my
22 perspective it's a pretty simple answer, the Chinese were
23 good suppliers and they gave us no reason not to go other
24 options. We always say that the fastest way to get fired as
25 a vendor from AutoZone is to not show. Okay. When we

1 sought supply from Chinese sources they supplied our needs
2 with on-time shipments of quality product. Because of that,
3 there was no reason for us because of their good suppliers
4 to stop doing business with them.

5 COMMISSIONER JOHANSON: So in effect the events
6 of 2010, 2011 created an opportunity for them to build a
7 market in the United States and they were successful in
8 doing so?

9 MR. LAMMERS: Correct.

10 COMMISSIONER JOHANSON: All right. Thank you.
11 And my time will expire in about 20 seconds and so I will
12 come back later on, but thank you for answering your
13 questions during this first round.

14 CHAIRMAN BROADBENT: Commissioner Kieff.

15 COMMISSIONER KIEFF: Thanks. I join my
16 colleagues in thanking everybody for coming this afternoon
17 as well as, of course, the morning. Just to start with a
18 very quick question. It's so simple I'm embarrassed it may
19 be an obvious answer. But why China? Are there other
20 viable sources for this product and at what price?

21 MR. LAMMERS: We have -- at the time when we
22 started seeking other sources outside the United States,
23 China was the only country, to our knowledge, that was
24 willing to export. Since then, I will tell you,
25 particularly this year, we have been solicited by some other

1 countries such as India and some European countries. But at
2 that time, the only country that was soliciting quotes to
3 the United States were companies from China.

4 MS. DAYTON: There's limited production plants of
5 this particular product. There are a few in Europe. There
6 is one in India that I know of at least, and then there are
7 in the U.S. and China. I think China was one of the --
8 developed because one of the raw materials, Fluor spar is
9 mined, it's actually a raw material that is mined and China
10 happens to have a large quantity of this mined product. And
11 there's not many mines in the world for fluor spar. So they
12 have this raw material that is right in their back yard. So
13 they are more easily able to produce this particular
14 product.

15 Then there's no plants in all these other areas.
16 There are some in Europe. Europe at the time, I think was
17 pretty well capacity. And India was only one very small
18 plant. I think they have since increased their capacity
19 because they see this opportunity in the U.S., I think. But
20 they have since increased their -- but they were very small
21 plants they only could really handle their domestic needs.

22 And that's basically it for production plants in
23 the world.

24 COMMISSIONER KIEFF: And am I right that Weitron
25 and AutoZone don't do direct business with each other in

1 this product? In other words, AutoZone doesn't buy from
2 Weitron and vice versa?

3 MS. DAYTON: That's correct.

4 COMMISSIONER KIEFF: So as between the two of
5 you, what percentage of the flow of Chinese product into the
6 U.S. market that is the topic of this case is flowing
7 through the two of you combined? Do you represent the bulk
8 of that flow, a third of that flow? What's the rough guess?

9 MS. DAYTON: We'd have to look at the numbers.
10 But all I can say is we were chosen as a mandatory
11 respondent. So I guess we were pretty big. I think we were
12 number one; right? Because we were chosen so, but I don't
13 know as a percent of the total. I don't see --

14 COMMISSIONER KIEFF: That's fine. And if in the
15 post-hearing you can provide that, that's fine.

16 But let me ask a question during this panel, but
17 it's really directed to both panels. What do we do -- what
18 is the legal significance of a case where there's a -- I
19 mean, commerce has made a determination that there is a less
20 than fair value price on this product. And it's coming in
21 and yet we have two very different theories of the case.
22 One theory of the case is that, you know, look, come on,
23 it's coming in at a lower price. People are buying it. So
24 there's a volume effect and we'd be making more money if not
25 that. So there's an impact. QED, you should enter a

1 remedy.

2 The other theory of the case seems to be, gosh,
3 those are just not the reasons we made our decisions. We,
4 AutoZone, buy -- we, Weitron, buy for a whole range of other
5 legitimate business reasons. We would like to maintain our
6 relationships with our customers. So we want to have a
7 stable supply. We would like to maintain our relationships
8 with our suppliers, so if we already have contracts even
9 though it might have a prima facie -- might look like a
10 prima facie case of critical circumstances we still go ahead
11 and buy. In other words, we're here under sworn settings
12 giving testimony. We're not blinking and sweating. It
13 doesn't look like we're lying. We're saying, we did this
14 for other reasons and we're telling you it's really not
15 about price. Although presumably we like buying at a lower
16 price than a higher price and at least the economics
17 witnesses, Mr. Dougan has explained that reasons why price
18 would have been declining anyway. One never knows.

19 So these are all colorable, credible thoughtful
20 positions. So what do we do when we have two very different
21 takes on a record that otherwise is then not subject to a
22 lot of disagreement? I mean, yes, there's some
23 disagreement, but just at that level both sides could be
24 right and then we would have to be driven by a legal reason
25 to pick one side or the other.

1 That's a broad question. I don't expect a short
2 answer right now. But I hope that in the post-hearing you
3 could each highlight -- have your counsel highlight the
4 legal reasons why we are required when there is that
5 colorable argument by both sides that's on its face not
6 challengeable, why we then have to pick one side or the
7 other.

8 That would be helpful unless there's just a brief
9 response here?

10 MR. SCHUTZMAN: No, unfortunately, there's no
11 brief response. But you seem to have nailed it
12 Commissioner, and we will certainly address that in our
13 post-hearing brief.

14 COMMISSIONER KIEFF: So then another follow-up
15 question. The afternoon panel has presented a number of
16 reasons why it thinks this is really not a close critical
17 circumstances case. Would you go so far as to say, given
18 the testimonial evidence, this is not a case in which a
19 good-faith argument for critical circumstances could be
20 made?

21 MR. MARSHAK: I think if you look at the import
22 statistics, just look at statistics, that's why they made
23 their case. Just looking at the data, there's a spike. But
24 when you start looking into it more carefully, especially
25 the testimony of Ms. Dayton as to why there was a spike, and

1 if you look at the confidential data in Weitron's brief as
2 to what happened, then you see the reasons. It's not a
3 question of good faith or bad faith, it's a question of the
4 data shows one thing, but the real facts, based on the
5 underlying reasons, based on the reasons why Weitron
6 shipments were so disapparent between before and after we
7 believe show absolutely no critical circumstances from the
8 Commission's standpoint.

9 COMMISSIONER KIEFF: But you're not making the
10 argument that some of the statements made this morning that
11 suggested this was -- and I really don't remember the
12 wording, we'll all have to go back and look at the tape, but
13 there was some statements made that this was such a clear
14 case of critical circumstances. Was that kind of an
15 advocate living in the moment a little too much or does that
16 go so far as to be the type of argument that we really
17 should frown upon?

18 MR. MARSHAK: I'm going to be very -- an advocate
19 living in the moment looking at data -- looking at public
20 data of an import spike without just getting into the
21 details as to what really, really happened.

22 COMMISSIONER KIEFF: And those are all of my
23 questions. Thank you.

24 MS. DAYTON: Could I add something to that? I
25 mean, I think the Commission also has to look at from a

1 legal basis on critical circumstances whether the dumping
2 order would be seriously undermined. And I think the price
3 increase in the product since the order shows that it would
4 not be seriously undermined because it's already got a price
5 increase happening. So if the inventory that is disputed as
6 to how much or whether it was properly recorded or whatever
7 would have an effect, it would have an effect now. And
8 what's happening now in the marketplace is that the price is
9 actually increasing.

10 So on a legal basis, I think you have to look at
11 whether it will undermine the antidumping order, and I think
12 from a legal basis you have to assume, no, that it would
13 not.

14 MR. SCHUTZMAN: And, of course, your test is
15 different than the Commerce Department's test which is
16 essentially a numerical test. Yours is different. But we
17 will, of course, address this in greater detail in the
18 post-hearing brief.

19 MR. GOLDFEDER: And Commissioner, can I just jump
20 in for just a few seconds? I mean, the fundamental
21 assumption that the petitioner is making is that if the
22 imports are higher in the post petition period that must
23 have gone into inventory and that's going to sit there and
24 wait for an order to go into effect, at which point it will
25 enter the stream of commerce and without the retroactive

1 application the Commission is not really going to be able to
2 fully do its job. But that's the mistaken assumption
3 they're making is if the imports -- even if they're higher
4 are entering the stream of commerce and they're not sitting
5 there in inventory, that's not what the Commission has found
6 is cause to find an affirmative critical circumstance in the
7 past.

8 CHAIRMAN BROADBENT: Commissioner Schmidtlein.

9 COMMISSIONER SCHMIDTLEIN: Thank you, I
10 apologize if we've covered this I don't think so but this
11 morning you heard Petitioner's counsel and witnesses say
12 that they thought there were spillover effects from the
13 price in the spot market for the auto aftermarket and I'm
14 wondering whether you all agree with that. I asked them
15 specifically, the two companies that were here, are here
16 this morning whether they have had purchasers in those other
17 segments reference Chinese prices and they said yes.

18 Are there spillover effects in your view or not?

19 MR. DOUGAN: I can let the industry witnesses
20 respond to this as well. The Petitioner's panel also
21 listed a whole host of non-price or other reasons why there
22 wasn't Chinese market penetration to these other segments
23 and so I am sort of skeptical or curious -- we'll look at it
24 more in post-hearing but if there are these other reasons
25 that the Chinese can't or couldn't or won't supply into

1 these markets I'm not sure that the idea of the spillover as
2 credible as it is in you know the aftermarket, which
3 everyone agrees they are there and everyone agrees that that
4 seems to be the easiest market to enter.

5 I'm not sure that that -- because there are other
6 areas of entry in these other segments I'm not sure that
7 there would be spillover effect.

8 COMMISSIONER SCHMIDTLEIN: So what about for the
9 markets where they are in, the other -- at least the data
10 shows them in OEM a little bit here recently.

11 MR. DOUGAN: My understanding is that the OEM
12 number may be a mistake, there's a footnote in the staff
13 report that that may have been misreported so I don't -- I'm
14 not sure about that one. With respect to -- I think they
15 do have a presence in some other segments and there are you
16 know, even by the Petitioner's own admission a minimal
17 player there and you know, I don't see that there really has
18 been one.

19 On the one hand they are arguing look how much
20 more severe the price decline is in this segment where they
21 participate heavily but they also do participate in these
22 other segments and those are the other segments where they
23 are arguing that the price decline wasn't as severe so I'm
24 not really sure I see it.

25 COMMISSIONER SCHMIDTLEIN: Okay along this line

1 of prices either now, I don't know if you can comment now
2 that would be helpful but this question about the AUV's and
3 whether or not the Chinese AUV's that were reported on the
4 questionnaires are accurate I guess you would say. It's in
5 pages 9 to 11 of the Petitioner's brief where they have
6 looked at the imported AUV from the official statistics and
7 then looked at what the commercial AUV reported was to be
8 and calculated what the market had to be for that to be
9 accurate, do you have any comment you can make now about
10 that or maybe it's best for the post-hearing?

11 MR. DOUGAN: It's maybe best for the
12 post-hearing but on the one hand it doesn't necessarily
13 reflect any transformation or re-packaging that may have
14 occurred and secondly it's you know, I think probably
15 precipitated by some degree to them not seeing the lower
16 prices of resale into the market they would have expected
17 and so you know I think this is one of those situations
18 where you know if the importers do charge a lower price in
19 the market for their product that's resold, then they
20 undersell.

21 But then they are not seeing underselling oh well
22 then they must be just taking this big market and making a
23 big profit out of it I mean which is -- is that injury to
24 the domestic industry, I'm not sure. If they are reselling
25 into the market at a much higher price and taking a higher

1 margin I would think that the commercial impact on the
2 domestic industry would be minimized as opposed to worsened.

3 It seems like a market driven by not seeing as
4 much underselling as they would have liked but we can get
5 into it more post-hearing.

6 COMMISSIONER SCHMIDTLEIN: Okay, that's all I
7 have for now, thank you.

8 CHAIRMAN BROADBENT: Okay, let's see I don't
9 have any further questions as this time, Commissioner
10 Johanson is that you? Excuse me, Commissioner Williamson?

11 COMMISSIONER WILLIAMSON: Just a couple of
12 questions. In Mexichem's pre-hearing brief at page 9 it
13 argues that some importers reported questionably higher
14 sales prices and I was wondering if you would want to
15 address that, if you would like to do it post-hearing.

16 MR. DOUGAN: I think that maybe the same
17 question that Commissioner Schmidtlein just asked so yeah
18 we'll --

19 COMMISSIONER WILLIAMSON: Oh good fine, thank
20 you. I'm sorry I missed that. The questionnaire responses
21 from the Chinese producers project declining exports to the
22 U.S. in 2014 and 2015 and I was wondering what are the
23 reasons for these projections? Are they anticipating that
24 the orders would be imposed or?

25 MS. DAYTON: You said exports?

1 COMMISSIONER WILLIAMSON: Yeah in other words
2 they are saying they are going to be exporting less to the
3 U.S. in 2014 and '15 than the previous exports.

4 MS. DAYTON: Yes I think they believe that the
5 order will be imposed and therefore it would be more
6 advantageous to keep the production in the United States.

7 COMMISSIONER WILLIAMSON: Okay because you all
8 are not seeing any decline in demand or anything like that?

9 MS. DAYTON: That's correct.

10 MR. MARSHAK: And I'll confirm that when they
11 filled out the questionnaire responses was on the assumption
12 that there would be dumping orders so they took that into
13 effect.

14 MR. DOUGAN: And Commissioner may I also add you
15 know the share of these producers exports to the United
16 States was declining throughout the POI even before the
17 orders went into effect so the fact that it would be
18 projected to be lower still is part of a trend that was
19 observable even before.

20 COMMISSIONER WILLIAMSON: Any explanation for
21 that trend?

22 MR. DOUGAN: Because the shipments to the home
23 market demand and the home market was growing faster. I
24 mean this is not --

25 COMMISSIONER WILLIAMSON: It's not an

1 anticipated answer, I was just wondering.

2 MR. DOUGAN: I mean this is not one of those
3 cases where the U.S. market is the be all end all for these
4 producers and just doing anything that they can do to get
5 into it. I think if that were the case you'd be seeing
6 very different trends but you are not.

7 COMMISSIONER WILLIAMSON: Okay thank you. Okay
8 I think with that I have no further questions, thank you.

9 CHAIRMAN BROADBENT: Commissioner Johanson?

10 COMMISSIONER JOHANSON: Thank you Chairman
11 Broadbent. Why is overall Chinese capacity grown over the
12 period of investigation given flat consumption of R134a in
13 the U.S. market and also why has capacity grown given what
14 is apparently soft -- a soft market in China?

15 MR. DOUGAN: Hi, this is Jim Dougan. I'm not
16 -- again I want to be careful about BPI here but I mean
17 there shipments to the home market suggest that demand is
18 anything but soft in their home market. I mean by
19 comparison to the United States it's actually not even close
20 in terms of what would be a much more attractive market so
21 my inference from this would be that the capacity was added
22 to serve the home market and that while they do ship in you
23 know, not in significant volumes to the United States those
24 are less than not only home market shipments but shipments
25 to their other export markets.

1 COMMISSIONER JOHANSON: All right, I guess the
2 reason I was assuming they were soft, I've looked at the
3 data but it's not under my nose right now, but following up
4 with Miss Dayton I think you insinuated that the market was
5 not quite as strong as you would hope for it to be given
6 your investments in the Chinese market?

7 MS. DAYTON: I think there's no question that
8 the Chinese capacity has increased at a much more rapid pace
9 than overall demand in the Chinese domestic market and in
10 the U.S. market and I have you know -- I know maybe some of
11 my colleagues may not agree with me but I think that I would
12 have to say that a lot of the reason for the increase in
13 capacity was to penetrate the U.S. market.

14 COMMISSIONER JOHANSON: All right, thanks.
15 Thanks for your response. The Respondent's pre-hearing
16 brief discusses at some length, actually great length, a
17 supply shortage which Respondent's allege drove prices up
18 between 2010 and 2011 and during which domestic producers
19 allegedly instructed spot purchasers to seek other sources.
20 This is mentioned I believe at the very beginning of your
21 brief and throughout the brief as well.

22 However, Respondent's apparently do not discuss
23 what causes the alleged supply shortage can you maybe
24 describe what you think caused this shortage?

25 MR. LAMMERS: The reason given by our suppliers

1 which I believe that they documented in some of the
2 pre-hearing briefs was a shortage of the raw materials used
3 to make R134a.

4 COMMISSIONER JOHANSON: Okay and this would not
5 -- I believe Miss Dayton you addressed this as well is that
6 a fluorospar is that the product?

7 MR. LAMMERS: That's one of the product
8 components.

9 MS. DAYTON: I don't think that particular one
10 was the one that was in short supply in 2010.

11 MR. LAMMERS: But there's one of them that was?

12 MS. DAYTON: Yeah there was one maybe PC, I'm not
13 totally sure.

14 MR. LAMMERS: That was the reason given that
15 there was a shortage and they could not -- they didn't have
16 all the raw materials they needed to turn it into the R134a.

17 MS. DAYTON: And I think that there were a bunch
18 of them, the switching of the foaming as Greg Rubin of
19 DuPont said at the end of 2009 to 2010, foaming market
20 switching from 22 and that no longer being allowed because
21 of EPA regulations, all that market went over to R134a in
22 almost one fell swoop. So you had switching the foaming,
23 you had recovery from the recession building up low
24 inventory levels that people had during the recession, the
25 shortage of supply and as DuPont also stated this morning

1 they had plant problems, their plant facility is quite old
2 and they had plant problems that particular year so it was a
3 whole variety of factors that just all came together for
4 that time period.

5 MR. DOUGAN: Commissioner Johanson at page 2-7
6 of the public staff report footnote 15 it references the
7 Chinese Respondent's post-conference brief but I can -- it's
8 public -- Respondent cited letters from U.S. producers
9 reporting supply shortages and price increases. They
10 described difficulty obtaining R134a imports carbons and
11 hydrogen fluoride, increased demand for R134a because of
12 phased out use of R22 and HCFC increased demand in China and
13 by OEM's and high demand for R125.

14 COMMISSIONER JOHANSON: All right, thanks. I
15 will look at that again. And this was a question this was
16 similar to what I asked this morning of the Petitioners but
17 why is Chinese product not figured more heavily in the OEM
18 market?

19 MR. DOUGAN: Maybe one of the industry witnesses
20 could respond to this but I believe it may have been Mr.
21 Rubin or someone else this morning who said that it largely
22 had to do with a couple of factors. One just in time
23 delivery and the supply chain security is incredible
24 important for the OEM's. I mean not that it's not
25 important for the aftermarket but maybe to a different

1 degree and that yeah -- that was probably the main one.

2 Also it mentioned that it was a comparatively
3 smaller component of cost for the production of say a car
4 than it would be for a can or cylinder of an aftermarket
5 product. I'm sure there are other ones as well, maybe
6 because it's a major primarily contract oriented market as
7 opposed to a spot oriented market, all of those are factors
8 that would have contributed to Chinese difficulty in
9 penetrating that market.

10 MS. DAYTON: I would add a couple of things
11 mostly Chinese bulk product is delivered in ISO containers
12 versus U.S. product is delivered in tanker trucks. Tanker
13 trucks come to your facility with pumps already on them, you
14 just hook your hose up to your tank and flip the switch
15 basically and the 134a is pumped from the tanker truck into
16 your tank.

17 Chinese come in these ISO containers that fit on
18 container ships and they come on a chassis and they don't
19 come with pumps on them so you have to be a little bit more
20 used to working with 134a and et cetera to hook up the hoses
21 sometimes the internal valves get stuck and there's a lot
22 more trouble with unloading ISO containers of Chinese
23 product versus tanker trucks coming from the domestic
24 supplier that they generally supply with one or two days
25 lead time.

1 I think another factor is that to get qualified
2 for some of the large OEM's there are qualification
3 procedures that are very stringent as everybody knows. The
4 automotive industry always has been very stringent. OEM's
5 you know, Ford quality programs and et cetera and ISO 9000's
6 and et cetera and I think the domestic producers are
7 certainly well versed in that and make a very, very high
8 quality product, deliver on time and all those so they get
9 qualified as suppliers to those OEM's and other big
10 companies that maybe the Chinese would have difficulty
11 doing.

12 COMMISSIONER JOHANSON: All right, thanks for
13 your responses. Yes Mr. Rubin addressed this issue this
14 morning but I wanted to get your take on it as well.

15 Petitioners mentioned that retail prices for
16 R134a have not changed at all since this obvious 2011, why
17 do you all think this is the case?

18 MR. LAMMERS: I do not think it's the case and I
19 can -- we will be happy to share information in the
20 confidential post-hearing meeting with regards to pricing.

21 COMMISSIONER JOHANSON: All right thank you. I
22 look forward to seeing that. Also Mr. Lammers you mentioned
23 today that the majority of your sales are to
24 do-it-yourselfers and effect people who go into AutoZone and
25 then pick up the canisters and put it into their car, but

1 don't most sales go to auto repair shops?

2 MR. LAMMERS: No most sales of 30 pound
3 cylinders go to repair shops, okay. But that is again a
4 small part of our overall business. The majority of our
5 business is to do-it-yourself customers who come in and buy
6 the various products that we have and recharge their air
7 conditioning systems themselves.

8 COMMISSIONER JOHANSON: Okay I was not aware of
9 that. I got some coolant last year I should have probably
10 tried it myself.

11 MR. LAMMERS: It's very simple.

12 COMMISSIONER JOHANSON: Is that right, okay.

13 MR. LAMMERS: I'll be up to show you afterwards.

14 COMMISSIONER JOHANSON: No that's okay. No
15 it's interesting though because do you know what percent --
16 do you have any idea off the top of your head what
17 percentage would be people who are do-it-yourselfers who
18 actually buy the product as opposed to folks who would go
19 into let's say an auto repair shop?

20 MR. LAMMERS: Well I can't speak for the
21 industry as a whole. I can tell you and its confidential
22 information if I can share with you in a post-hearing brief
23 but I can tell you the percentage of our AC chemical sales
24 that are sold to do-it-yourself customers versus commercial
25 or repair shops.

1 COMMISSIONER JOHANSON: Okay that would be
2 useful thank you my time is expired.

3 CHAIRMAN BROADBENT: Commissioner Kieff?

4 COMMISSIONER KIEFF: So I'm just going to try
5 maybe the law school professor in me coming out, but I am
6 just going to try a hypothetical and ask the lawyers to
7 respond on both sides in the post-hearing. What if we were
8 to be convinced, I'm not saying that we are or that I am,
9 but what if we were to be convinced that the market price
10 affects would have occurred for reasons other than the
11 Chinese imports?

12 For example they went up because of a spike and
13 then returned back to a "normal". Let's assume we bought
14 that argument, it's in effect a factual determination. For
15 the afternoon panel that still would leave us with
16 significant volume in the U.S. market of a product that
17 commerce has told us has a pretty non trivial margin. So
18 the question to the afternoon panel would be -- well to both
19 panels would be what does the law require us to do in that
20 setting and what is the legal support for your position?

21 In a nutshell it's a volume case.

22 MR. MARSHAK: If you are saying there's no price
23 impact and if you're saying it has to be a volume case we
24 would say the volume is not significant because there's no
25 price impact. And when you look at the facts the volume,

1 the market share change, it really isn't that significant.
2 Over time when you look at what's really going on in the
3 market year to year and you look at the reasons why certain
4 companies like AutoZone sitting here was buying, increasing
5 its volume from China for non-price reasons we would see no
6 causation in that case, in that scenario.

7 COMMISSIONER KIEFF: Okay and then let me relax
8 the hypothetical a little bit. What if it turns out we
9 conclude -- sorry find as a matter of fact that the witness
10 testimony this afternoon is completely credible. The
11 reasons they switched and stayed with the Chinese product is
12 for in effect business supply chain risk management and the
13 reason they continue with it is contract relationship
14 management, so we find those to be totally credible.

15 But we find pricing evidence to be of some weight
16 greater than 100% so we say yeah sure price would have gone
17 -- would have spike up when there was a 2011 shock and would
18 have come down somewhat but gosh not quite so far and there
19 is after all, a pretty big margin so since intent is really
20 not an element of a case for a remedy before this Commission
21 in the Title 7 matter, as long as there is some pricing
22 effect from China, after all there is volume and after all
23 there is margin, don't we then have to enter that order?

24 MR. MARSHAK: We would say there's no injury.
25 I mean if prices you know let's say have a minor effect and

1 profitability is down just a little bit because the Chinese
2 are in the market because of nothing and the profits are
3 still very high because the profits are not going down that
4 much because of the dumping based on I believe your
5 hypothetical the industry isn't being injured. They are
6 still making a tremendous amount of money.

7 If the subject imports were totally out of the
8 market you know they would still be making money.

9 COMMISSIONER KIEFF: But wouldn't they be making
10 more? In other words wouldn't they find their way to find
11 some they would work out some deal with both Ms. Dayton and
12 Mr. Lammers to accommodate their needs and it would be at
13 some price that would be in the bargaining zone, a win-win
14 for both sides.

15 MR. MARSHAK: I don't know if there is any
16 violation of any other law by doing this win-win for both
17 sides, but at some point you can't make these incredible
18 profits by keeping the Chinese out of the market when these
19 companies needed the Chinese to come in the market because
20 the domestics weren't being able to supply the product
21 before and there's a very good change that sometime in the
22 future the domestics are going to be in the same place.

23 As they said it would be irresponsible for these
24 people here not to buy from China, not to keep supply going
25 from China. They can't take the chance.

1 COMMISSIONER KIEFF: Is that kind of a policy
2 reason not to have our statute but not a reason under our
3 statute not to have a remedy?

4 MR. MARSHAK: There are a lot of policy reasons
5 not to have your statute but what I think what we've tried
6 to say is even under the statute there would be no injury or
7 no causation based on these particular facts, based on this
8 scenario where the Chinese weren't looking to get the
9 shipment to the United States, but the customers basically
10 said you know we need product because the single most
11 important thing is putting products on the shelves and it
12 happened then and it could happen again, we have to have
13 another supplier out there, we just can't take the change.

14 COMMISSIONER KIEFF: Look I get the argument I
15 think just in the post-hearing if then both sides could give
16 us as much legal support for their take on that, that
17 fulcrum that will really be helpful because I think it will
18 teach us a lot, it's very helpful and I'll just leave it
19 there, thank you very much.

20 COMMISSIONER BROADBENT: Any more questions?
21 Sure. Commissioner Schmidtlein?

22 COMMISSIONER SCHMIDTLEIN: I have one more
23 question I just want to make sure I understand the argument
24 before we leave today. It has to do with something
25 Commissioner Williamson was asking about earlier which is

1 the pricing products and what we see happening in those
2 comparisons and the underselling and I think you are going
3 to address this in the post-hearing brief but I guess just
4 very quickly.

5 It's a little bit related to what Commissioner Kieff was
6 just asking about what I think is this question of causation
7 and when you were talking Mr. Dougan that we shouldn't give
8 this much weight and you can correct me if I'm wrong -- I'm
9 just trying to repeat what I think the argument is.

10 We shouldn't give as much weight to those
11 instances where we see underselling because those are in
12 products where the subject imports have a higher volume and
13 therefore that shows that the competition is attenuated and
14 therefore undermines the idea that there is a causal link
15 between price and any injury to the industry, is that right
16 or is it slightly different in that you are saying this
17 shows there is no price effects and that I don't know if I
18 understand.

19 MR. DOUGAN: I think it's a combination of
20 things. It's not only that the subject imports are
21 concentrated in those comparisons but that the domestics are
22 not but yet even within those comparisons if the reason that
23 customers in this market purchase from Chinese suppliers is
24 price and if the reason that there are -- there was an
25 increase in Chinese penetration of the U.S. market is

1 because of price then in the comparisons where you
2 admittedly do see at least the most overlap if not maybe as
3 much overlap as you should or could, you would expect to see
4 them gaining market share within those areas where we kind
5 of have some comparisons and you don't so to me that
6 undermines causation and it undermines the significance of
7 price effects.

8 So if we agree that there is underselling it
9 doesn't seem to have led to an increase in sales and
10 therefore is not responsible for injury.

11 COMMISSIONER SCHMIDTLEIN: Don't you see -- I
12 mean at least in product 4 where it looks like there is a
13 fair amount of head on head competition, don't you see them
14 in the Chinese import side in the first half of each year
15 that they if I say take from 2011 to 2012 it not quite
16 doubles?

17 MR. DOUGAN: You don't see any increase in
18 share.

19 COMMISSIONER SCHMIDTLEIN: I see absolutely.
20 Okay, well if you could address that in terms of share and
21 absolute volume that would be helpful post-hearing.

22 MR. DOUGAN: Sure.

23 COMMISSIONER SCHMIDTLEIN: Okay I don't have any
24 other questions, thanks.

25 MR. DOUGAN: Oh and I think there is a page in

1 our brief that provides that but anyway we can put it in
2 post-hearing.

3 COMMISSIONER SCHMIDTLEIN: Okay, thank you.

4 CHAIRMAN BROADBENT: Commissioner Johanson?

5 COMMISSIONER JOHANSON: Thank you Chairman
6 Broadbent. For the post-hearing I invite counsel for both
7 sides to comment on the relevance of an investigation
8 glycine from Japan and Korea and this is a 2008
9 investigation. There are some similarities between that
10 investigation and this one I believe, especially if you go
11 to page 21 of the public version of the Commission views and
12 that deals with the impact section.

13 And the issue that the Commission addressed there
14 had to do with the reliability of domestic supply and that
15 concludes my questions, we are going to finish earlier than
16 I believe at some prior hearings, a lot to say, it's been
17 very thorough and I'm actually a little worn out. It's a
18 very interesting subject and I appreciate you all appearing
19 here today, thank you.

20 CHAIRMAN BROADBENT: Mark my words he's going to
21 be down trying to install one of those canisters in his car.
22 Okay with that we will come to closing statements. Oh
23 staff questions, do we have any staff questions?

24 MS. HAINES: Elizabeth Haines, staff has no
25 questions.

1 CHAIRMAN BROADBENT: Do the Petitioners have any
2 questions?

3 MR. SCHAGRIN: We have no questions Madam
4 Chairman.

5 CHAIRMAN BROADBENT: Okay, all right and with
6 that we will come to closing statements. And those in
7 support of the Petitioners have 16 minutes for direct and 5
8 for closing for a total of 21 minutes. You don't have to
9 take all of it. And those in opposition have 5 minutes for
10 direct and 5 for closing for a total of 10 minutes. As is
11 our custom we will combine both of those and those in
12 support of the petition may begin when ready.

13 CHAIRMAN BROADBENT: Mr. Schagrín you may begin
14 when you are ready.

15 CLOSING REMARKS BY ROGER B. SCHAGRIN

16 MR. SCHAGRIN: Thank you very much Madam
17 Chairman, members of the Commission. Let me begin by
18 informing the Commission, you may have already gotten it on
19 your iPhone or blackberries but we do now have the final
20 margins from the Department of Commerce and their
21 determinations and so the CVD rates some went up and some
22 went down. The average went down slightly and the average
23 went from 16% at the preliminary phase to 14.2 with the CVD
24 rates ranging from 1.87 to 22.75.

25 In the anti-dumping case the department found

1 that Weitron was not a valid Respondent in the case. My
2 sympathies to Miss Dayton that was a hard fought issue but I
3 am about to say some nice things about her during the rest
4 of my closing so I hope that will make up for it.

5 They gave Blue Star an increased margin of
6 280.67% and that's the rate that will apply to all the
7 separate companies and the PRC wide rate and they did find
8 critical circumstances as to all imports from China in the
9 dumping case. So, that's obviously important to the
10 Commission, that's the basis of why we are here today is to
11 now figure out since Commerce has found very substantial
12 subsidies which you need to take into account in your threat
13 case and substantial dumping duties is there injury to the
14 U.S. industry producing the like product or is there threat
15 of injury or is there not.

16 We begin with kind of the heart of Respondent's
17 argument and it came from their economist which is his first
18 chart. There can't be any injury they argued because
19 prices after 2011 just returned to normal and they would
20 argue imports from China had no effect on U.S. prices but
21 instead these prices fell in their normal course which they
22 argue is what would happen after any change from a supply
23 and demand imbalance to a more regular supply demand
24 balance.

25 The first comment is that I don't think any MBA,

1 any economist, any of the six Commissioners would ever look
2 only at prices in an investigation without also looking at
3 changes in costs, it's the difference between prices and
4 costs that equal industry profitability and while 2010 is
5 not on the record of your final investigation, you do have
6 information in your preliminary investigation that shows the
7 costs for the industry.

8 It's the same three producers, I'll get into
9 whether you should extend your POI and I'll argue that you
10 shouldn't because as the importers, foreign producers and
11 purchasers, you only have good data for your final period of
12 investigation. It happens that because only three domestic
13 producers for the domestic industry actually do have good
14 data from 2010 through the first half of 2014 and you can
15 see that costs increased significantly from 2010 to 2014 but
16 prices falling back to even below 2010 levels result in this
17 massive decline in profitability which is why this is a
18 fairly easy injury determination for you to make.

19 Because there's just no other explanation for the
20 falling prices yet testimony from producers today, some of
21 whom have been in this industry for 22 years since their
22 plant started, another for 27 years, they've never seen a
23 decline in prices to levels that caused losses at any time
24 during the history of their participation in this product.

25 The only exogenous factor that has occurred in

1 the U.S. marketplace over this period is the introduction of
2 massive amounts of low priced, unfairly traded quantities
3 from China. And at the time they entered the market, they
4 were not injurious and that's why no petitions were filed in
5 2010 or 2011. It's perfectly fine to have product come
6 into the U.S. market and even now new volumes increasing
7 rapidly and if they are not underselling the U.S. industry,
8 they are not causing injury, they are perfectly fine.

9 You do have a big increase in imports.
10 Respondent criticized our use of table 4-7 in the staff
11 report by saying that not all importers reported their
12 shipments by product categories so use just total import
13 levels and it's like look, shipments are important you know
14 and things come in and they may be held in inventories,
15 particularly at the end of the year by importers. It's
16 when they are shipped that they are competing with the U.S.
17 industry and I think that table 4-7 is reliable in the fact
18 that certain importers may not have filled out information
19 on shipments versus imports and that shouldn't be held
20 against the domestic industry.

21 Now let's talk about the competition between the
22 Chinese and the domestic and I don't think you have any
23 probably better evidence of that than the actual testimony
24 of the AutoZone witness. You know his testimony was
25 basically, and same with the preliminary and final phase,

1 that he couldn't buy directly from U.S. producers like he
2 could buy from Chinese producers.

3 Yet he also testified that the majority of what
4 he sells is domestic product. To the point that that
5 sounds a little bit contradictory, I'm sure that they would
6 respond yeah, but all those domestic products we sell we are
7 forced to buy those through distributors, re-packagers and
8 we would rather buy directly.

9 The -- and then he went on to say that he had
10 meetings with DuPont to try to buy product with his AutoZone
11 label on it. I left my can back there, I meant to bring
12 it up but you have seen it already. It was DuPont's
13 testimony this morning everyone in this industry knows it
14 this gentleman has been in the trade and refrigerant
15 products for 18 years. I think by now everybody knows,
16 DuPont doesn't let people use their own private labels.

17 Arkema and Mexichem does. And he said and gee
18 Arkema and Mexichem didn't contact me. Wow he's a
19 purchasing agent. I thought their job was to purchase and
20 I know he said his bonus is based on his margins. Well as
21 Mr.

22 Geosits testified to this morning, one of AutoZone's major
23 competitors after this case was filed came to him and said
24 we do want to buy directly, it's just we want 360 days like
25 we get from the Chinese and U.S. manufacturers won't give

1 that. They'll give 30 days like they do to everybody so
2 it's not a big surprise that Mr. Geosits may not have gone
3 out to contact him.

4 But the critical thing which came out of Mr.
5 Geosits sworn testimony this morning and I quoted, in fact I
6 talked with three major re-packers who say they have no
7 issue providing private label cans for retailers and in fact
8 right now AutoZone competitor as I'm sure will happen with
9 AutoZone, is getting a private label can from a U.S.
10 re-packager distributor, one of those three, buying Mexichem
11 product and putting the cans that say that retailers name on
12 it and AutoZone can do the same thing.

13 And when I'm done with my rebuttal and when Mr.
14 Marschak is done I'm going to give Mr. Lammers Mr. Geosits
15 card and he should call him. I'll bet he won't do that
16 until November 13th because he will wait for your decision.

17 Because if you go negative he's going to be on the phone on
18 November 13th, call his Chinese suppliers and say start
19 shipping again because your prices are so much lower.

20 The other thing about his testimony was kind of
21 guilt by omission. He said you know in 2010 and 2011 he
22 went out of his way in his testimony, I paid more for
23 Chinese product than I did for U.S. product. He didn't say
24 anything about 2012, 2013 the first half of 2014. He
25 didn't have to. You have the information on your record

1 from your staff report. It shows that Chinese prices
2 undersold the domestic industry during those periods. I'll
3 assume they did to him as well or else he would have said we
4 always pay more for Chinese product.

5 So and then let's look at the information you do
6 have on import underselling. Mr. Dougan says ah not very
7 valid, you know it might be that three-quarters of the
8 imports by volume in the pricing products undersold the
9 domestic industry but a lot of those products that the
10 Chinese sold a lot of, there weren't a lot of domestic sales
11 and that's no surprise because there was underselling in the
12 domestic industry. They were shoving them out and in the
13 largest single market segment for R134a which is the --
14 everyone admits this -- the automotive aftermarket is by far
15 compared to every other segment the largest market.

16 You have the information on your record to show
17 over this period of investigation the Chinese gained a
18 tremendous amount of market share, displacing domestic
19 products, pushing down domestic prices in the spot market
20 and that is now falling through to the contract market so
21 when we did the Mexichem plant visit with your staff they
22 were able to see that Mexichem itself packages 30 pound
23 containers with private labels on them. They will put
24 anybody's label on what they package. They will and I
25 understand Arkema will do the same, will sell to any

1 re-packager, distributor or sold directly to someone who
2 wants to pay a tolling fee in order to re-package under
3 private label.

4 The only difference is the prices will be higher
5 and there are no unfairly- traded Chinese imports not paying
6 duties in the U.S. market. And in fact, the comment that I
7 want to make, it sounds like that's Weitron's business as
8 well, they are a distributor re-packager as Miss Dayton
9 testified. They evidently have distribution outlets
10 throughout the United States, wouldn't it be wonderful if
11 one of the nice things that came out of this hearing is that
12 AutoZone could buy a domestic product from somebody who pays
13 people tremendous wages and gives them health care.
14 Weitron or another distributor re-packager could package it
15 with AutoZone's label. It wouldn't have to say product of
16 U.S.A. and China anymore, it just could say product of
17 U.S.A.

18 Nobody would have to ship these cans all the way
19 from the U.S. to China and back to here and everyone in
20 American could have more jobs and they could have better
21 paying jobs and I don't think the damage to Mr. Lammer's
22 bonus for margins or his stock options with AutoZone stock
23 at \$500.00 will change that much.

24 But let's see what happens if you don't make an
25 affirmative determination of injury. It's a matter of

1 public record that the DuPont division making refrigerant
2 gas is being spun off as a specialty chemicals division of
3 DuPont, it's about 20% of their total sales because these
4 private investors hedge funds, equity people, you know are
5 pushing DuPont to you know, spin off the slower businesses
6 and retain the better businesses, this is happening every
7 day on Wall Street.

8 And you would have to say when they are a larger
9 share of a smaller company, are they going to keep plants
10 open if they lose money. The same applies to Mexichem
11 Fluor, they are part of a public multi-national company that
12 does all of their transfer pricing and accounting in
13 accordance with U.S. law, custom's law and international
14 accounting standards.

15 I would submit I heard from Mr. Dougan telling
16 people, telling the Commissioners why he thinks people would
17 cheat on their taxes in their transfer pricing, I can assure
18 you that the big four accounting firm Deloitte Touche which
19 does the accounting for Mexichem Fluor probably has more
20 expertise in terms of legal advice and accounting advice.

21 It's an issue that I think as Commissioner
22 Schmidlein pointed out you know we think this is an issue
23 that's important for public policy reasons for the
24 Commission to reconsider. In this particular case it
25 really makes no difference. This industry's profits have

1 plummeted. They have plummeted because they have been
2 under such pricing pressure compared to their costs because
3 of unfairly traded Chinese imports that their prices have
4 fallen to levels that they can't continue to stay in
5 business.

6 Finally is the threat regardless of the growth
7 and demand in China your record shows that Chinese capacity
8 is increasing much faster than demand. Ms. Dayton who has a
9 great deal of expertise on the China market said exactly
10 that in response to Commissioner Johanson. It's not a
11 question of how the Chinese market is growing, the question
12 is the comparison of capacity growth in China to their
13 demand and it's been growing much faster than demand which
14 gives them excess capacity that they can use underselling
15 the U.S. industry to increase their exports. They are
16 subject to anti-dumping duties.

17 In India demand is decreasing for a number of
18 reasons in EU both regulatory change as well as a dismal
19 economy there and as you saw we had the recent surges into
20 the U.S.

21 We thank you for your attention today. We thank
22 the staff for doing a fabulous job putting together a great
23 staff report and with that we ask that you make an
24 affirmative final determination of injury, thank you very
25 much.

1 CHAIRMAN BROADBENT: Thank you. You may begin
2 when you are ready.

3 CLOSING REMARKS BY NED H. MARSHAK

4 MR. MARSHAK: Thank you I am Ned Marshak on
5 behalf of the Chinese Respondent's Weitron. First I'd like
6 to thank the Commission and staff for your courtesy to us
7 and our witnesses for carefully considering all the evidence
8 of record and all of our arguments.

9 Our goal today was to direct the Commission's
10 attention to what we believe are the critical issues in this
11 case knowing fully well that the devil is in the details, in
12 this case like all others, will be won and loss based on the
13 record of evidence that participants submitted in response
14 to Commission requests for Commission questionnaires and a
15 document already submitted in pre-hearing briefs and will be
16 submitted in post-hearing briefs and responses to the many
17 questions the Commissioners asked today.

18 What I would like to do now is very briefly
19 review the issues which were raised in the briefs filed by
20 Petitioner and Respondent which were the focus of the
21 party's presentation at this public hearing. First, the
22 statute requires that the Commission and I'll quote the
23 statute "shall evaluate all relevant economic factors within
24 the context of the business cycle" that conditions of
25 competition that are distinctive to the effect of industry.

1 We all agree that the formal POI in this case
2 begins in 2011. But as we discussed in detail in our
3 pre-hearing brief and as you heard today, the R134 industry
4 experiences distinct business cycles. First supply and
5 demand is seasonal. Distributors build inventories at the
6 beginning of the calendar year but for sale during spring
7 and early summer. This is the yearly cycle.

8 Second and probably more significantly, a
9 business cycle began in this industry in 2010 when a perfect
10 storm of factors led to increased demand and reduced supply
11 led the severe shortages to customers standing at the end of
12 the line.

13 In the automotive aftermarket prices spiked and
14 end of line customers, the step children among customers
15 were forced to pay premiums for R134 sold in the United
16 States and were forced to look to China to meet the demands
17 of the ultimate consumers. And when the bubble burst,
18 purchasers recognized that they could not return to the
19 status quo and leave themselves vulnerable to a repeat
20 performance. They continued to source R134 away from China
21 rather than to place themselves at the mercy of the three
22 members of the domestic industry.

23 Prices have now declined to normal levels --
24 levels which we believe would have been reached whether or
25 not the Chinese were in the market. Next the statute

1 requires the Commission to examine the impact of subject
2 imports and I'll quote "on the industry as a whole" but at
3 the same time the Commission determines whether subject
4 imports have caused material injury by taking into account
5 the unique circumstances of individual companies, especially
6 when the industry is composed of merely two or three
7 companies. And in this case, an analysis of the individual
8 producer's operations can aid the Commission in
9 understanding industry-wide trends.

10 We ask that the Commission carefully review the
11 reasons why the performance of individual firms may have
12 varied during the business cycle and we believe that this
13 careful consideration will lead the Commission to conclude
14 that any problems experienced by domestic producers have not
15 been caused by subject imports.

16 We also ask that the Commission examine the
17 impact of subject imports on each market segment. We agree
18 with Petitioners. Why were subject imports concentrated in
19 one sector and why didn't subject imports have any real
20 impact on the other sectors? We believe that this market
21 sector analysis which Petitioners endorse highlights the
22 reasons why Chinese imports were not the reason for any
23 downward trends.

24 We agree that what matters to quote Mr. Greenwald
25 is a relationship between prices and cost. We trust the

1 Commission will carefully analyze this relationship and look
2 at what the staff reports during the POI from 2011 to 2013,
3 first quarter of 2014. Look at costs and prices and the
4 context of business cycle. And we believe this
5 relationship will show that it is not subject imports that
6 are injuring the domestic industry if it is in fact being
7 injured.

8 And then there is threat. Is the industry
9 vulnerable? Will the companies continue in operation
10 despite the fact that one company may have an issue? Do
11 the Chinese depend on the U.S. market? Have imports
12 increased significantly at the very end of the POI? Has
13 the rate of underselling increased? Have inventories
14 increased?

15 We believe that the evidence of record will
16 confirm that this case is not about threat, if the
17 Commission concludes and we believe that it should, that the
18 events of 2012 and 2013 were not injurious, we believe it
19 definitely will conclude or should conclude that Chinese
20 exports did not pose a threat in the imminent future.

21 Finally critical circumstances -- what should the
22 Commission look at when it makes a decision on critical
23 circumstances? First, are the post-petition imports of
24 Chinese R134 likely to more seriously undermine the remedial
25 effects of the order? That's the statutory language.

1 When you look at case law and Commission precedent, the
2 Commission will ask the questions, is the magnitude of
3 post-petition imports and increases in inventories, and
4 increases in inventories sufficiently large that they
5 greatly and insiduously weaken or subvert the effects of the
6 order.

7 Did imports surge as a result of initiation as
8 exports and importers sought to increase shipments to avoid
9 assessment of dumping and countervailing duties? The
10 answers there are no, no and no. The standard is high and
11 it has not been satisfied.

12 When you look carefully at the record we believe
13 the evidence is clear with respect to critical
14 circumstances. Imports are seasonable. The trend despite
15 what is predictable, are not different than the past. The
16 percentage increase was high and in some prior years but not
17 all prior years because the base was unnaturally low. Look
18 at the reason for the spike. Look why it was low for one
19 period and it had to be higher for the other period.

20 Also, imports were based on pre-petition orders
21 without any intent to beat a deadline. There was no intent
22 to circumvent. Companies were not circumventing the order.

23 Imports increased because the domestics could not or would
24 not supply them even as late as 2014. Inventories declined
25 and that's critical. The requisite inventory buildup which

1 had the potential to weaken or subvert the remedial impact
2 of the order simply did not exist. And prices have
3 increased and if prices have increased and there's been no
4 inventory buildup, the remedial impact of the order will not
5 be heard.

6 The order, if there is an order will have the
7 impact, will have an effect and critical circumstances are
8 simply not necessary.

9 In short, the requisite injury asserted did not
10 occur and the necessity of retroactive assessment to avoid
11 the order being undermined does not exist. We thank the
12 Commission and it's nice to get out of here early one day,
13 thank you.

14 CHAIRMAN BROADBENT: Thank you. Again I want
15 to express the Commission's appreciation to everyone who
16 participated in today's hearing. Your closing statements,
17 post-hearing briefs, statements responsive to the questions
18 and requests of the Commission and corrections to the
19 transcript must be filed by October 22, 2014. Closing of
20 the record and final release of data to the parties will be
21 on November 5, 2014. Final comments are due on November 7,
22 2014 and with that this hearing is adjourned, thank you.

23 (Whereupon the meeting was adjourned at 4:02
24 p.m.)

25

CERTIFICATE OF REPORTER

TITLE: In The Matter Of: 1,1,1,2-Tetrafluoroethane from China

INVESTIGATION NOS.: 701-TA-509 and 731-TA-1244 (Final)

HEARING DATE: 10-15-2014

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: 10-15-2014

SIGNED: Mark A. Jagan

Signature of the Contractor or the
Authorized Contractor's Representative

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceedings 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 proceedings.

SIGNED: Christopher Weiskircher
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I hereby certify that I reported the above-referenced proceedings 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 proceedings.

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