

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:) Investigation Nos.:
POLYESTER TEXTURED YARN FROM) 701-TA-612-613 AND 731-TA-1429-1430
CHINA AND INDIA) (FINAL)

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1 THE UNITED STATES INTERNATIONAL TRADE COMMISSION

2 In the Matter of:) Investigation Nos.:

3 POLYESTER TEXTURED YARN FROM) 701-TA-1612-613

4 CHINA AND INDIA) 701-TA-1429-1430

5 (Final)

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9 Wednesday, November 13, 2019

10 Main Hearing Room (Room 101)

11 U.S. International

12 Trade Commission

13 500 E Street, S.W.

14 Washington, D.C.

15 The meeting commenced, pursuant to notice, at
16 9:30 a.m., before the Commissioners of the United States
17 International Trade Commission, Chairman David S. Johanson,
18 presiding.

19 Commissioners Present:

20 Chairman David S. Johanson (presiding)

21 Commissioner Rhonda K. Schmidtlein

22 Commissioner Jason E. Kearns

23 Commissioner Randolph J. Stayin

24 Commissioner Amy A. Karpel

25

1 APPEARANCES:

2 Staff:

3 WILLIAM R. BISHOP, SUPERVISORY HEARINGS AND INFORMATION

4 OFFICER

5 TYRELL T. BURCH, MANAGEMENT ANALYST

6

7 Staff (continued):

8 CHARLIE CUMMINGS, INVESTIGATOR

9 MARY ROOP, INTERNATIONAL TRADE ANALYST

10 AMELIA PREECE, INTERNATIONAL ECONOMIST

11 JOANNA LO, ACCOUNTANT/AUDITOR

12 WILLIAM KENT, ATTORNEY/ADVISOR

13 ELIZABETH HAINES, SUPERVISORY INVESTIGATOR

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1 Opening Remarks:

2 Petitioners (Paul C. Rosenthal, Kelly Drye & Warren LLP)

3 Respondents (Kristen Smith, Sandler, Travis, & Rosenberg,

4 P.A.; and Daniel J. Cannistra, Crowell & Moring, LLP)

5

6 In Support of the Imposition of Antidumping and

7 Countervailing Duty Orders:

8 Kelly Drye & Warren LLP

9 Washington, DC

10 on behalf of

11 Unifi Manufacturing, Inc.

12 Nan Ya Plastics Corporation, America

13 Thomas H. Caudle, Jr., President, Chief Operating

14 Officer, and Board of Directors Member, Unifi

15 Manufacturing, Inc.

16 Tim Cole, Vice President of Manufacturing,

17 Unifi Manufacturing, Inc.

18 Jane L. Johnson, Manager, Government Relations,

19 Unifi Manufacturing, Inc.

20 John Freeman, Assistant Director, Sales, Nan Ya

21 Plastics Corporation, America

22 Paul Elliott, Senior Account Manager, Nan Ya

23 Plastics Corporation, America

24

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-- continued --

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

3 Michael T. Kerwin, Assistant Director, Georgetown
4 Economic Services LLC

5 Gina Beck, Senior Economic Consultant, Georgetown
6 Economic Services LLC

7 Paul C. Rosenthal, Kathleen W. Cannon, Melissa
8 M. Brewer - Of Counsel

9

10 In Opposition to the Imposition of Antidumping and
11 Countervailing Duty Orders:

12 Sandler, Travis, & Rosenberg, P.A.

13 Washington, DC

14 on behalf of

15 Fils Promptex Yarns Inc.

16 Chori America Inc.

17 CS America, Inc.

18 Masayuki Wada, Synthetic Fiber & Automotive Interiors

19 Dept., Chori America, Inc.

20 James Breeden, Economist, UNO International

21 Trade Strategy

22 Kristen Smith, Sarah E. Yuskaitis - Of Counsel

23

24

25

-- continued --

1 In Opposition to the Imposition of Antidumping and
2 Countervailing Duty Orders (continued):

3 Crowell & Moring, LLP

4 Washington, DC

5 on behalf of

6 Reliance Industries Limited

7 Sameer Bhatnagar, Vice President of Exports, Reliance
8 Industries Limited

9 Daniel J. Cannistra, Spencer Toubia - Of Counsel

10

11 REBUTTAL/CLOSING REMARKS:

12 Petitioners (Paul C. Rosenthal and Kathleen W. Cannon,
13 Kelly Drye & Warren LLP)

14 Respondents (Kristen Smith, Sandler, Travis & Rosenberg,
15 P.A., and Daniel J. Cannistra, Crowell & Moring, LLP)

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P R O C E E D I N G S

(9:32 a.m.)

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

CHAIRMAN JOHANSON: Good morning. This meeting of the U.S. International Trade Commission will now come to order. On behalf of the U.S. International Trade Commission, I welcome you to this hearing on the Final Phase of Investigation Numbers 701-TA-612 to 613 and 731-TA-1429 to 1430, involving Polyester Textured Yarn from China and India.

The purpose of these final investigations is to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded by reason of imports of polyester textured yarn from China and India. Schedule setting forth the presentation of this hearing, notices of investigation, and transcript order forms are available at the public distribution table.

All prepared testimony should be given to the Secretary. Please do not place testimony directly on the public distribution table. All witnesses must be sworn in by the Secretary before presenting testimony. I understand that parties are aware of the time allocations. Any questions regarding the time allocations should be directed

1 to the Secretary.

2 Speakers are reminded not to refer in their
3 remarks or answers to questions to business proprietary
4 information. Please speak clearly into the microphones and
5 state your name for the record for the benefit of the court
6 reporter and for those sitting in the back of the room. If
7 you will be submitting documents that contain information
8 you wish classified as business confidential, your request
9 should comply with Commission Rule 201.6. Mr. Secretary,
10 are there any preliminary matters?

11 MR. BISHOP: Mr. Chairman, I would note that all
12 witnesses for today's hearing have been sworn in. There are
13 no other preliminary matters.

14 CHAIRMAN JOHANSON: Thank you. Very well. Let
15 us begin with opening remarks.

16 MR. BISHOP: Opening remarks on behalf of
17 petitioners will be given by Paul C. Rosenthal of Kelley
18 Drye & Warren. Mr. Rosenthal, you have five minutes.

19 OPENING STATEMENT OF PAUL C. ROSENTHAL

20 MR. ROSENTHAL: Good morning, Chairman Johanson
21 and members of the Commission. I'm Paul Rosenthal of Kelley
22 Drye & Warren, appearing today on behalf of the petitioners,
23 the domestic producers of polyester textured yarn. I'd like
24 to have a special greeting for Commissioners Karpel and
25 Stayin, my first opportunity to appear before you, and I

1 look forward to the opportunity to answer your questions.

2 The production of Polyester Textured Yarn, or
3 PTY, is capital-intensive and requires a continuous process.
4 You can't simply turn these machines on and off at will.
5 When business declines, the producers' only option is to
6 idle the texturing machine entirely or abandon it if you
7 can't regain sales. There are now many texturing machines
8 sitting idle in the United States, as well as many
9 unemployed workers who would otherwise be running those
10 machines. The reason the industry is not producing more
11 PTY, despite having the equipment to do so, is very simply
12 lost business due to subject imports.

13 Imports from China and India entered the U.S.
14 market several years ago, in fact, more than ten years ago,
15 well before the period of investigation. And frankly, the
16 domestic industry looked at filing a dumping case a number
17 of years ago, but instead of doing that, the companies chose
18 to try to cut costs even further and idle lines, while at
19 the same time trying to improve their products and product
20 innovation. That strategy worked to prop up profits for a
21 little while, but ultimately, the domestic industry ran out
22 of options as low-priced imports from China and India
23 continues to pour into the U.S. market.

24 As I mentioned, subject imports jumped up well
25 before the period of investigation, almost 400%. So by the

1 time the period of investigation started, the subject
2 imports already had a significant share of the U.S. market.
3 As reflected in the staff report, imports from China and
4 India increased from 62 million to 78 million pounds between
5 2016 and 2018, an increase of almost 25% over the period of
6 investigation.

7 With demand essentially flat, the subject imports
8 increased their market share significantly and almost all of
9 that increase came directly out of the U.S. producers'
10 share. Unfortunately, that import surge continued
11 immediately after the filing of this case, as the Chinese
12 attempted to push in even more volume in an effort to beat
13 the preliminary duties. You'll hear more about that as we
14 discuss critical circumstances later this morning.

15 The record makes clear that low price is the only
16 reason the subject imports have been imported in such high
17 volumes. The importance of price is reflected in every
18 aspect of the record. For example, the indirect sales
19 analysis shows underselling in about 97% of comparisons and
20 on the vast majority of the volume as well. Direct sales
21 comparisons show similar percentages of underselling.

22 Moreover, purchasers overwhelmingly reported that
23 the subject import prices were lower than those of the
24 domestic producers, and that price was the primary reason
25 they bought imports rather than domestic products. Indeed,

1 purchasers who responded to your questionnaire, admitted
2 shifting almost 40 million pounds out of 52 million pounds
3 sold from domestic producers to subject imports.

4 Not only did those low prices allow the unfair
5 imports to gain sales at the domestic industries' expense,
6 they caused substantial suppression of U.S. producers'
7 pricing. U.S. producers simply weren't able to increase
8 prices enough to cover rising costs due to these low-priced
9 subject import prices.

10 The aggressive pricing behavior by imports from
11 China and India has had a devastating effect on the domestic
12 industries' profits. As your database shows, U.S. producer
13 profits have plummeted over the period of investigation.
14 What do the respondents say about these increased import
15 volumes? They pretty much ignore the record evidence.

16 Respondents' principal argument is that they
17 don't compete against U.S. producers. Yet they never
18 explain or acknowledge that the increase in their market
19 share has come at the direct expense of the domestic
20 industry. The same goes for the overwhelming evidence of
21 underselling.

22 Respondents are totally silent about the 97%
23 underselling by subject imports. The sounds of crickets
24 prevails as well as respondents offer no explanation why
25 purchasers report 40 million pounds of purchases shifted

1 from domestic producers to subject imports, primarily due to
2 price. The respondents' silence on these questions is
3 deafening. And you will hear why this morning.

4 The arguments by respondents about why they don't
5 allegedly compete with U.S. companies have no support in the
6 record. Regional preferences, the Berry Amendment, alleged
7 different markets, all those claims are undermined by the
8 evidence before you as our witnesses will explain further.
9 When this hearing's concluded, there should be no doubt that
10 the record supports affirmative determinations respective
11 imports of PTY from China and India. Thank you.

12 MR. BISHOP: Thank you, Mr. Rosenthal. Opening
13 remarks on behalf of respondents will be given by Kristen
14 Smith of Sanders, Travis & Rosenberg, and Daniel Cannistra
15 of Crowell & Moring. Ms. Smith and Mr. Cannistra, you have
16 five minutes.

17 Instead of Mr. Cannistra giving opening remarks
18 on behalf of Crowell & Moring, Spencer Toubia of Crowell &
19 Moring will provide opening remarks.

20 OPENING STATEMENT OF KRISTEN SMITH

21 MS. SMITH: Good morning, Chairman Johanson,
22 Commissioners and staff. I'm Kristen Smith from Sandler,
23 Travis & Rosenberg. Thank you for the opportunity to be
24 here today to present on behalf of STR respondents, Chori
25 America, Fils Promptex and CS America in opposition.

1 I'd like to start by thanking the Commission
2 staff for the time and effort invested in these
3 investigations. The primary focus of our presentation today
4 will be on the issue of critical circumstances. The
5 administrative record in this proceeding supports a negative
6 critical circumstance determination.

7 The Commission, by longstanding practice, should
8 compare the six-month comparison periods from May 2018 to
9 October 2018 with November 2018 to April 2019. As
10 demonstrated by the staff report and our prehearing brief,
11 the volumes of subject merchandise and inventories of
12 subject merchandise have not increased at such a magnitude
13 that would seriously undermine the remedial effect of an
14 order. Rather, the market decreased and imports of subject
15 merchandise over the comparison periods, requiring a
16 negative critical circumstance determination.

17 The Commission should also consider the nature of
18 the industry, which highlights contractual obligations
19 established prior to the filing of the petitioners, supply
20 chain considerations for importers of polyester textured
21 yarn and domestic manufacturers of downstream products and
22 end-use specifications. Together, these other circumstances
23 also support a negative determination.

24 Well, we're here today to focus mainly on the
25 issue of critical circumstances. As discussed in our case

1 brief, there're very important conditions of competition
2 that govern the timing and purchase decisions for polyester
3 textured yarn imports. As such, I'd like to provide a very
4 brief overview of the conditions of competition that make
5 this case very unique for these reasons.

6 First, the subject merchandise is utilized across
7 industries from multiple end uses. Each end use has very
8 specific requirements, industry standards and timelines for
9 the manufacturing, both of the polyester textured yarn and
10 the polyester-textured-yarn-downstream products. The
11 success of the industry is directly tied to the success of
12 these end use industries.

13 Second, the domestic industry benefits from
14 productive protective conditions of competition. That imbed
15 the domestic industry into segments of the market which
16 cannot and do not compete with the subject imports. For
17 example, Yarn Forward Rules protect the domestic industry
18 from NAFTA/CAFTA and FTA compliance requirements. The U.S.
19 domestic industry is able to appropriately price its
20 product, particularly in the protective NAFTA/CAFTA,
21 regional FTA and Buy American markets.

22 Finally, the domestic industry faces significant
23 competition from non-subject imports outside of the
24 NAFTA/CAFTA markets and also within the NAFTA/CAFTA and FTA
25 markets. Import pressure from non-subject imports that

1 compete with the U.S. domestic industry place pricing
2 pressure on domestic pricing.

3 In light of the foregoing, we urge the Commission
4 to make a negative finding with respect to critical
5 circumstances. We also request that the Commission focus on
6 the protection granted to the domestic industry and the
7 different specification requirements and industry standards
8 of each segment of the industry as it relates to sourcing
9 decisions as petitioners testify before you this morning.
10 We appreciate your consideration today. Thank you.

11 OPENING STATEMENT OF SPENCER TOUBIA

12 MR. TOUBIA: Good morning, Chairman Johanson,
13 Commissioners and staff. My name is Spencer Toubia from
14 Crowell & Moring, representing the respondents, Reliance
15 Industries, Limited. We are here today to discuss why the
16 domestic industry is not materially injured or threatened to
17 be materially injured by imports of PTY from China and
18 India.

19 One of the things that really surprised me when I
20 began working with this product is--and my clients will be
21 the first one to tell you this--is not all yarn is yarn.
22 Not all yarn is alike. It's really impossible to say that
23 PTY coming in from foreign countries is exactly the same as
24 what the U.S. industry is producing. You have material
25 injury. There you have it, wipe your hands clean and call

1 it a day.

2 It's not that simple, and PTY is really not that
3 simple of a product. There are thousands of different types
4 of PTY. There's yarn meant for weaving applications, yarn
5 meant for knitting applications. There's fat yarn, skinny
6 yarn and yarns of different finishes, air-textured yarn,
7 dry-textured yarn. All of this, as Ms. Smith alluded to,
8 have different applications and end uses.

9 The data provided in the prehearing report,
10 paints a picture, albeit not a complete picture of this. We
11 will show that imports from India do not actually compete
12 with products produced in the U.S. And indeed, do not even
13 compete with Chinese imports. This lack of competition, as
14 shown in the pricing data --

15 CHAIRMAN JOHANSON: Mr. Toubia, your time has
16 expired.

17 MR. TOUBIA: Okay. I'll wrap things up then.
18 For that reason, we ask that the Commission make a negative
19 injury determination and find the imports from India or in
20 the alternative cumulative imports do not materially injure
21 the domestic industry.

22 MR. BISHOP: Thank you, Ms. Smith and Mr. Toubia.
23 Would the panel in support of the imposition of the
24 antidumping and countervailing duty orders please come
25 forward and be seated. Mr. Chairman, this panel has sixty

1 minutes for their direct testimony.

2 MR. ROSENTHAL: Good morning again. We'll begin
3 our panel's testimony this morning with Mr. Tom Caudle.
4 This is the President of Unifi.

5 STATEMENT OF THOMAS H. CAUDLE, JR.

6 MR. CAUDLE: Good morning. My name is Tom
7 Caudle, and I am a director, the President and Chief
8 Operating Officer of Unifi Manufacturing. I testified at
9 the preliminary conference last year and I appreciate the
10 opportunity to return to the Commission today to tell you
11 about our company and what we've experienced in recent
12 years as a result of unfairly-priced imports from China and
13 India.

14 My career with Unifi began in 1973. I've held a
15 number of positions since then, and have served as President
16 and Chief Operating Officer since August of 2017. I'm
17 incredibly proud of our work at Unifi and the company we've
18 built. Our employees are hard-working, are committed to
19 their jobs, and we are invested in the communities we have
20 built in North Carolina, both inside and outside our
21 facilities.

22 Unifi was founded as a PTY company, and today it
23 remains our primary business. We pride ourselves on
24 manufacturing a high quality product and can provide all
25 types of PTY for all end uses. What we can no longer do is

1 compete with the unfairly low-priced PTY imports from China
2 and India. These imports started causing problems in the
3 U.S. marketplace years ago.

4 But during the past several years, the volume and
5 pace of these imports have accelerated at an alarming rates.
6 We have seen a dramatic increase in a number of customers
7 shifting to purchasing these imports because of their low
8 prices. As a result, Unifi has lost sales and market share
9 to a foreign producer whose prices are so low that they are
10 now impossible to compete with, no matter how cost-effective
11 or innovative our operations.

12 The situation became so dire for Unifi that we
13 elected to file this trade case. Unfairly-priced PTY from
14 China has been imported in increasing quantities and at
15 margins that undercut our prices substantially. Right after
16 the case was filed at the end of 2018, Chinese imports
17 peaked and flooded the U.S. market in order to beat the
18 preliminary duties.

19 Even though Chinese imports declined in 2019, the
20 stockpiled Chinese PTY continued to sell at prices well
21 below Unifi in the first half of this year, causing us
22 continued pain. Indian import volumes were large throughout
23 the past few years and also undersold us at significant
24 margins. We just began to see a decrease in Indian volume
25 several months ago, once the preliminary duties were put in

1 place.

2 The Section 301 duty applicable to imports of
3 Chinese PTY have provided us no relief. Despite those
4 duties going into effect at 10% rate last September, we
5 continued to see significant volumes of Chinese imports sold
6 to United States at extremely low prices that continued to
7 undercut our prices. We do not expect the increase of these
8 duties to 25% to provide any meaningful relief on a
9 long-term basis.

10 And with an interim deal with China possible, it
11 may be the 301 tariffs go away entirely over the next
12 several months. In any event, the Commerce Department's
13 high preliminary antidumping and countervailing duty margins
14 for Chinese imports shows that the scale of injury to the
15 U.S. industry cannot be remedied, even by the 25% duty.

16 I understand that the respondents have claimed
17 Unifi's insulated from competition with subject imports due
18 to certain domestic content requirements in our industry.
19 While Unifi sells PTY for domestic content programs like the
20 Berry Amendment, the vast majority of our PTY sales are to
21 end users that have no domestic content restrictions. The
22 Berry Amendment program that requires the purchase of PTY
23 for certain military or government procurement purposes,
24 applies to an extremely low percentage of our total PTY
25 business.

1 Some of the Unifi customers buy our PTY for
2 production into fabrics that is exported to meet Yarn
3 Forward's requirements pre-trade agreements. This gains
4 them duty-free importation of those products into export
5 markets. This is a duty-free benefit. It is not a legal
6 requirement under the agreements. When imported PTY prices
7 are low enough, customers may choose to forego the
8 duty-free benefits and instead, purchase imported PTY.

9 The same is true for customers that simply
10 express a preference for domestic PTY. Those customers can
11 and do shift to subject importers when the prices are low
12 enough. Again, however, the percentage of the market
13 affected by these free-trade agreements or other domestic
14 preferences is small.

15 The vast majority of the U.S. market is subject
16 to no domestic content requirements. Further, the PTY
17 prices for the Berry Amendment and FTA sales are not
18 insulated from subject imports. Low prices from China and
19 India affect all market pricing in the United States,
20 including the Berry Amendment and FTA areas. Customers know
21 the market prices for PTY and are unwilling to pay
22 significantly more for Berry Amendment or FTA compliance
23 sales. So there are negative effects from imports even on
24 the Berry Amendment FTA sales.

25 The surge in subject imports we have experienced

1 in the past several years, and our loss of market share, as
2 a result, makes it clear to us that the U.S. market is not
3 insulated from low-priced subject imports. The respondents
4 have also used excerpts from Unifi's annual reports
5 regarding the percentage of company sales that go to FTA or
6 Berry Amendment areas that are out of context. The annual
7 reports are filed by Unifi, Inc., and they are not limited
8 to the operation of the U.S. producer, Unifi Manufacturing,
9 Inc., the petitioning company in this case.

10 The percentage of sales figure for FTA and Berry
11 Amendment areas in Unifi's annual report includes sales of
12 all products into those programs. This includes PTY made by
13 Unifi Manufacturing, Inc. in the U.S., but it also includes
14 PTY produced in the plant in El Salvador and other
15 nonsubject products like nylon-textured covered yarns,
16 partially oriented yarns and PET chips and flake.

17 The company's actual percentage of sales for
18 Berry Amendment and FTA areas for subject polyester textured
19 yarn only is reflected in Unifi's questionnaire response.
20 Over the period of investigation, we have needed to increase
21 our prices to cover rising costs. Unifi's attempts to
22 increase prices have been met with push-back from customers
23 who point to lower prices in the market with Chinese and
24 Indian PTY.

25 The lower prices of these imports have prevented

1 us from obtaining needed price increases and hurt our
2 profitability. We are already struggling financially and
3 simply cannot sell PTY at the impossibly low price levels
4 necessary to compete with Chinese and Indian imports.

5 The effect of these imports have been devastating
6 to our company, Unifi, has been forced to consolidate our
7 PTY facilities to reduce our production of PTY and idle
8 nearly one-third of our seventy-two texturing machines.
9 Texturing machines are designed to run continuously,
10 twenty-four hours a day, seven days a week.

11 When we cannot run the machines continuously, as
12 is true in today's market due to subject import competition,
13 we have to idle the machines entirely. Those idled machines
14 mean both reduced production and lost jobs for our workers.
15 If we could get the business back, we are in a position to
16 quickly ramp up the production to supply more PTY to the
17 U.S. market and bring back much-needed jobs.

18 I stated earlier that we started to see
19 low-priced Chinese and Indian imports affecting the U.S.
20 market years ago. We have tried to do everything possible
21 to compete with them and hope to avoid filing this trade
22 case. But the situation became unsustainable. Due to the
23 forced layoffs, both before and during the investigation
24 period, our number of employees has dropped from 3,000 to
25 2,000, the situation for Unifi has become so dire that we

1 needed to seek a remedy for these unfair prices by filing
2 this trade case.

3 In order for our company to survive and recover
4 from injury we have suffered, we need relief from Chinese
5 and Indian imports that have been entering the U.S. market
6 at impossibly low and unfair prices. I urge the Commission
7 to reach an affirmative finding of injury to the U.S.
8 polyester textured yarn industry. Thank you for your time
9 this morning.

10 MR. ROSENTHAL: Our next witness will be Tim
11 Cole, also of Unifi.

12 STATEMENT OF TIM COLE

13 MR. COLE: Good morning. I am Tim Cole, the Vice
14 President of Manufacturing at Unifi. I've worked at Unifi
15 for a total of nineteen years. I appreciate the opportunity
16 to testify before you today. My testimony will focus on the
17 product at issue, polyester textured yarn, or PTY, including
18 its important physical characteristics and uses.

19 Unifi produces PTY at our Yadkinville, North
20 Carolina facility on dedicated equipment that is not used
21 for other yarns or fibers. We appreciate that a couple of
22 your staff members took time to visit our plant this summer
23 to observe our production process and to learn more about
24 our company.

25 The production of PTY begins with molten liquid,

1 polyethylene terephthalate, or PET. PET may be derived from
2 either virgin or recycled inputs, but the resulting PTY is
3 the same. The key production step that creates PTY is the
4 texturing process. That process involves heating, cooling
5 and simultaneous twisting and drawing of the fibers. The
6 texturing process imparts crimps, curls or loops into the
7 yarn filaments, essentially it bulks up the yarn. Texturing
8 also stretches and strengthens the yarn and imparts a soft
9 and cotton-like feel.

10 This production process yields a unique product.
11 All types of PTY are produced from polyester, are comprised
12 of continuous filament yarns and have a textured surface.
13 Those characteristics make PTY suitable for weaving or
14 knitting into synthetic fabrics that are used to make
15 products such as socks and apparel, from textiles and
16 furnishings, bedding and automotive seating. PTY feels
17 comfortable against your skin, so it is good for use in
18 fabrics that people touch.

19 Yarns made from other inputs such as nylon and
20 polypropylene are chemically distinct and have different
21 physical properties. For example, nylon yarns are very fine
22 and are much more expensive than PTY. Polypropylene yarns,
23 by contrast, are much coarser and tend to have a plastic
24 feel, not the soft feel of PTY.

25 PTY is produced in a variety of deniers, finishes

1 and colors, but the vast bulk of PTY sold is between 50 and
2 400 denier, undyed and in a semi-dull luster. Both domestic
3 producers and those in China and India manufacture PTY in a
4 similar range of deniers, finishes and other physical
5 characteristics. There is extensive overlap in the types of
6 products sold by all of these sources. While Unifi and some
7 other producers make PTY from both virgin and recycled PET,
8 PTY made from virgin inputs dominates the market. The vast
9 majority of Unifi's output is produced from virgin PET.

10 Respondents have claimed that the domestic
11 industry is focused on sales of PTY to automotive and
12 specialty applications. In truth, Unifi sells to customers
13 in applications across the entire market. And we regularly
14 compete against subject imports across the country at all
15 types of accounts and including automotive upholstery
16 customers. In fact, we have documented in our brief an
17 example of an automotive account at which we lost a
18 substantial volume of sales to subject imports that were
19 priced significantly lower than Unifi's PTY.

20 The PTY imported from China and India is readily
21 interchangeable with that produced by Unifi and any other
22 U.S. manufacturer. We are not losing sales based on quality
23 or an inability to produce PTY that U.S. customers need.
24 PTY from China and India is essentially the same as that
25 produced in the United States. That is why these imports

1 have been so successful at taking accounts away from us and
2 destroying pricing in the U.S. market. We are losing sales
3 to imports from China and India based on the unfair low
4 prices they offer.

5 In sum, we at Unifi are proud of our company, our
6 workers and our product, but we need your help to address
7 the injury we have suffered from unfairly-traded imports.
8 On behalf of Unifi and our industry, I ask that you vote to
9 impose antidumping and countervailing duties in this case so
10 that we can gain back some of these lost sales and return
11 our operations to a sustainable footing. Thank you.

12 MR. ROSENTHAL: Our next witness will be John
13 Freeman of Nan Ya.

14 STATEMENT OF JOHN FREEMAN

15 MR. FREEMAN: Good morning. My name is John
16 Freeman and I am the Assistant Director of Sales for Nan Ya
17 Plastics Corporation, America. I have been with Nan Ya
18 since 1999 and have been involved in the polyester textured
19 yarn side of our business for twenty years. Nan Ya is a
20 petitioner and a U.S. producer of polyester textured yarn.
21 We produce all of our polyester textured yarn at our
22 manufacturing facility located in Lake City, South
23 Carolina.

24 Nan Ya is an integrated producer of polyester
25 textured yarn. We manufacture the yarn directly from the

1 chemical elements of polyester. While Nan Ya strives to
2 ensure the high quality of our polyester textured yarn, the
3 production process is very similar for essentially all
4 producers of the product, whether located in the United
5 States, China or India.

6 We all employ texturing machines from a common
7 group of manufacturers. Regardless of the input material
8 used, by the time the texturing process has taken place for
9 a given specification, the polyester textured yarn output is
10 the same. Given the commonality of the production process
11 and input material, the polyester textured yarn being
12 produced by any manufacturer, including those in China and
13 India, is readily substitutable for PTY produced in the
14 United States.

15 Most PTY is made to a common set of
16 specifications that we and subject producers all make.
17 There is a huge overlap in both domestic and subject foreign
18 producers abilities to meet these standards. Respondents
19 have argued that the subject imports are not competing with
20 or taking away sales from domestic producers of PTY. On the
21 contrary. Nan Ya is competing with subject imports across a
22 wide spectrum of sales for a large variety of end uses,
23 including home furnishing, industrial, medical, automotive
24 and apparel.

25 Nan Ya is aware of production of the domestic

1 product and imports from both China and India in a wide
2 array of specifications of PTY that are not limited to the
3 few identified by the respondents. Nan Ya is able to supply
4 PTY to all end uses and all applications that subject
5 imports offer.

6 For example, while PrimeTex claimed U.S.
7 producers do not sell for low-volume end uses like mattress
8 ticking, Nan Ya indeed makes PTY for mattress ticking and
9 has tried to sell this product during the past three years.
10 We were unsuccessful, however, because customers told us
11 that import prices were so much lower. In fact, Nan Ya has
12 specifically tried to sell PTY to PrimeTex itself for
13 mattress ticking during the past three years, but has lost
14 out to low-priced subject imports.

15 It is not an inability to supply a particular
16 type of PTY that is our problem. Rather, what hurts us is
17 the much lower import prices that we face in the market in
18 trying to sell our product. Given the high level of
19 substitutability and the standardized nature of Polyester
20 Textured Yarn, price is the most important factor in
21 purchasing decisions by our customers.

22 Most sales of PTY in the U.S. market are made to
23 end users, primarily to producers of textiles. Pricing in
24 our market is relatively transparent, and we are often aware
25 of the prices offered on imports from both China and India.

1 Our customers tell us that the price is the number one
2 factor in purchasing decisions of PTY. Most of the sales of
3 polyester textured yarn in the U.S. market are made on a
4 spot basis, and the contract sales that do occur are
5 generally short-term. This predominant nature of the sales
6 means imports can and do quickly displace our sales just by
7 offering lower prices.

8 Over the period of investigation, imports from
9 China and India have been offered in the U.S. market at
10 prices well below Nan Ya's prices. The competition between
11 imports from China and India led to a free-for-all of
12 aggressive pricing in the U.S. market. It forced Nan Ya
13 either to price at unprofitable levels or to give up sales
14 volumes. We've provided to the Commission examples showing
15 the loss of numerous large-volume sales to subject imports
16 that were offered at extremely low prices.

17 Nan Ya faces low-priced import competition in
18 most sales in the U.S. market. Contrary to what respondents
19 have claimed, the domestic content requirement rules or
20 preferences, do not insulate us from competition with
21 subject imports in the vast majority of the PTY market. My
22 company would not be suffering the harm it is experiencing
23 if we were truly insulated in a significant way from
24 subject import competition.

25 In addition, PTY production is capital-intensive.

1 And it is vital that we maximize our capacity utilization.
2 The Chinese and Indian producers have the same economic
3 incentives to operate at high capacity utilization rates.
4 It makes economic sense for the subject foreign producers to
5 sell their excess capacity to the U.S., even at rock-bottom
6 prices.

7 But those sales have come at the direct expense
8 of our sales. We have the capacity, but subject imports
9 keep us from using it. Nan Ya has had significant idle
10 capacity to produce PTY during the past three years. Our
11 company would like to produce and sell more product. We
12 have not had any capacity restraints related to our
13 texturing machines or other production equipment. Import
14 competition from China and India has prevented us from
15 selling more PTY.

16 If we could get back sales we have lost to
17 subject imports, we could reinvest that money by purchasing
18 more texturing machines, hiring more workers and expanding
19 out PTY business. We tried to match the low import prices
20 in order to increase our capacity utilization rates, but the
21 result was a big hit to our revenues and profitability. As
22 a result, the pricing pressure of unfair imports became even
23 more intense. We could not longer afford to match the
24 import price offers and then lost even more volume and
25 market share.

1 The low prices offered on PTY imports allowed
2 subject producers to establish a substantial presence in the
3 U.S. market. As Chinese and Indian imports have gained
4 share, we have not been able to increase our prices
5 sufficiently to cover costs increases. We announce price
6 increases to try to cover rising costs, but customers push
7 back on those increases. Customers told us they could not
8 support the increase due to the availability of low-priced
9 subject imports.

10 As a result, we suffered a substantial decline in
11 our operating profits during this period, to a level that is
12 too low to ensure our long-term success. As an example, the
13 lost sales and revenues due to the unfair imports have
14 reduced the possibility for Nan Ya to add or update
15 equipment for texturing. We need to be able to raise our
16 prices sufficiently in order to generate a reasonable return
17 on our operations. When the Section 301 duties --

18 MR. BISHOP: Please stop for a second.

19 [technical difficulties with microphone]

20 MR. FREEMAN: When the Section 301 duties went
21 into effect last September, Nan Ya saw no sales return or
22 price increases. Only once this case was filed and
23 preliminary duties went into effect, did we see orders
24 return from the customers that we had lost to subject
25 imports.

1 And I would like to add that nonsubject imports
2 are not the problem here. Imports from countries other than
3 China and India largely declined over the past few years.
4 Even in 2019, we haven't seen the low prices from nonsubject
5 countries that we've seen from China and India.

6 We are hopeful for the future only because of
7 this case filing. The imposition of preliminary antidumping
8 and countervailing duties has allowed Nan Ya to gain
9 additional business from two polyester textured yarn
10 customers in the third quarter of 2019 that had previously
11 shifted from purchasing our products to subject imports.
12 The new orders will begin this month. We were specifically
13 told that this shift was due to the preliminary trade duties
14 that were put into effect.

15 We urge the Commission to make a final
16 affirmative decision to prevent unfair imports from China
17 and India from taking away market share from the U.S.
18 producers and further destroying our market. In the absence
19 of relief, we will lose more PTY sales to low-priced
20 imports, which will force Nan Ya to reduce production and
21 lead to further reductions in our profitability. Thank you
22 for your attention.

23 MR. ROSENTHAL: The last witness on behalf of
24 Petitioners this morning will be Kathleen Cannon of Kelly,
25 Drye & Warren, who will summarize the key data in the

1 record.

2 STATEMENT OF KATHLEEN CANNON

3 MS. CANNON: Good morning, Chairman Johanson and
4 members of the Commission. I'm Kathleen Cannon of Kelly
5 Drye and I will conclude our presentation by reviewing the
6 key statutory factors the Commission must consider in
7 reaching its decision, as well as addressing several
8 arguments raised by the Respondents.

9 First, the domestic-like product and industry,
10 the like products should be defined to mirror the scope of
11 the case. As Mr. Cole testified, polyester textured yarn or
12 PTY has unique physical characteristics that differentiate
13 it from other yarn and fiber products. PTY is produced on
14 texturing machines dedicated to its production, as your
15 staff observed during their tour of Unifi's North Carolina
16 facility. Producers and purchasers perceive PTY to be a
17 single, unique product and prices of the product fall within
18 a reasonable range of one another. No party has contested
19 this single-like product definition.

20 The domestic industry, in turn, should be
21 defined as all U.S. producers of PTY. A few related party
22 issues are presented in this case, but as discussed in our
23 brief, the record does not warrant exclusion of any U.S.
24 producer on related-party grounds. This issue, too, is
25 uncontested by Respondents.

1 Next, cumulation, the Commission must cumulate
2 the volume and price effects of imports from China and India
3 because the statutory factors are met in this case.
4 Although, Respondent Reliance, contests cumulation, the
5 petitions on imports from China and India were filed
6 simultaneously and there is a reasonable overlap in
7 competition based on the four factors the Commission
8 traditionally analyzes.

9 In terms of fundability, PTY from the United
10 States, China, and India share common deniers, finishes, and
11 inputs. As shown on Confidential Slide 4 -- and this is in
12 your pink handout that you should have because these are
13 proprietary -- and contrary to Respondents' claims, there is
14 much more than a reasonable overlap among the deniers sold
15 by each source. This is from the staff report. As you see,
16 there is extensive overlap. That is true of the finishes as
17 well, as shown on Slide 4.

18 Respondents' arguments that different sources
19 sell to a greater degree in one denier range versus another
20 do not show the absence of a reasonable overlap in
21 competition. Similarly, as Confidential Slide 4 shows, PTY
22 from all sources is produced largely from the same inputs,
23 so the inputs used overlap as well. These common physical
24 characteristics reflect significant production, fundability
25 regardless of source.

1 There is also geographic overlap. PTY is sold
2 in overlapping regions by each source; specifically, in the
3 Northeast, Southeast, and Pacific Coast regions. In terms
4 of channels of distribution, as shown on Confidential Slide
5 5, all sources target textile manufacture end users as their
6 channel of distribution.

7 And finally, as shown on Slide 3, all sources
8 have been simultaneously present in the United States
9 throughout the period of investigation. Because each of
10 these factors is met, China and India must be cumulated
11 here. The Commission should focus on the merchant market
12 when analyzing the effects of subject imports because the
13 statutory captive production criteria are also met.
14 Domestic producers internally transfer significant
15 production of the like product for the production of
16 downstream articles and domestic producers also sell
17 significant production of the like product in the merchant
18 market.

19 Respondent claims that these percentages do not
20 satisfy the statutory requirements are wrong. These
21 percentages are similar to percentages the Commission has
22 found meet the statutory requirements in other cases, as
23 discussed in our brief. The internally-consumed PTY is
24 processed into articles that don't enter the merchant market
25 and PTY is predominant material input into the downstream

1 article.

2 Respondents also challenge this final factor,
3 pointing to purchaser reports of the percent of total cost
4 accounted for by PTY, but the statute does not ask about
5 total costs. It asks whether PTY is the predominant or
6 primary material input into the downstream product and
7 accounts for the bulk of the raw material costs, and we cite
8 a number of cases in our brief where the Commission has
9 recognized this, as well as the Statement of Administrative
10 Authority accompanying the statute. PTY is clearly a
11 predominant material input into downstream fabric products.

12 Turning now to the significance of subject
13 import volumes, first, we agree with the staff reliance on
14 official import statistics rather than questionnaires to
15 calculate import volumes in the pre-hearing report. The
16 questionnaires do not account for all imports, whereas, the
17 HTS import categories are largely synonymous with the scope
18 of the case. As you see on Slide 7, import volumes from
19 China and India are sizable, accounting for more than half
20 of total imports of PTY in 2018.

21 In fact, as Slide 8 shows, these imports were
22 already sizable at the beginning of the investigatory period
23 in 2016 at over 62 million pounds. That volume steadily
24 increased to roughly 69 million pounds in 2017 and then 78
25 million pounds by 2018. That's an increase of roughly 25

1 percent in just two years. Only after this case was filed
2 late last year did subject import volumes decline.

3 Not only are subject import volumes increasing
4 on an absolute basis, they also captured a steadily
5 increasing share of the U.S. market. Confidential Slide 9
6 shows the increased merchant market penetration of the
7 subject imports between 2016 and 2018. The subject import
8 market share level in 2018, the year we filed this case,
9 reflects their peak share of the investigatory period.
10 These volumes and increases are significant on both an
11 absolute and a relative basis.

12 Imports from China and India were able to
13 achieve these sizable market share inroads based on price.
14 As record data summarized on Slide 10 indicate, PTY is a
15 highly interchangeable product. As a result, price becomes
16 very important to buying decisions and was one of the top
17 factors that purchasers said that they consider in buying
18 PTY.

19 While Respondents have argued that factors,
20 other than price, drives sales, take a look at how
21 purchasers compared the U.S. and imported product on a wide
22 array of factors, as set forth in Table II-10 from your
23 staff report. And I note that I am relying heavily on the
24 record data and your staff report to support my contentions,
25 while Respondents largely ignore your report or only

1 selectively quote from it.

2 Here you see that purchasers said quality was
3 most important to them, they listed the U.S. product quality
4 as comparable or superior to imports most of the time.
5 Purchasers are not buying the imports instead of the U.S.
6 product for reasons of quality. In fact, purchasers listed
7 the U.S. product as either comparable or superior to the
8 imports for all of the factors, except for price.

9 Purchasers said that U.S. product was inferior,
10 meaning higher priced than the imports from both sources.
11 Purchasers also gave the imports a better ranking on
12 discounts offered, another pricing factor. This table from
13 the purchasers provides compelling evidence of the primary
14 factors that drives them to source the imports over the U.S.
15 product.

16 The data in the pre-hearing report provide
17 overwhelming evidence of underselling by subject imports, as
18 shown on Slide 12. Quarterly comparisons of PTY sold on an
19 indirect basis, meaning through an importer middleman, show
20 underselling in 106 of 109 comparisons or 97 percent of the
21 time. That breaks down to underselling in 53 of 56
22 comparisons for China and in all 53 comparisons for India.
23 Underselling by imports occurred on the vast majority of the
24 volume sold as well.

25 As discussed in our pre-hearing brief, we also

1 urge you to look at direct imports in assessing the price
2 effects of subject imports. As shown on Confidential Slide
3 13, direct imports account for a significant volume of sales
4 and reflect extensive underselling by subject imports as
5 well. These sales are not at a different level of trade and
6 are just as much a cause of price-related injury as the
7 indirect imports. Slide 14 aggregates the underselling by
8 both direct and indirect imports. The underselling is
9 pervasive and explains the market share gains and the
10 adverse price effects of subject imports on the U.S.
11 industry.

12 Not only are these underselling charts
13 compelling, look at what the purchasers reported regarding
14 their shift to subject imports on Slide 15, which is also
15 taken from your staff report. Almost all of the purchasers
16 who reported shifting from the domestic product to buying
17 subject imports stated that the imports were lower priced.
18 Most purchasers also said they shifted to the subject
19 imports due to price. The volume shift is massive, almost
20 40 million pounds out of the 52 million pounds these
21 purchasers reported in total. These specific purchaser
22 reports corroborate the price-based reasons for the market
23 share shifts shown in your database.

24 The rampant underselling by subject imports is
25 not just causing lost sales and lost market share to

1 domestic producers. As shown in Confidential Slide 16, the
2 low import prices have prevented the U.S. producers from
3 increasing prices at a time of rising costs. This chart
4 contrast the increase in the unit cost the domestic industry
5 faced with the increase in the unit net sales values it was
6 able to obtain over this period. This differential,
7 coupled with the mass of underselling by the imports from
8 China and India presents a classic case of price suppression
9 caused by imports.

10 In their briefs, Respondents never even
11 mentioned the 97 percent underselling by subject imports
12 shown in the staff report or acknowledged these
13 price-suppressing effects. Instead, they argue vehemently
14 that there is no price-related injury because domestic
15 prices increased. That argument ignores the statutory
16 pricing factor regarding the inability of producers to
17 increase prices in the face of rising costs. That statutory
18 factor, referred to as price suppression, is the adverse
19 price effect the domestic PTY industry suffered over this
20 period.

21 The result of the surging volumes of low-priced
22 imports on the domestic PTY industry has been devastating,
23 as shown on Slide 17. The industry has suffered declines in
24 all key trade variables from 2016 to 2018. Capacity sits
25 idle, production and shipments have fallen, and workers have

1 lost jobs. While you have heard representatives from Inifi
2 and Nan Yah describe the injury their companies have
3 suffered, other U.S. producers have been hurt as well.

4 Confidential Slide 18 sets forth comments by
5 other U.S. producers regarding the injury they have
6 experienced due to unfair imports.

7 These comments reinforce Petitioners' testimony.
8 Even worse than the down turn in trade variables for the
9 industry has been a tweak in declining financial
10 performance. As Slide 19 shows, every key financial
11 indicator for the industry has fallen over the investigatory
12 period. Confidential Slide 20 shows the steep drop in
13 operating profits of the domestic industry over the past
14 three years with profits plummeting to rock-bottom levels.
15 Confidential Slide 21 sets forth the plunge in the operating
16 profits-to-net-sales ratio of the industry from 2016 to
17 2018.

18 In its pre-hearing brief, Reliance asserted that
19 the domestic industry is "healthy" and is not suffering
20 injury. It is hard to imagine what Reliance would regard as
21 unhealthy. These data in the staff report show how dire the
22 domestic industry's financial condition has become. The
23 record data present a compelling case that the injuries
24 suffered by the industry was caused by subject imports.
25 Confidential Slide 22 shows that as the subject import

1 market share increased the domestic industry share fell. In
2 fact, as you see, all of the market share lost by the U.S.
3 industry from 2016 to 2018 was to the subject imports.

4 And if you have any doubt that the domestic
5 industry lost the market share to subject imports due to
6 their low prices look back at this table from your
7 pre-hearing report where a significant number of purchasers
8 told you they shifted to the imports due to their low
9 prices.

10 Other factors do not explain the injury the U.S.
11 industry has suffered. As Confidential Slide 24 shows,
12 demand for PTY declined only slightly over the 2016 to 2018
13 period. Production and shipments of the industry dropped to
14 a much greater degree. Demand declines don't explain the
15 magnitude of these U.S. industry trade declines. That's
16 because despite the demand decline the subject import
17 volumes rose from 2016 to 2018, as you see in Slide 25, and
18 captured market share at our expense. The non-subject
19 imports, on the other hand, as you see on Slide 25, were
20 declining over this period. They were not a cause of the
21 injury. Instead, they non-subject imports suffered lost
22 market share to the subject imports as well.

23 Respondents claim that the U.S. industry cannot
24 be injured by subject imports because it's insulated from
25 import competition through various domestic content

1 requirements. Let's break that down and look at the record
2 data, as summarized on Slide 26. There are legal domestic
3 content requirements, such as the Berry Amendment that
4 affect certain PTY sales. As you see here on the line
5 "Domestic Product Required by Law," that percent is very
6 small, based on both the purchaser estimates and the
7 domestic industry estimates. So, not much of the PTY market
8 is subject to a legal requirement to buy domestic PTY.

9 Mr. Caudle testified there are also provisions
10 in free trade agreements like NAFTA and CAFTA that provide
11 duty-free treatment exports of certain textile products made
12 from domestic PTY. Unlike the Berry Amendment, there is no
13 domestic content requirement on these sales. It's just an
14 incentive based on duty-free treatment on the exported final
15 product. If a purchaser can buy PTY from China or India at
16 a low enough price, it can manufacture a textile product for
17 export to a NAFTA or CAFTA country and pay duties and still
18 be better off economically.

19 These sales are not insulated from import
20 competition, so you need to consider the percentage of sales
21 for these purchases differently from the Berry Amendment, as
22 is also true of other preferences for domestic products that
23 are not legally required. In any event, the total
24 percentage affected by domestic content provisions still
25 leaves the vast majority of the U.S. market open to subject

1 imports.

2 Respondents claim that the domestic content
3 provisions make this case profoundly different from other
4 cases is wrong. There've been many cases with Buy America
5 rules of varying types, including at similar percentages to
6 those shown here, as we discuss in our brief. The
7 Commission, nonetheless, has found that notwithstanding
8 these provisions subject imports can and have caused injury
9 to those industries. That is true in this case as well.

10 With respect to Respondents' allegations about
11 the domestic content requirements, as well as their
12 arguments about Unifi's annual reports and 10-K statements,
13 I urge you to review those allegations and the supporting
14 documents carefully. First, as Mr. Caudle testified, an
15 attempt to rely on specific data and a Unifi 10-K statement
16 is not appropriate because those statements are not limited
17 to the subject PTY, but include out-of-scope products and
18 they are not limited to Unifi's U.S. operations.

19 But second, even where Respondents submit
20 quotes, they are often out of context and mischaracterize
21 the report. Here's one example. The Promptex brief at
22 footnote 9 contains this quote from a Unifi 10-K. "The
23 company is dependent on NAFTA/CAFTA and Berry Amendment."
24 But if you read the report, which they include in their
25 exhibit, you'll see this quote does not end at period, but

1 contains an additional statement that changes entirely the
2 meaning from what Respondents claim. The quote doesn't say
3 that Unifi depend on NAFTA, CAFTA, and the Berry Amendment,
4 which, of course, it cannot be, given the small percentage
5 of those sales in the overall market.

6 The quote says Unifi is dependent on qualified
7 raw materials suppliers for compliant yarn when it needs to
8 meet those provisions. Those are two very different
9 statements. There are many other mischaracterizations in
10 Respondents' briefs that we will detail further in our
11 post-hearing brief.

12 Let me turn briefly to threat. Although the
13 present injury case is compelling, there's also strong
14 evidence of threat of injury, as shown on Confidential Slide
15 28. China and India have billions of pounds of capacity.
16 That capacity increased massively over the past three years.
17 And as shown on Slide 29, not only is that capacity massive,
18 but a huge amount of it is sitting idle. Slide 29 compares
19 the unused capacity in India and China to U.S. consumption
20 of PTY in 2018. As you see, idle capacity in those
21 countries dwarfs U.S. demand. China and India could
22 displace all U.S. sales simply by exporting their idle
23 capacity to the United States, threatening even further
24 injury to the industry.

25 The Section 301 duties that were imposed on

1 imports of PTY from China did not prevent injury by reason
2 of these imports during the period of investigation and they
3 won't prevent injury in the future. Duties at a 10 percent
4 level were imposed on Chinese PTY in September of 2018.
5 Those duties had no affect on Chinese prices of PTY which
6 continued to uncut U.S. producer prices in 2019 in the vast
7 majority of comparisons. Even the volume of imports from
8 China declined somewhat in 2019; imports had stockpiled PTY
9 based on a surge in December of 2018 volumes. That product
10 continued to be sold into the U.S. market in 2019 in
11 significant volumes. The prices of those imports remain low
12 and continue to undercut and suppress U.S. producer prices.

13 As a result of these imports and imports from
14 India, the domestic industry's financial condition
15 deteriorated even further in the first half of 2019 as
16 compared to first half 2018 levels. These 301 duties do not
17 prevent injury either do to their low level or due to the
18 importers absorb ion of the duties. And the increase of the
19 duties to 25 percent in June is not a remedy for this
20 industry and will not offset the sizable levels of dumping
21 and subsidies that Commerce has found for China. It is also
22 unclear how long these duties will last, given ongoing
23 negotiations with China and these duties have nothing to do
24 with India. The imposition of anti-dumping and
25 countervailing duties on China and India is critical here,

1 irrespective of any 301 duties.

2 Last, a word on critical circumstances, the
3 Commerce Department found critical circumstances based on
4 the surge in imports from China that attempted to evade
5 preliminary duties and we urge the Commission to do so as
6 well. Respondents' argument that the Commission rarely, if
7 ever, finds critical circumstances is simply a red flag that
8 the Commission should be looking at this issue more closely.
9 We believe use of a three-month comparison period here is
10 appropriate based on the facts presented. Use of that
11 period shows a spike in imports from China that tried to
12 beat the imposition of trade remedy duties.

13 Import surge in December of 2018, in particular,
14 and were stockpiled and sold into the U.S. market in 2019 at
15 very low prices that undercut and suppressed U.S. prices.
16 Those low prices cause continued financial harm and continue
17 injury, as you saw in Confidential Slide 30. Notably, none
18 of the Chinese producers engaged in this behavior have
19 bothered to submit a questionnaire response to you and
20 coverage from the Chinese importers is very limited as well.
21 Those failures justify application of adverse inferences in
22 this context. A finding of critical circumstances and
23 retroactive duty imposition here against China will prevent
24 the remedial effect of these Orders -- of the Orders from
25 being undermined. Thank you. That concludes our

1 presentation. I'm sorry it was so long. I hope it would
2 help to distill some of the issues for you and we are now
3 happy to answer your questions.

4 CHAIRMAN JOHANSON: Thanks.

5 MR. ROSENTHAL: Before we do, Commissioner
6 Johanson, I just want to introduce the other members of the
7 panel who are sitting here who will be prepared to answer
8 your questions. Jane Johnson, of Unifi and Paul Elliott of
9 Nan Ya are two other industry witnesses, as well as Melissa
10 Brewer of Kelly Drye, Gina Beck and Mike Kerwin of
11 Georgetown Economics Services.

12 So, that will give you a full complement of
13 people on which to call, thank you.

14 CHAIRMAN JOHANSON: Alright, thank you Mr.
15 Rosenthal, and thanks to all of you for appearing here
16 today. We will now begin Commissioner questions with
17 Commissioner Karpel.

18 COMMISSIONER KARPEL: Thank you for being here
19 today. I wanted to talk a little bit, or have you talk a
20 little bit more about the competition of subject imports
21 with domestic product and imports from NAFTA and CAFTA-DR
22 countries. Can you talk a little bit about that?

23 You mentioned, Mr. Caudle, in your opening
24 statement that it's a preference program, so it's not an
25 absolute requirement and that there are purchasers who may

1 well may prefer to have regional content. They may purchase
2 subject imports depending on price. Can you elaborate a bit
3 on that statement and if others want to speak to that too,
4 I'm happy to hear from them.

5 MR. CAUDLE: Yes Commissioner. This is Tom
6 Caudle with Unifi. There are duty -- or pre-trade
7 agreements in NAFTA and CAFTA regions that require U.S.
8 yarn, PTY forward, where they can especially in CAFTA, they
9 can buy U.S. PTY for their garments down there and send them
10 back to the U.S. duty-free.

11 This is a program that has been in place for
12 several years, but it does not preclude, nor are there any
13 legal requirement if the raw material input, as a PTY, is
14 the relevant material input. If it is low enough, it
15 offsets the duty coming back to the U.S. They always have
16 the option to change the lower cost input rather than buy
17 U.S. yard board, it's either, it can be an and/or situation
18 for those knitters in the region.

19 COMMISSIONER KARPEL: And so, is that more of a
20 theoretical opportunity, or have you had conversations with
21 your customers about this particular point, or is there
22 other evidence that we can look to to understand that this
23 may in fact be going on?

24 MR. CAUDLE: The PTY imports, or our PTY import
25 market prices are set by a large degree by what people can

1 import from China and India. So, even for the region down
2 there where they have a duty-free requirement, they can --
3 they use it as a discretionary tool to force our prices
4 down.

5 So, if again, if the benefit of yarn forward from
6 the U.S. is less than the ability of low-cost importers,
7 they have the option to choose low-cost imports.

8 MR. FREEMAN: John Freeman, Nan Ya Plastics. As
9 our questionnaire demonstrates that we turned in, our PTY
10 supply for compliant programs is a very small percent of our
11 business. When we transact these PTY's, in some cases, we
12 are not even made aware that the PTY will be used in such
13 program until later when the customer approaches us for a
14 certificate of origin.

15 And then we're told that you know, that actually
16 this PTY is going into one of these types of programs. But
17 for us, it definitely doesn't insulate us having these
18 requirements, doesn't insulate us from having -- from
19 competing with the imports and losing business and having
20 poor financial performance that we've had due to the low
21 pricing of subject imports in the overall market.

22 COMMISSIONER KARPEL: I'm curious, what is the
23 rate range of rates of duty that would be applied to
24 garments if they didn't benefit from the regional
25 preferences under CAFTA and NAFTA?

1 MS. CANNON: This is Kathy Cannon. We looked
2 that up yesterday and of course, the problem is there's a
3 huge range because you're talking about a lot of countries
4 and a lot of different products. They said that the average
5 duties were about 15-16 percent for most of the countries
6 that I was looking at. Mexico was about in that range, some
7 of the CAFTA countries were in that range, so that means
8 some of them are probably going to be single digits and some
9 of them could be 20 percent, so I would say at least, from
10 what we've looked at so far, and we could look at it more
11 closely, that was the general range we were seeing.

12 COMMISSIONER KARPEL: And maybe you could talk a
13 little too more, we were just talking about the regional
14 preference programs, but about the part of the market that
15 requires domestic content. I'm looking at your slides, and
16 the percentages on in-slide confidential exhibit, page 26, I
17 guess do you want to elaborate on your response to the
18 arguments that Respondents have been raising in terms of the
19 domestic industry having a segment of their market protected
20 by these content requirements?

21 MR. CAUDLE: Commissioner, I assume you're
22 referring specifically to the Berry Amendment and the --

23 COMMISSIONER KARPEL: The Respondents also
24 mentioned that the Kissell Amendment too, for DHS.

25 MR. CAUDLE: I don't like TSA uniforms, but that

1 is gray area, it's a very, very small segment of our U.S.
2 PTY business and would not, it doesn't even -- it's
3 inconsequential in the total scheme of our business here in
4 the U.S. John, if you wanted to elaborate more.

5 MR. FREEMAN: John Freeman, Nan Ya Plastics. The
6 Berry Amendment is also an extremely small percent of our
7 PTY business. As far as the Kissell Amendment, we really
8 don't get -- that does not come up in our conversations with
9 our customers that we get requested for a Kissell Amendment
10 required PTY product.

11 MR. CAUDLE: The Kissell Amendment also is the
12 TSA uniforms can be manufactured in Mexico and come back to
13 the U.S. duty-free is my understanding.

14 COMMISSIONER KARPEL: Alright, then I wanted to
15 ask you about arguments that Respondents raise. They are
16 talking about the short supply issue, Commerce committees
17 for implementation of textile agreements and they're talking
18 about a particular yarn that was found not to be supplied in
19 sufficient quantities by U.S producers.

20 I was curious what -- how much yard that actually
21 represents in terms of overall consumption. Do we know?
22 Was that a large number, a small number? A very unique
23 material? Could you elaborate?

24 MS. JOHNSON: Hi, I'm Jane Johnson with Unifi.
25 That short supply petition filed for CAFTA was a very

1 limited quantity of product, a very specific downstream
2 apparel program. We will be happy to provide more
3 information about that in our post-hearing brief. We can --
4 the industry and Unifi and Nan Ya can make this product at
5 this time should it be required again from that customer.

6 We do make similar yarns, so if you would like
7 any more information about that, but it was a very small
8 quantity, thank you.

9 MR. FREEMAN: John Freeman, Nan Ya Plastics.
10 Yes, it was a very small program. Since that discussion in
11 2016, we developed more of these types of PTY products and
12 have more experience. We have approached through the
13 customers today about supplying that product and offered our
14 ability to.

15 COMMISSIONER KARPEL: Thank you. I wanted to ask
16 a little bit about Respondent's arguments focused on the
17 assertion that domestic producers are focused more on
18 high-end products, and there's a specific discussion about
19 Unifi's Reprieved brand. Can you talk about which share of
20 Unifi's sales are in this brand and what types of products
21 that brand may compete with, whether domestic, other
22 domestic competitor's products, or subject imports?

23 MR. CAUDLE: Commissioner, this is Tom Caudle,
24 with Unifi. Reprieve is a Unifi sustainability brand that
25 we've developed over a long period of time. It is very

1 interchangeably with virgin PTY from subject countries,
2 China and India, and we do compete on a regular basis.

3 We do not divulge a percentage of Reprive, if
4 more information is necessary, we'll do so in our
5 post-hearing brief. But it is yet too, because it's
6 interchangeable, comes out under pressure here in the U.S.
7 for -- because of the low-cost imports from China and India.
8 We -- John, are not able to command a substantial premium
9 because brands and retailers and customers, quite frankly,
10 their objective is try to get a sustainable storage and
11 replace a virgin storage at market parity prices, John?

12 MR. FREEMAN: John Freeman, Nan Ya Plastics. We
13 compete in all segments of the market. We produce all
14 specifications of PTA products and have the ability to. As
15 far as specific requirements or specific industries, we
16 compete with, as I testified, the automotive segment, we
17 compete with the imports of the subject countries.

18 And we've been able to regain some business that
19 we lost to them in the past. We've also attempted to sell
20 more PTY into segments such as mattress ticking. We've been
21 afforded, somewhat, due to the low prices of the subject
22 imports and unable to capture a reasonable market share in
23 that segment.

24 MR. ROSENTHAL: This is Paul Rosenthal,
25 Commissioner Karpel. Two other things to add. One of the

1 non-Petitioner domestic industry companies that supports
2 this petition has supplied information on the record talking
3 about efforts to compete in the mattress ticking business
4 and how it has had a difficult time doing so because of the
5 low prices on that particular product.

6 When it comes though to the, so-called recyclable
7 products which Reprieve represents, what we've been told by
8 our clients in general, and we can get into more specifics
9 in our post-hearing brief is that pretty often customers
10 will say, "We would like to buy sustainable products, so we
11 can promote that in our sales to our customers." But what
12 they'll often do is say quote us a 100 percent recyclable
13 product, such as their Reprieve, quote us a 50 percent
14 recyclable quote such as a virgin product, let's compare all
15 of those prices to see which one has the right price point
16 for what we are trying to achieve.

17 Because if they can get a lower price for a
18 virgin product, or a 50 percent product, and it doesn't
19 matter that much to their customers, they'll be very happy
20 to take it. The result is no matter what happens, a
21 competition between all of the different blends of fibers
22 based on what the customer needs and it's a price-based
23 competition.

24 CHAIRMAN JOHANSON: Alright, thanks again to all
25 of you for appearing here today. I'm going to go back to

1 the whole issue of certain protected market segments due to
2 the trade agreements and other U.S. laws. I'm kind of
3 interested in this in large part because I worked
4 extensively on the CAFTA-DR agreement about a decade or so
5 ago, and so I have -- this is something I'm somewhat
6 familiar with.

7 On pages 214 and 220 of the staff report,
8 indicate that a portion of PTY purchases are intended for
9 end uses that have country of origin requirements that
10 preclude using PTY from India or China, such as Buy America
11 rules, or Free Trade Agreement purposes such as NAFTA or the
12 CAFTA-DR rules.

13 Most polyester textured yarn purchasers who have
14 particular country of origin requirements, pay a price
15 premium when they buy PTY? And if so, how much would that
16 premium be?

17 MR. FREEMAN: John Freeman, Nan Ya Plastics. On
18 our PTY sales, we do not charge a premium for PTA to CAFTA
19 and NAFTA regions. As I noted earlier in a response,
20 sometimes we're not even aware that the PTY is being used
21 into that preference until we get a request for a
22 certificate of origin from our customer.

23 MR. CAUDLE: In some cases, it is the same for
24 Unifi. We may have customers on the west coast who buys
25 direct PTY yard in a region and ends up being processed in

1 Central America and like John referred to, may request a
2 certificate of origin at a later date.

3 Again, the market prices, even in CAFTA, are
4 somewhat driven by imports. When people are out searching
5 what the best option for a PTY product is so price-driven,
6 that they're always trying to drive the domestic producer's
7 prices down to get them as close, if not to parody with the
8 importers to be able to compete.

9 In a lot of instances, we're not able to do so.
10 The CAFTA also, they can import yard directly in to Central
11 America, the CAFTA countries, and they can forego the
12 duty-free if they can buy inexpensive fiber from wherever,
13 whether it be from China or from India if the benefits are
14 greater and the duty-free treatment of those garments come
15 back to the U.S.

16 MS. JOHNSON: This is Jane Johnson again, with
17 Unifi. I would just like to add that, you know, I did get
18 back to our sales folks before I came up here. There's no
19 premium pricing at all for Unifi for Berry Amendment or
20 government programs, it's the same pricing. They get the
21 same pricing as all other PTY sales of the same
22 specifications.

23 There really isn't that -- and if I could add
24 just one more thing about say CAFTA and NAFTA, so when we're
25 talking about the domestic PTY market, and where our yarns

1 go, for the Berry Amendment we do out of scope product, a
2 lot for the Berry Amendment. Nylon is a yarn that we
3 provide regularly to those programs.

4 We, as far as the trade agreements go, we're
5 talking about our sales into fabric that maybe is made in
6 the U.S. and sent down to the CAFTA region or to Mexico. As
7 you know, they have their own production down there. Unifi
8 has its own plant in Central America to supply that yarn,
9 but that's not subject to PTY from our domestic production,
10 so.

11 CHAIRMAN JOHANSON: But there must be some price
12 premium. I mean this is -- Congress wrote these laws in
13 order to provide preferential treatment for U.S. producers,
14 correct? And so, it must impact prices to some extent? I'm
15 referring specifically to CAFTA and to CAFTA-DR and NAFTA.
16 I don't -- I think we've heard a fair amount of Berry.

17 MR. CAUDLE: No, they are -- I would say over the
18 period of this investigation, our prices down there have
19 deteriorated due to the cost or prices that have been coming
20 into the U.S. market. It's -- I mean a lot of the people
21 who are operating in Central America are also operating here
22 in the U.S. and they use the prices that are being -- the
23 market prices being quoted from China and from India here in
24 the U.S., as a vehicle to force us to lower our prices down
25 there to be comparable to the same prices that we have here

1 in the U.S.

2 MS. CANNON: Commissioner Johanson, this is Kathy
3 Cannon. This phenomenon we've seen in other cases. We were
4 in a case involving PT Strand where there was Buy America
5 preferences that affected a significant amount of the market
6 that were designed to help the domestic industry as well,
7 with the thought being they would help inflate some sales,
8 and they'd be given a price premium.

9 But when they upped their import assertion in
10 that case, they pressed prices across the market, and we
11 heard similar discussion to what Mr. Freeman testified that
12 the purchasers know what the prices are on the non-Buy
13 America sales, they know what the imports are offering.

14 They sort of know what the market price is, and
15 they don't even necessarily say this is for one or the
16 other, and so when somebody is offering it and selling it,
17 they are forced to kind of deal at whatever the market level
18 is that the imports have established and don't get the
19 benefit that may have been the intent of the law.

20 MR. ROSENTHAL: Commissioner Johanson, one more
21 thing. I was going to mention that PC strand phenomenon,
22 but even that was a less stringent requirement. This is a
23 less stringent requirement for the CAFTA eligibility. In a
24 Buy America situation, there's no choice, pretty much. If
25 you want to comply with Buy America, sell your steel product

1 and get it accepted into a -- let's say, a government
2 program, you've got to buy something from a U.S. producer
3 and that producer may try to get a premium there.

4 Because there is no opportunity for competition
5 by the subject imports in that case. We found in PC Strand
6 that the actual -- the low prices of imports kind of bleed
7 over, even into that protected market.

8 When you're talking a CAFTA situation, there's no
9 requirement by a -- the CAFTA was designed to encourage
10 downstream users to buy U.S. yarns, and the encouragement
11 was the offer of duty-free treatment if that product was
12 incorporated and shipped back into the United States.

13 But it wasn't a requirement that they use the
14 U.S. yarns, and so the only way the U.S. yarn producer
15 benefits is by creating some demand which will only be --
16 allow you to get a decent price if you're not otherwise
17 competing against subject imports.

18 But you heard, if the subject import prices are
19 low enough and here they are, because you've seen dumping
20 margins that well exceed the 16 percent average, the duty
21 benefit that Miss Cannon talked about, you really don't get
22 a price premium and the downstream customer is weighing do I
23 get a better deal if I get a price break from the subject
24 imports, or do I get a better deal if I get a tariff break,
25 and that's why the competition on price still exists there.

1 CHAIRMAN JOHANSON: Okay, thanks for your
2 response. I have just one more question on this same -- on
3 the same vein. Imports of PTY from Mexico gained market
4 share from 2016 through 2018, but the market share of
5 non-subject imports, as a whole, declined. Taken together,
6 do these trends indicate that competition in the U.S.
7 industry is relatively protected niche markets increased or
8 decreased over the 2016 to 2018 period?

9 MS. CANNON: Yes, based on the data, you're
10 correct. The imports from Mexico, isolated, did increase,
11 but not to the same degree that the subject imports
12 increased over that period nor does your pricing data show
13 that they were selling at as low a level. But overall, the
14 non-subject import sources declined, so I mean really the
15 focus here and the concern has been both from a volume
16 perspective and from a pricing perspective China and India
17 have been really what we have heard extensively about in our
18 discussions with this industry and not Mexico.

19 CHAIRMAN JOHANSON: Okay, Commissioner
20 Schmidtlein.

21 COMMISSIONER SCHMIDTLEIN: Okay, thank you.
22 Thank you all for being here. I just have a couple more
23 questions on the preference programs just to make sure I
24 understand how this works and you sort of started to answer
25 some of them, I think, because I heard, Mr. Caudle, you were

1 testifying that you know because of the Yarn Forward Rule
2 yarn made in the United States can be used in knitting in
3 CAFTA or NAFTA countries and then get duty-free treatment
4 coming back into the United States. That's how I always
5 understood it as well.

6 MR. CAUDLE: That is correct. The intent of the
7 agreement was that Yarn Forward going into the CAFTA region
8 could be knit into finished goods and sent back to the U.S.
9 duty-free.

10 COMMISSIONER SCHMIDTLEIN: Okay, so this is my
11 confusion. In terms of -- you all are producers of yarn.
12 You're selling to purchasers in the United States. You're
13 not -- there's a step in between there I feel like has been
14 a little bit lost. We're not talking about you producing
15 this yarn and then directly exporting it, at least for
16 purposes of this case. You're selling it to a purchaser
17 who then is doing something with it and then maybe sending
18 it to a CAFTA or a NAFTA country and it's coming back in; is
19 that correct?

20 MR. CAUDLE: That's correct.

21 COMMISSIONER SCHMIDTLEIN: And I guess, Nah Ya,
22 that's the same for you.

23 MR. FREEMAN: That is correct.

24 COMMISSIONER SCHMIDTLEIN: Okay. And so, if you
25 want to do this post-hearing that's fine, but I'd be curious

1 to hear about it now. I assume then that you have
2 customers. I know that you've said some of them you don't
3 know if they are ultimately using this in a way and then
4 exporting it to those countries where it's further processed
5 so that it can be re-exported back to the United States, but
6 there must be some customers that are utilizing those
7 preference programs and they're coming to you for that
8 product and are those segregated on your books? You keep
9 track of them separately?

10 MR. FREEMAN: What I was implying was sometimes
11 when a customer purchases the PTY they don't specifically at
12 the onset of the purchase declare it for a CAFTA or NAFTA
13 program. We eventually find out because they have to have
14 certain certification from us that is coming from this
15 origin, so we do -- you know by the end of the year we
16 usually have a pretty good idea of how many of our products
17 have gone into this program.

18 COMMISSIONER SCHMIDTLEIN: Okay. And is that
19 the same for --

20 MR. CAUDLE: I would say the vast majority of
21 what we -- also produce is the region does not apply to the
22 PTY in question here. But we also know that there's
23 specific customers down there that also compete with one
24 another to get programs with brands and retailers, so again,
25 it's a very competitive situation and most everyone in the

1 market down there knows what the import prices look like.
2 And the branders and retailers are always trying to get
3 parity with the Chinese imports where they produce the
4 majority of their product today.

5 COMMISSIONER SCHMIDTLEIN: Are you aware if
6 you've lost sales to India or China to a customer who
7 intends to use that product in a preference program?

8 MR. CAUDLE: I'm not aware specifically of that
9 instance.

10 MR. FREEMAN: I'm also not aware of that.

11 MS. CANNON: We discussed this yesterday and
12 there was feedback from the market, generally, that we heard
13 of people saying that they were looking at this. But we can
14 try to document that further in our declaration.

15 COMMISSIONER SCHMIDTLEIN: Okay.

16 MR. COLE: I think one other very important
17 consideration is the size of that market compared to the
18 size of the market in the domestic market where we have had
19 damages. That market is relatively small and if we only
20 served that market I'm not sure we would have a sustainable
21 business.

22 MR. ROSENTHAL: One last point before we leave
23 this one -- you may have more questions, Commissioner
24 Schmidtlein, but if you actually -- we'll give it to you in
25 the post-hearing brief too. Imports into Mexico and Central

1 America from China, for example, it's our understanding that
2 the imports of PTY have increased quite a bit into Central
3 and South America over time, which means that the folks who
4 are making yarn and fabric for products and textiles that
5 may be shipped back to the U.S. you certainly have the
6 option to choose the subject merchandise as opposed to a
7 domestic product, if the price is right.

8 MS. CANNON: Commissioner Schmidtlein, I was
9 just going to say Confidential Slide 26 of the handout that
10 I had also gives you the percentages from the domestic
11 industry's vantage of what is sold for --

12 COMMISSIONER SCHMIDTLEIN: Right.

13 MS. CANNON: -- those preference programs,
14 which, as you see, still leaves the vast majority of the
15 market open to the imports, even if you assumed that all of
16 that was going to domestic.

17 COMMISSIONER SCHMIDTLEIN: Well, I guess that
18 was getting to the next question, which is, is it your
19 position that you've lost the market share in just the
20 market that's not underneath these preference programs. You
21 know put aside the Berry Amendment for a moment or from what
22 I understand you're not really sure what your customers are
23 using the product for, so the lost market share could come
24 across the entire market, apart from the Berry Amendment or
25 the Kessler requirements.

1 MR. CAUDLE: Our loss of market share is
2 predominately for PTY here in the United States based on
3 low-priced imports from China and India predominantly. Over
4 the period of investigation, we've lost excessive pounds of
5 production and have idled substantial capacity and laid off
6 people as a result of it.

7 COMMISSIONER SCHMIDTLEIN: Right. Like is there
8 a type of customer. That's sort of what I was getting at
9 and where in the market they play.

10 MS. CANNON: Right. You know, again, some of
11 them play in both areas of the market, so they don't always
12 necessarily know, as Mr. Freeman said, so that's why we were
13 saying what we thought. I mean I would guess that probably
14 more of it is coming out of the areas where you don't have
15 those types of preferences, but we think that we're seeing
16 them there as well, so we're losing a significant market
17 share which we have calculated as a percent of the total
18 market. And that level is significant, whichever area it
19 comes out of, even if it's predominantly coming out of the
20 non-free trade sales because that's the vast bulk of the
21 market still.

22 MR. CAUDLE: I'd like to make one point. We are
23 somewhat unique in that we have production facilities down
24 there for PTY which we try to meet the market demand in the
25 region, so what we're talking about, predominantly, is the

1 U.S. market for PTY that has been you know affected most
2 dramatically.

3 MR. ROSENTHAL: One last point, where are the
4 lost sales or lost volumes going or coming from one area
5 that clearly is not being affected or benefited by these
6 preference programs is the mattress ticking area, which has
7 been discussed a lot by Respondents. You have a comment by
8 Mr. Freeman how now, as a result of these cases, the U.S.
9 companies are getting into a better place to be able to
10 compete based on price there because that price has been so
11 low. I think you'll see one of the other domestic
12 producers, non-Petitioners, saying how much opportunity has
13 been lost in that area, so those have nothing to do with the
14 preference programs, and they have a big impact on some of
15 the domestic producers because there's significant volume
16 attached to that.

17 COMMISSIONER SCHMIDTLEIN: Okay. Do you all
18 have an opinion or perception of whether demand is going
19 down in those programs -- the products that are covered by
20 those programs?

21 MR. CAUDLE: From the data that we've looked at
22 and monitor on a regular basis, the market itself is
23 relatively flat, but China and India, up until recently,
24 have been gaining share -- a significant share over the
25 period of investigation. And after the action we filed in

1 October of 2018, we saw a spike in December -- significant
2 spike of imports from China, specifically. And then after
3 the first of the year in anticipation that the action was
4 going to move forward, we saw a constant decline throughout
5 the first six or eight months of calendar 2019 as a result
6 of all the preliminary rulings which came into play.

7 COMMISSIONER SCHMIDTLEIN: Mr. Freeman.

8 MR. FREEMAN: I would agree with the sentiment
9 that the market has been fairly flat, demand-wise during the
10 period of investigation.

11 COMMISSIONER SCHMIDTLEIN: Overall.

12 MR. FREEMAN: When we specifically look at these
13 trade preference programs, NAFTA and CAFTA, and our supply
14 into them, actually, you'll see our numbers have actually
15 decreased. So, it doesn't quite go with the flat demand,
16 but you know I do think we'll address this in our
17 post-hearing brief a little bit more substantially on what
18 we think is causing that.

19 COMMISSIONER SCHMIDTLEIN: Okay, that would be
20 helpful. Alright, my time has expired. Thank you.

21 CHAIRMAN JOHANSON: Commissioner Kearns.

22 COMMISSIONER KEARNS: Thank you all for being
23 here today. I appreciate your testimony. I have a few
24 legal and technical questions I'm hoping to get through
25 fairly quickly, the first on captive production. In their

1 pre-hearing brief, the STR Respondents argue that there is a
2 significant range of the cost share, depending on the end
3 use products in which subject PTY is used. They argue that
4 the second criterion of the captive production analysis
5 cannot be satisfied. Specifically, they cite to page II-8
6 of the staff report that includes reported cost shares for
7 end uses, ranging from .1 to 95 percent in reported cost
8 shares for the automotive sector alone to range from 7 to 75
9 percent. Can you all respond to that argument?

10 MS. CANNON: The Respondents arguments are wrong
11 because they're predicating them on the total cost of the
12 product. And as I testified, under the law -- under the
13 plain language of the statute, we're supposed to be looking
14 at what is the predominant material input and the
15 predominant material input into downstream products is PTY.
16 It accounts for most of the raw material costs. It is the
17 material input, so it meets the legal standard, looking at
18 total cost, of total percentage of all kinds of downstream
19 uses is not the way that the statute is framed and not that
20 percentages are supposed to be examining.

21 COMMISSIONER KEARNS: But even in this case
22 where it's .1 percent, you think that's the predominant
23 material?

24 MS. CANNON: Yes, it's still going to be -- I
25 think for most of those it's still going to be the

1 predominant material. I'd have to look specifically of what
2 that example was, but for almost all of these things you're
3 talking about PTY being used into fabric. It's the
4 predominant material input into it, which is not what that
5 question asked.

6 COMMISSIONER KEARNS: Okay -- or 7 percent.
7 Maybe post-hearing if you can just -- I guess the question
8 is are there any of the products that are mentioned on that
9 page II-8 of the staff report that may be PTY is not the
10 predominant --

11 MS. CANNON: Material?

12 COMMISSIONER KEARNS: Yeah.

13 MS. CANNON: We'll look at that more closely.

14 COMMISSIONER KEARNS: Great, thank you. Also,
15 on captive production, you argue that the Commission should
16 look at the domestic industry's internal consumption as a
17 percentage of the producers' U.S. shipments rather than I
18 guess U.S. production, looking at exports. The Commission
19 concerned this threshold issue in captive production in a
20 prelim as a percentage of total shipments. Why should the
21 Commission conduct a different analysis in this phase and
22 have we done it the way you're suggesting in other cases
23 before this one?

24 MS. CANNON: Yes, you have done that in the wire
25 rod case that we cite in our brief. You looked at it as a

1 percentage of total shipments, so you have done that. We
2 think that is the appropriate way to do it, but I will add
3 that if you look at the percentages they aren't really that
4 different, no matter which way you do it. And we think that
5 even the way the staff presented it we meet the significant
6 percentage threshold.

7 COMMISSIONER KEARNS: Okay. And post-hearing if
8 you can kind of just give us the rationale a little bit more
9 -- I know you did it to some extent in your briefs, but you
10 know why we should be focused just on the U.S. market, I
11 guess, is really what it comes down to.

12 MS. CANNON: Sure, we'll be happy to do that.

13 COMMISSIONER KEARNS: Okay, thank you. Okay,
14 turning next to another sort of technical legal question,
15 critical circumstances, you argue that we use a three-month
16 comparison period. Why should we depart from our normal
17 practice and isn't a focus on a three-month period somewhat
18 circular to find the period by the surge to determine if
19 there is a surge?

20 MS. CANNON: My colleague, Ms. Brewer, is going
21 to address critical circumstances.

22 MS. BREWER: Thank you, Commissioner, Melissa
23 Brewer. We cited one example in our briefs, Synthetic
24 Indigo, which was a case where the Commission looked at a
25 three-month comparison period. There are a couple of other

1 recent ones that the Commission has looked at a shorter than
2 six-month period on a number of occasions. In Common Alloy
3 Aluminum Sheet from China earlier this year, the Commission
4 looked at a five-month period. In Hot Rolled Steel Products
5 from Russia in 1999, the Commission also looked at a
6 three-month period. We cited Synthetic Indigo in
7 particular because of the Commission's rationale there.

8 The Commission used a three-month period because
9 subject imports may have been suppressed because they
10 would've been within 90 days of Commerce's pending
11 preliminary determination. So, there are really two key
12 dates that are unique to our case to keep in mind. The
13 first is Commerce's preliminary countervailing duty
14 determination was originally scheduled for the middle of
15 March of 2019. It was ultimately extended because of the
16 government shutdown. However, when Commerce found
17 affirmative critical circumstances, preliminarily, they
18 suspended liquidation and imposed cash deposit rates going
19 back to February 2. So, the facts put this case right in
20 line with Synthetic Indigo. Were the Commission to look at
21 import volumes beyond January of 2019, beyond that
22 three-month period, it would be looking at imports that
23 would've been affected by an affirmative critical
24 circumstances determination.

25 MR. ROSENTHAL: Mr. Kearns, let me add -- I

1 actually worked on the Synthetic Indigo case and Melissa
2 kindly reminded me of some of the language there, including
3 that at that time the Commission was tending to look more at
4 three-month periods rather than six-month periods. That has
5 evolved over time. And as Ms. Brewer mentioned, sometimes
6 you use a four-month or a five-month period. It's true that
7 you tend to focus on six-month period instead in more recent
8 years, but there's nothing magical about six months versus
9 three months. And I think you need to analyze each case
10 separately, as you have essentially been doing. And we, for
11 the reasons stated, we think that three months is more
12 appropriate in this instance.

13 COMMISSIONER KEARNS: Okay, thank you. And then
14 on the other side of that -- so before the filing of the
15 petition, you know if you look at the chart on Table IV-6 on
16 page IV-13 you know we had much higher volumes of imports in
17 May, June, and July of 2018. So, I take the point for why
18 we should be maybe looking at a smaller period post-filing,
19 but wouldn't we kind of be skewing things a bit if we were
20 to ignore those earlier months pre-filing? Shouldn't we
21 take the average of a longer period pre-filing than a
22 three-month comparison?

23 MR. ROSENTHAL: As I said, there's nothing
24 magical about those. One of the things that we are trying
25 to capture for you -- put aside what is a surge and how you

1 define that, whether it's three months or four months to
2 measure the surge, our problem, our concern about critical
3 circumstances has been implementation, if you will, of the
4 language having to do with undermining the effect of the
5 Order. And what we've seen here is that the amount of
6 product pumped in after the filing of the petition that came
7 into the market place and really basically overhung the
8 marketplace. It continued for a long period of time. Now,
9 part of it may be that even prior to the petition more
10 product was coming in saturating the market, thereby,
11 allowing end users and others to build more inventory and
12 have less need, so you didn't need as much of a surge after
13 the filing of the petition in order to hurt the marketplace
14 going into 2019.

15 We'll get back to you on you know the magic of
16 three versus four months. Our primary concern today is to
17 have you think more about the undermining of the Order and
18 what has happened post-filing into 2019 and why it wasn't
19 until many months into 2019 that the domestic industry began
20 to get some benefit from this case.

21 COMMISSIONER KEARNS: Okay, thank you. And I
22 know you all have talked a lot already about the role of
23 FTAs, but just one quick question kind of piggybacking off
24 of Commissioner Schmidtlein's question. The classic case
25 here would be your yarn is made into fabric in the United

1 States. The fabric is then shipped to a CAFTA or NAFTA
2 country for further processing and sail back into the U.S.
3 duty-free. I guess m question is you had a slide up here a
4 moment ago that I think said 24.6 percent covered by trade
5 programs. I'm curious. Could any of that be actually
6 instead of yarn made into fabric here in the U.S. and then
7 shipped what about exports of yarn? Does that 24.6 percent
8 figure also include pure exports of this product, the PTY,
9 to CAFTA and NAFTA countries?

10 MS. CANNON: Commissioner Kearns, I don't
11 believe it's supposed to because these were questions asked
12 of the purchasers who bought the product. So, I think they
13 were reporting of the product that they bought.

14 COMMISSIONER KEARNS: Okay.

15 MS. CANNON: Whereas, if it was an exporter, it
16 would've been reported by us.

17 COMMISSIONER KEARNS: Gotcha. Okay, that makes
18 sense. Okay, thank you. It looks like my time is about up.
19 I'll stop there. Thank you.

20 CHAIRMAN JOHANSON: Commissioner Stayin.

21 COMMISSIONER STAYIN: Yes, there's I think
22 significant evidence of underselling in the record and in
23 the staff report, but there's also an indication that the
24 average unit values for the sales of domestic yarn
25 increased. And so, it's a question in this investigation as

1 to whether there was, in fact, price depression or price
2 suppression. Again, that's very important and please let me
3 know what you think.

4 MR. ROSENTHAL: We do believe -- yes, go to
5 Confidential Slide 16 in your handout. Yes, the domestic
6 industry prices were increasing over some part of this
7 period; largely, because raw material costs were increasing.
8 The problem was that due to the underselling, due to the
9 low-priced imports the domestic industry wasn't able to
10 raise its prices enough to cover its increased costs. And
11 you see, if you look at Confidential Slide 16 and you look
12 at your record concerning profitability, you'll see that the
13 increased prices by the domestic industry didn't help them
14 when it came to profits. The profits went in the other
15 direction.

16 MS. CANNON: I just wanted to say, Commissioner
17 Stayin, the importance of the two-pronged portion of the
18 statute because the statute doesn't just talk about whether
19 there is price depression. It also talks about whether the
20 prices of the U.S. producers were not able to keep pace with
21 increasing costs, which the Commission terms "price
22 suppression." So, I think the Respondents have just focused
23 on price depression here and said the prices -- the average
24 unit values went up, so there's no price depression and
25 that's correct, but there is price suppression because we

1 could not increase our prices sufficiently to keep pace
2 with rising costs and that's a specific injury factor
3 identified in the statute too.

4 COMMISSIONER STAYIN: So, are you saying that
5 the fact that there were increases in the average unit
6 values they were not sufficient to deal with the obvious
7 increases in your cost-to-goods sold?

8 MS. CANNON: Exactly.

9 MS. BECK: And Commissioner, just add as -- this
10 is Gina Beck, Georgetown Economic Services. As Mr. Freeman
11 testified, the domestic industry attempted price increases,
12 but were told by customers that they would not accept those
13 price increases because of the lower-priced subject imports.

14 MR. ROSENTHAL: And the result was what you see
15 on pages 20 and 21 -- confidential pages -- the declining
16 profitability.

17 COMMISSIONER STAYIN: When you look at Table
18 VI-3, it does look at your cost-to-goods-sold and the net
19 income there was in '18, apparently, loss. Were there
20 losses in '16 and '17?

21 MR. ROSENTHAL: Commissioner Stayin, you've got
22 Table VI-3 in front of you. I don't want to characterize
23 the -- it's confidential data, but I can say that the data
24 are bleak throughout the period and that's one of our
25 arguments that we made. We came into this period with

1 already high import volumes and low prices and things went
2 south from there, if you will. And so, yes, there's, I
3 would say, insufficient profitability throughout, getting
4 worse over the time of the period of investigation. I
5 think the number of companies reporting losses and that sort
6 of thing is confidential.

7 COMMISSIONER STAYIN: Maybe you could cover that
8 a little bit in your post-hearing brief.

9 MR. ROSENTHAL: Certainly.

10 COMMISSIONER STAYIN: Price -- the significance
11 of price as opposed to quality, the record indicates that
12 quality and price are close. And some argue that the
13 quality of the yarn from India, particularly, claim that
14 it's the quality, not the price. What are your thoughts on
15 this?

16 MS. CANNON: Yes, Commissioner Stayin, there
17 were a couple of purchasers that made that comment, but I
18 think you need to look at your database overall and that is
19 well summarized in this Table II-10 from your staff report
20 that we've put on Slide 11. And as you see, most of the
21 purchasers -- the vast majority -- when you ask them about
22 quality, most of them said that the U.S. product was better
23 -- either superior to or comparable to the imports from
24 China and from India in terms of quality.

25 In fact, for India none of the purchasers said

1 the India quality was better. So, this chart, I think, is
2 pretty compelling for overall purchaser responses that U.S.
3 producers do not have deficient quality to the imports.
4 Quite to the contrary, their product is as good or better,
5 but they're losing out due to price, which is the one factor
6 that the purchasers said that the imports had it over the
7 U.S. producers.

8 COMMISSIONER STAYIN: What are the differences
9 in terms of quality and in terms of the type of yarn that's
10 used for the end uses? There's a comment made by the
11 Respondents that the U.S. producers focused on high quality,
12 higher-priced products that would go into the clothing
13 industry and that the clothing industry shifted from a
14 higher demand for higher-priced, fancy clothing and that the
15 U.S. industry therefore lost a big chunk of the market
16 because it was focused so much on this higher-priced
17 product. Would you please comment on that, that eventually
18 -- I mean the Respondents almost are saying eventually
19 you're going to go out of business because you're not
20 selling your yarn at a low enough price to go into the new
21 level of clothing that is in the market now.

22 MR. CAUDLE: I'm not aware of any PTY product
23 and any end use in the region that we cannot manufacture
24 product that is suitable and equal to or better than the
25 subject Chinese import, low-cost for Chinese imports or

1 Indian imports. You know we have close to 25, 30 percent of
2 our assets standing. If we could compete on price, we would
3 be out trying to run all of our assets into those end uses,
4 but because of the low prices that these imports are coming
5 into our country, we're just not able to compete, but it's
6 not because of quality or capability or ability to service
7 the markets. We do have and now are bidding on programs
8 since the action been -- preliminary actions have gone into
9 play.

10 MR. FREEMAN: It is our aim to compete in all
11 segments with all variations of PTY products, all different
12 specifications. Again, we feel that -- we found it very
13 difficult to compete in certain segments due to the low
14 price of the subject imports. We have tried to gain market
15 share and provide those products into those industries and
16 end uses, as we've testified and we've been unable to
17 capture market share due to the subject imports low
18 pricing.

19 COMMISSIONER STAYIN: You know there's a
20 question of interchangeability, fungability, and therefore
21 there's different types of yarns. So, there's a spectrum in
22 terms of the type of yarn that you produce and that go to
23 the market?

24 MR. FREEMAN: There are various specifications
25 that in different end uses which have different

1 requirements, but there's -- of the range of deniers, for
2 example, and different lusters we have the ability to
3 provide the domestic market in our opinion has the ability
4 to meet what the subject countries are providing into the
5 U.S.

6 MS. CANNON: Commissioner Stayin, if I could
7 also refer you to our Confidential Slide 4, which replicates
8 a couple of the staff reports slides and shows a substantial
9 overlap in the deniers sold between U.S., China, and India,
10 as well as in the lusters or finishes sold.

11 COMMISSIONER STAYIN: The Respondents have
12 indicated that in their view that there are yarns that India
13 produces that you do not produce the denier, if that's the
14 word, type of yarn that is coming from India, and therefore
15 -- go ahead. You know where I'm going.

16 MR. ROSENTHAL: No, I appreciate the opportunity
17 to answer those questions because that allegation is simply
18 not true. I'm tempted to say they're spinning a yarn, but I
19 know some people's eyes will roll.

20 Just by way of background -- I know your time is
21 about up. In my view of looking at many purchasers'
22 questionnaires in many cases over time, I'm very pleased
23 when you see a database like this that shows the
24 overwhelming majority of purchasers acknowledging that price
25 is a driver for shifting purchasers. The overwhelming

1 amount of underselling because if you've got sophisticated
2 purchasers, as you often do in the textile industry in most
3 of these cases, they know it's adverse to their interest to
4 acknowledge that they're buying because of price.

5 They will often -- the most sophisticated ones
6 they know I don't like the domestic industry because they
7 don't produce a puce birdbath and I only will buy a puce
8 birdbath. So, when I see a record like this, it's
9 phenomenal in supporting the domestic industry's case. Most
10 of the time the purchasers are going to find any reason they
11 can to say it's something other than price. The fact that
12 you've got a couple of people buying Indian products,
13 saying we want it because we can't get it from the U.S., I'm
14 highly skeptical about that. These producers produce
15 everything that is made by the Indian and Chinese producers.
16 They can make it and will make it and have made it at a
17 reasonable price.

18 COMMISSIONER STAYIN: Alright.

19 Alright, thank you. My time has run out.

20 CHAIRMAN JOHANSON: Commissioner Karpel.

21 COMMISSIONER KARPEL: Thanks. I want to go back
22 a little bit to critical circumstances. I wondered if you
23 could talk a little bit about why exactly the increase you
24 note in the three-month period that you say we should look
25 at the percentages are 26.7 percent increase in imports. I

1 wondered if you could talk a bit why an increase of this
2 magnitude, together with the information you note about
3 inventories, stand to seriously undermine the remedial
4 effects of the Order? I think you've touched on that a bit,
5 but I want to get a bit more understanding of why an
6 increase of that much, plus the information on inventories,
7 which I think is confidential, so I'm not going to say it
8 here, is enough to get to that level of injury?

9 MS. BREWER: Thank you, Commissioner. The
10 Commerce Department actually considers 15 percent to be a
11 surge in imports, so that's why they found affirmative
12 critical circumstances, preliminarily, here. There's no
13 need to have a surge that's in the hundreds of percentile to
14 demonstrate that there was a surge in imports that has
15 injured the industry.

16 Here, by importing such a huge volume in
17 December, which was the highest monthly volume that the
18 Chinese producers brought into the U.S. during the POI, they
19 were able to then sell out of that inventory during the
20 first half of 2019, which is demonstrated by the
21 underselling that continued into the first half of the year.
22 So, that's the injury that continued to be inflicted on the
23 domestic industry as a result of that surge and particularly
24 the December volume.

25 As far as inventories, there was also an

1 increase over the POI and especially after the case filing.
2 As you noted, the particular numbers are confidential, but
3 the volumes were higher at the end of 2018 than they were
4 throughout the POI, and particularly at the beginning of it.
5 I would note that there are limitations with the data that
6 the Commission has collected for inventories. In
7 particular, the percentage coverage is low. Again, that's a
8 confidential number, but low enough that the Commission
9 opted to use official import statistics and other aspects of
10 its analysis.

11 It could be that importers that had much higher
12 volumes coming in during that time didn't report those
13 volumes. So, we think it's possible that the inventory
14 surge is understated.

15 MR. ROSENTHAL: Commissioner Karpel, one other
16 point, when you're talking about surges, I think it's
17 important to understand a surge from what. We were already
18 starting in 2018 with a very high volume of imports from the
19 subject countries. So, having an additional 25 percent
20 surge on top of an already large and increasing volume of
21 imports that have been coming into not just the importers'
22 inventories, but end users inventories and you know end
23 users are a bit set of the purchasers here. So, you've got
24 to look at just not the percentage surge, but percentage
25 based on what. This is a public chart here, Number 8, where

1 you see the imports have been increasing dramatically over
2 time. And then on top of that dramatic increase, you get a
3 big 25 percent increase, so it's 25 percent on top of what
4 matters in this instance.

5 COMMISSIONER KARPEL: But I guess I'm trying to
6 understand. So, I'm looking at consumption in this industry
7 in the U.S. is about 323 million pounds or so and we have an
8 amount -- this percent increase you know comes out to 2.4
9 million pounds, plus the inventory numbers that we could
10 look at. So, why relative to the size of this industry is
11 an addition of that magnitude going to seriously undermine
12 -- I understand you cited the pricing data, so there's a
13 volume there that's being undersold, but again, it's not --
14 I'm just trying to understand why that amount leads to
15 seriously undermining.

16 MR. ROSENTHAL: Because of the additional
17 quantity added to the market at the time it was added it had
18 -- purchasers no longer had to buy as much quantity from the
19 U.S. companies. In other words, it slowed down what
20 normally would be the sales of the U.S. industry because
21 purchasers had inventory on hand that they'd purchased not
22 just from this surge, but prior to that point. So, instead
23 of getting relief really in what might have been March when
24 the initial preliminary determination was scheduled to be
25 due, but for the government shutdown, the relief really

1 didn't begin to happen until after those inventories got
2 worked through.

3 So, one of the big questions is, obviously, what
4 is seriously undermined relief. For me, to have the
5 domestic industry suffer another few months of low sales at
6 low prices when they really need to be making profits
7 undermines the relief. You know that's one of the statutory
8 factors that I think has been not as well explored as might
9 be over the years. There's not a lot of explanation,
10 historically, in Commission determinations about what that
11 language means. I know there's a lot of "We know it when we
12 see it," but it's a lot of conclusory language and I'd love
13 to have you explore that more here because I think if a
14 company in the U.S. that can't sell -- they had -- this
15 industry had customers saying we are not buying for you in
16 the spring. And why is that? Because they had all the
17 product they needed from subject import sources for a while.
18 To me, retarding the ability to sell for several months is
19 seriously undermining relief.

20 MS. CANNON: Commissioner Karpel, if I could
21 just add one thing. Your question was why what you regarded
22 as possibly a relatively small volume undermine relief. And
23 my answer is that that volume level in this market -- the
24 legislative history always tells you to look at the context
25 of the market. And here you have a very price-sensitive

1 market with all the purchasers saying it's very important.
2 It drives my decision. So, when you know that price drives
3 decision -- I know there's a passage in the '79 Senate
4 Report that says that you're supposed to take that into
5 account and a smaller volume of imports can have a larger
6 impact on an industry. And that's kind of what we're saying
7 here is in the context of this industry it not only could,
8 but it did. Look at the financial results. Look at the
9 continued price suppression in 2019. So, it wasn't simply
10 theoretical. We saw that continuation in terms of the price
11 effects, the underselling, and the financial results that
12 happened with respect to that volume of imports.

13 COMMISSIONER KARPEL: I'm just curious. Do we
14 see a different trend in the domestic industry in the latter
15 half of 2019? I know that's not in the data in the staff
16 report, but your assertion is once they work through those
17 buildup of imports and inventories the industry started to
18 see the benefits of the preliminary duties.

19 MR. ROSENTHAL: The answer is yes. We don't
20 have that, but I can tell you anecdotally. I'll just repeat
21 what Mr. Freeman said that in the third quarter of 2019 he
22 began to get sales -- orders from companies that had
23 previously purchased from the subject import sources. So,
24 that was the shoots of green that we were hoping for it was
25 delayed. I think the same is true -- I'll let Mr. Caudle

1 talk about Inifi, but they've told us, counsel, that
2 they've begun to get more orders as a result of these cases
3 and that they cases have had a beneficial impact, but that
4 impact has been delayed because of what I've described to
5 you earlier.

6 MR. CAUDLE: We did begin to get orders in the
7 third quarter of calendar '19 based on the actions and the
8 preliminary rulings, which we did not get any in the first
9 half, but we were increasingly getting more inquiries about
10 programs that had not been there before and we're hoping to
11 and anticipating that because of the action of this
12 committee or Commission that we will continue to get more
13 and more as time goes on.

14 COMMISSIONER KARPEL: Thank you. My time is
15 running out, but I wanted to return to a few follow-up
16 questions that I had when we were talking about the reprieve
17 brand and some of the higher -- maybe higher-end products;
18 typically, those that are trying to meet customers' interest
19 and sustainability. And I apologize if you covered this
20 already, but is there a price premium for that line of
21 product? It sounds like there might've been based on what
22 you were saying about some customers asking you for price
23 quotes for that product versus one that maybe didn't have
24 any recycled content or that had partially recycled
25 content.

1 MR. CAUDLE: In talking about pricing, I would
2 prefer to answer that in post-hearing briefs. We can talk
3 more specifically about the brand and what it commands and
4 what it doesn't.

5 COMMISSIONER KARPEL: Sure. That would be
6 great. Thank you.

7 CHAIRMAN JOHANSON: I have a question about
8 captive production. What percentage of the finished cost of
9 downstream fabric products do you believe is accounted for
10 by polyester textured yarn?

11 MS. CANNON: We have that percentage in
12 confidence in Mr. Caudle' declaration and in our brief, so I
13 don't want to say it publically.

14 CHAIRMAN JOHANSON: Okay.

15 MS. CANNON: But we do have that on the record
16 and I can point you to that.

17 CHAIRMAN JOHANSON: I will refer -- I will find
18 that. Thank you. Okay, on page 24 to 25 of the Sandler
19 Travis Rosenberg brief, Respondents allege that Unifi's
20 business is -- this is a quote -- "Highlighted by poor
21 hiring and business decisions." They cite the resignation
22 of two senior executives on the same day in 2016 and a
23 number of new hires and resignations. Could you describe
24 the reasons for these personal changes and state whether
25 they had any impact on Unifi's business, which seems to be

1 the implication of STR in their brief?

2 MR. CAUDLE: You know we've made public
3 disclosures about the departure of certain said executives.
4 Any other details, other than that, are required we prefer
5 to do that in post-hearing briefs as well.

6 CHAIRMAN JOHANSON: Okay, I'm just kind of
7 curious. It seems like there were a lot of changes in the
8 structure -- or at least in the leadership of the company,
9 if that impacted the performance of the company.

10 MR. CAUDLE: We acknowledge that there were a
11 lot of changes made at the end of the periods in question,
12 but we would refer to discuss that offline.

13 CHAIRMAN JOHANSON: Okay, I understand. Thanks,
14 Mr. Caudle.

15 MS. BECK: Mr. Chairman, just to follow up on
16 your prior question, in Exhibit 2 of Petitioners'
17 pre-hearing brief, paragraph 11 is the percentage that you
18 were inquiring about.

19 CHAIRMAN JOHANSON: Okay, I'll take a look at
20 that. Thank you, Ms. Beck.

21 MR. ROSENTHAL: Commissioner Johanson?

22 THE COURT: Yes.

23 MR. ROSENTHAL: I will note whatever claim made
24 again by Respondents with respect to Inifi management, (A)
25 it's not true, at least with respect to the performance

1 views of the imports. (B) Please note the financial
2 performance of the other companies who don't have these
3 alleged issues and you'll see that there's no connection
4 with the claims made by the Respondents here in the
5 financial performance of the domestic industry as a whole.

6 CHAIRMAN JOHANSON: Okay, thanks, Mr. Rosenthal.
7 I note that. And this is an interesting product that can be
8 used in so many different ways and I have a question getting
9 to that. Is it harder to sell into the automotive market
10 than in the textile market and if so, why?

11 MR. CAUDLE: You know specific end uses have
12 more critical I guess requirements. You know our PTY goes
13 into every end use that we're aware that's manufactured here
14 in the U.S. and we're able to meet all of those
15 requirements, but automotive is one of the more critical end
16 uses that we participate in.

17 CHAIRMAN JOHANSON: Is it harder to break into
18 that market?

19 MR. CAUDLE: I would not classify it as harder
20 to break into. It is a difficult application to stay in.
21 It's a highly competitive end use that we all participate in
22 here in the U.S., but as far as meeting the requirements you
23 know we've supplied every customer that participated in the
24 automotive business here in the U.S. that we're aware of.

25 CHAIRMAN JOHANSON: Okay, thanks. I have a few

1 questions regarding recycled yarn. I find this really quite
2 interesting. What is the importance of recycled yarn and
3 can it be used in all applications?

4 MR. CAUDLE: We're not aware of any applications
5 that where recycled yarn can't be interchangeable with
6 virgin product. That is one of our claims.

7 MR. ROSENTHAL: Let me just clarify that
8 question. Are you talking about yarns that have been -- are
9 available to make into other products or are you talking
10 about yarns made from recycled products?

11 CHAIRMAN JOHANSON: I'm referring to yarns made
12 from recycled products.

13 MR. ROSENTHAL: Okay.

14 MR. CAUDLE: To our knowledge, we go into all
15 end uses with our recycled products that we participate in
16 with PTY that we -- virgin PTY that we've talked about here
17 today.

18 CHAIRMAN JOHANSON: So, there's no difference in
19 the result using recycled versus non-recycled inputs? They
20 can be used completely interchangeably?

21 MR. CAUDLE: That is correct, sir.

22 CHAIRMAN JOHANSON: Do some producers prefer the
23 recycled over the conventional product?

24 MR. CAUDLE: There are many brands of retailers
25 today that have made commitments by 2025 or 2030 that

1 they're going to have more sustainable content in their
2 products and we do see an increasing request for sustainable
3 products in the marketplace.

4 MR. FREEMAN: I would agree that the products
5 are interchangeable, virgin versus recycled. And I would
6 like to add when you know demand for recycled products a lot
7 of times it is from the brand owners and a lot of times it's
8 really to put that hangtag on there to say that this garment
9 or this product was made from a recycled source to try to --
10 at the brand level to try to get us, the consumer, you know
11 to buy that product.

12 MR. CAUDLE: You know the brands or retailers
13 they are highly motivated on getting sustainability at the
14 same price as virgin products and again it puts us in a very
15 competitive situation. When subdued prices from China and
16 India are setting market prices, we're under constant
17 pressure to get our sustainable product prices down to those
18 levels.

19 CHAIRMAN JOHANSON: And again, the raw material
20 cost for recycled -- for using recycled PET does that --
21 that is more expensive to produce the product using recycled
22 inputs?

23 MR. CAUDLE: Sir, I'd rather respond to that in
24 post-briefing response.

25 CHAIRMAN JOHANSON: Okay. Yes, I understand.

1 Thanks. And I think I have just one more question on the
2 recycled issue because I think it's kind of interesting, but
3 has the recent change by China concerning whether to accept
4 U.S. bottles for recycling has that had an effect in
5 recycling PET for making yarn.

6 MR. CAUDLE: It has not had an effect on the
7 availability of the bottles in the U.S. market. We've seen
8 no shortage and do not foresee one in the near future.

9 CHAIRMAN JOHANSON: And I guess I have just one
10 more on this subject. This will be my last one on recycled,
11 but in addition to the raw material costs for recycled Pet
12 are there additional costs to produce this product? Do you
13 have to use different machinery, et cetera, when you
14 produced using recycled inputs?

15 MR. CAUDLE: There are additional costs
16 associated with recycling and making a sustainable product.

17 CHAIRMAN JOHANSON: Okay.

18 MS. JOHNSON: The PTY is made on the same
19 machinery. The raw materials may be processed a little
20 different to get to the PTY stage, but when you get to PTY
21 it's all processed exactly like the virgin material is.

22 CHAIRMAN JOHANSON: Okay, thanks, Ms. Johnson.
23 The yellow light has come on, so I'm going to go ahead and
24 pass the questions onto Commissioner Schmidtlein.

25 COMMISSIONER SCHMIDTLEIN: Okay, thank you. I

1 wanted to ask a few more questions about the Respondents'
2 attenuated competition argument. And specifically, maybe
3 keying off of something Mr. Freeman said in one of the prior
4 rounds that it's -- that you find it difficult to compete in
5 certain segments in end uses. Do the low-priced imports --
6 can you talk a little bit more about what those particular
7 segments and end uses are?

8 MR. FREEMAN: You know as I've testified and I
9 know we keep talking about this mattress ticking segment
10 today as one the domestic industry would like to service and
11 like to have sales in. We do have products that -- the same
12 products that are being imported today we can match those
13 products. We can match those offerings; however, we have
14 not been able to reach the price points in order to gain the
15 market share due to the low price from the subject imports.

16 COMMISSIONER SCHMIDTLEIN: So, the mattress
17 ticking segment is one instance you're talking about.

18 MR. FREEMAN: That would be one instance.

19 COMMISSIONER SCHMIDTLEIN: Okay. Is that a
20 segment you were competing in before the increase in subject
21 imports?

22 MR. FREEMAN: We have supplied it before at a
23 greater degree in years past. I'd have to -- I could look
24 you know as far as -- I could address that more specifically
25 in a post-hearing brief as far as what our percent was into

1 that.

2 COMMISSIONER SCHMIDTLEIN: And are there other
3 end uses or segments that you find it difficult to compete
4 against the subject imports?

5 MR. FREEMAN: Yes, there are some other segments
6 that we find it more difficult to compete with the imports
7 that they -- they focus in. Some of them end up being a
8 little more non-critical in nature. You know there's
9 different industrial applications that we've have difficulty
10 to compete due to low-priced imports.

11 MS. CANNON: Commissioner Schmidtlein, I would
12 just highlight again the denier chart that we gave you
13 because if you look at the denier chart, then you'll see
14 that there's really overlap everybody, but thicker deniers
15 tend to be sort of easier to produce and I think that's sort
16 of what a lot of the Respondents have called commodity.

17 COMMISSIONER SCHMIDTLEIN: Okay.

18 MS. CANNON: And that is not an area that the
19 U.S. industry cannot and does not make. We do. But that's
20 an area where the prices have been particularly low and
21 undercutting U.S. producers. So, the industry sees
22 competition from these imports across the full spectrum from
23 "higher end" uses like automotive down to lower-end uses
24 like mattress ticking, but the real -- you know the major
25 end roads, I think, were started at some of those thicker

1 deniers and really shoved out the U.S. industry from
2 competing in some of those and then work their way up, as
3 we've often seen China do in other cases. And now they're
4 really selling across a full spectrum of the market and
5 undercutting U.S. prices everywhere, but you do see -- you
6 know more of them in those low-end products.

7 COMMISSIONER SCHMIDTLEIN: So, the thicker
8 denier that's what's used in mattress ticking?

9 Okay, you're shaking your head yes. And so, do
10 the pricing of products reflect any of these differences?
11 In other words, can we look at the pricing products to see
12 some of this competition? Do you know? Have you -- I mean
13 the thicker denier a lower number or a higher number? Lower
14 number?

15 MR. ROSENTHAL: Are you saying a lower number in
16 terms of price or --

17 COMMISSIONER SCHMIDTLEIN: Yeah, no, like, 70
18 denier --

19 MR. ROSENTHAL: Yeah, the higher denier, the
20 thicker --

21 COMMISSIONER SCHMIDTLEIN: Is thicker?

22 MR. ROSENTHAL: Yes.

23 COMMISSIONER SCHMIDTLEIN: Okay. It's not like
24 thread count, right?

25 MR. COLE: Let me help you real quick. Denier is

1 a measure of mass per length. So a 300 denier is more grams
2 per meter than a 70 denier.

3 COMMISSIONER SCHMIDTLEIN: Okay. And so it's
4 going to be thicker.

5 MR. COLE: Yes.

6 COMMISSIONER SCHMIDTLEIN: Okay.

7 MR. ROSENTHAL: Commissioner? Just to follow up
8 on the last part of your question before -- if you take a
9 look, not just at the petitioners' questionnaire responses,
10 one of the other domestic industry non-petitioners talks
11 specifically about mattress ticking and his company's
12 efforts to compete there, and inability to do so based on
13 low import prices. This is a company with capability,
14 history of making that product, but having a great deal of
15 difficulty because of the low prices. So, as you had talked
16 about the domestic industry, there are others out there who
17 are capable as well, and willing.

18 COMMISSIONER SCHMIDTLEIN: So, like, what denier
19 would go into mattress ticking?

20 MR. COLE: A lot of it's 300 denier and 450
21 denier.

22 COMMISSIONER SCHMIDTLEIN: Okay. So we have a
23 pricing product on 300. I don't know if that would include
24 that. And then what level goes into the automotive
25 industry?

1 MR. COLE: Automotive, we see a lot of 70 denier
2 and 150 denier.

3 COMMISSIONER SCHMIDTLEIN: That goes into
4 automotive?

5 MR. COLE: Yes.

6 COMMISSIONER SCHMIDTLEIN: Okay. And do you
7 consider that to be--I mean I haven't compared the prices
8 across here, but--is automotive considered to be more of a
9 specialty product than mattress ticking? In other words, do
10 you agree with respondents on that?

11 MR. COLE: What we --

12 COMMISSIONER SCHMIDTLEIN: Kind of -- ?

13 MR. COLE: What we would say for products going
14 into automotive, we would put in extra quality control
15 measures. But we've found that imports from subject
16 countries also put in those additional quality control
17 measures and we find significant competition from subject
18 companies now into automotive applications.

19 COMMISSIONER SCHMIDTLEIN: Okay.

20 MR. ROSENTHAL: It really is helpful to look at
21 that chart that Ms. Cannon pointed out where there's
22 competition across all the deniers. One of the things we
23 saw at the staff conference --

24 COMMISSIONER SCHMIDTLEIN: What page is that? Is
25 it in the confidential --

1 MS. CANNON: It's chart 4.

2 COMMISSIONER SCHMIDTLEIN: Okay.

3 MR. ROSENTHAL: One of the things we saw at the
4 staff conference, and I think we are having a repeat of
5 today, is that we've got some individual importers,
6 basically focusing on what they import or what they sell and
7 not the entire market place. We had Mr. Shore here who
8 represented a tiny percentage of imports at the staff
9 conference and made it sound like he represented all
10 subject imports.

11 Same is true of some of the arguments being made
12 by respondents today. The respondents overall, subject
13 imports overall are in all these segments, from mattress
14 ticking down to, or up to, if you will, the automotive
15 sector, the textile business, fabrics and clothes and
16 uniforms and the likes of, there's no place that they are
17 not present.

18 COMMISSIONER SCHMIDTLEIN: So, if I'm
19 understanding you all, then the denier count does sort of
20 break down along these segments in terms of what you might
21 characterize as a higher-end segment to a more commodity
22 segment, is that right? So, in other words, when you see 0
23 to 100, that is used in automotive, that would be considered
24 more of a high-end segment, 250 to 400, which is another one
25 of the categories here where we have the percentage

1 shipments is what would be used in mattress ticking. Or are
2 there specialty products that are higher-end that use a
3 thicker denier? Do you see what I'm saying? Does it break
4 down along the denier count or not?

5 MR. CAUDLE: Commissioner Schmidtlein, this is
6 Tom Caudle with Unifi again. There is no absolute rule, but
7 in general terms, the higher the denier, it normally goes
8 into industrial or --

9 COMMISSIONER SCHMIDTLEIN: Okay.

10 MR. CAUDLE: -- or mattress ticking. And as it
11 goes down the denier range, from high to low, it normally
12 goes into automotive, apparel and different applications in
13 the PTY supply chain.

14 COMMISSIONER SCHMIDTLEIN: Okay, all right.
15 That's helpful. The only other question I had was--and I
16 think maybe you've touched on this a little bit, but maybe
17 you could remind me--is another question about competition,
18 but this is slightly different argument from respondents
19 that it's competition among the domestic producers that's
20 affecting prices. Would you like to respond to that now?

21 MR. FREEMAN: In our view, that is 100% not true.
22 Where we have the issues with is our competition or the PTY
23 imports from China and India. When we are negotiating with
24 our customers and when we are losing business throughout
25 this POI, there is domestic competition of course, but the

1 overriding discussion has been about price from the subject
2 imports.

3 COMMISSIONER SCHMIDTLEIN: And you all don't
4 disagree that you're competing with nonsubject as well?

5 MR. FREEMAN: Correct. We do compete with
6 nonsubject as well.

7 COMMISSIONER SCHMIDTLEIN: Okay.

8 MS. CANNON: Commissioner Schmidtlein, I was just
9 gonna say, I think there's two real key aspects of your
10 database that refute that claim about the problem is really
11 domestic competition, when it's the 97% underselling figure,
12 and the second is your purchasers' shift chart, where they
13 say they shifted to the imports because of lower prices. So
14 they're pretty strongly signaling it is the import lower
15 prices that is causing what we're experiencing.

16 COMMISSIONER SCHMIDTLEIN: Okay, all right.
17 Thank you. My time is up.

18 CHAIRMAN JOHANSON: Commissioner Kearns.

19 COMMISSIONER KEARNS: Yeah, I think I just have
20 one last question and it may not have much relevance in this
21 investigation, but I think it's something that may interest
22 us in other parts of our work. In its brief, STR
23 respondents provide language from your 2019 annual report
24 that suggests that the proposed USMCA "closes several
25 loopholes in the original NAFTA that allowed

1 non-originating inputs." Can you tell us more about that?
2 How significant are those changes in USMCA versus NAFTA?

3 MS. JOHNSON: This is Jane Johnson with Unifi
4 again. There were a few loopholes--what we considered
5 loopholes--in the NAFTA agreement like the sewing thread.
6 We compete, again, with the countries that are in the
7 agreement and, again, if the subject importers of these
8 low-cost products do find a lower priced yarn to go into
9 those products, that they can compete against these same
10 products that we compete against in those markets. In those
11 regions, there are TPLs that allow for foreign products.

12 There are other exceptions in certain apparel, in
13 certain finished products that do not have to be Yarn
14 Forward. I'm not saying that the agreements aren't
15 predominantly Yarn Forward in their intention, but there are
16 a lot of exceptions for different products coming from those
17 agreements and it will make an opportunity for us to have
18 some way to bid on those new markets that we haven't had
19 before. We lost those to imported product, the sewing
20 thread, not aware that they would underprice us, and we've
21 lost that. So we do have an opportunity to try to
22 participate where we couldn't before.

23 COMMISSIONER KEARNS: Do you have any estimate
24 about how much of an impact that could have on your
25 business?

1 MS. JOHNSON: It's very small, again, it's not a
2 big segment for us in PTY. So it wouldn't be a huge volume
3 for our U.S. PTY.

4 COMMISSIONER KEARNS: Okay. Thank you. I have
5 no further questions.

6 CHAIRMAN JOHANSON: Commissioner Stayin.

7 COMMISSIONER STAYIN: Yes, thank you. How should
8 the Commission assess factors relevant to threat of material
9 injury? Where there were no responses from the Chinese
10 producers in terms of capacity, overcapacity, inventory.

11 MS. CANNON: First, we believe that the
12 Commission should be more aggressive at using the statutory
13 provision on adverse inferences when you are faced with
14 this. Because that's what the statute says you should do.
15 And the Commission has been disinclined to use that
16 provision as aggressively as we think they should.

17 But you're seeing more and more cases like this
18 where the Chinese producers are just choosing not to
19 cooperate at all. So I think you should be looking at that,
20 the use of that, more deliberately and finding threat of
21 injury, reaching decisions that are adverse to them. But
22 here, we have also provided ample data, independent data, in
23 our brief that shows how large the capacity in China is, how
24 much idle capacity there is in China, their export focus.

25 And so there's substantial information that we

1 have put on the record that shows even in the absence of
2 their participation, what a threat they pose and certainly
3 in combination with India as well, where we do have some
4 questionnaire data, how the cumulative import threat is
5 massive, and that's set forth in a couple of the charts at
6 the end of my presentation, too.

7 COMMISSIONER STAYIN: Thank you. We have data
8 from staff that is on Table C-1, which provides data about
9 the total market and the merchant market. Which set of data
10 do you think we should be looking at?

11 MS. CANNON: We believe you should be looking at
12 the merchant market data because the captive production
13 criteria are met in this case, for the reasons that we
14 reviewed in our brief in detail. But I would also add, as
15 we mentioned in our brief, that even where you look at the
16 total market, the trends are very similar and they also show
17 injury to the total market by reason of these imports.

18 COMMISSIONER STAYIN: Another question that is
19 always cropping up recently, and as we're looking at
20 pricing, there were direct imports among some of the U.S.
21 purchasers and the question becomes what price do we look at
22 in terms of the domestic U.S. producers' prices and the
23 import prices? Are we talking about the direct import with
24 the oftentimes, I think you had stated in your brief, you
25 called them--what did you call them?

1 MS. CANNON: The other imports, I called indirect
2 imports because they're being sold through an import middle
3 man. But yes, we very much believe that you should be
4 looking at direct imports. We've 01:00 extensively in a
5 number of cases lately. I'm sure you don't want me to get
6 back up on my soap box, but I would encourage the Commission
7 here, as I've encouraged the Commission in the past, to look
8 at these imports. It's an increasingly common method of
9 sales. The prices should be used without any adjustment
10 because that's exactly what the domestic producers face when
11 they compete for these sales. And they undermine them.

12 And I think actually this database in front of
13 you is instructive, because if you look at the underselling
14 that you're seeing in the direct imports, without any
15 adjustment, you see that it's quite similar to the
16 underselling that you're seeing in your traditional
17 quarterly comparisons, which I think provides an indication
18 to you that these are not at a different level of trade and
19 that you don't really need any adjustment because you're
20 seeing largely the same results in both scenarios. It's
21 not, like, one if very different from the other that
22 suggests that there's something out of line with looking at
23 the direct import pricing.

24 MR. ROSENTHAL: Commissioner Stayin, I just wanna
25 re-emphasize what Ms. Cannon said, add another thing.

1 There's a reason why there's so many U.S. purchasers going
2 to direct imports. It costs them less. The direct imports
3 costs less, even in indirect imports, that's why they're
4 doing it. And that is more evidence of importance of price
5 in any given instance.

6 And a good reason for the Commission to find a
7 way to make use of the direct import information, rather
8 than discard it, which happens not infrequently. I have to
9 say you've been doing better as a Commission lately in
10 trying to make sense of the direct import information, but
11 it really should not be that difficult to do what Ms. Cannon
12 said, which is to recognize that you've already taken into
13 account in your questionnaire these so-called additional
14 costs, basically what they do is align them with the cost of
15 buying from the U.S. companies.

16 And so I understand and have lived through the
17 historic reluctance to include direct imports in your
18 underselling analysis, but I urge you for the reasons that
19 you've heard before, and I love hearing Ms. Cannon talk
20 about this--and I know you do, too--it really is time to
21 start taking a more comprehensive view of direct imports.
22 It has been such a big force and it'll be a bigger force
23 going forward in the import cases you're seeing.

24 COMMISSIONER STAYIN: Thank you. I have no
25 further questions.

1 CHAIRMAN JOHANSON: Do any other Commissioners
2 have questions for this panel? Commissioner Karpel?

3 COMMISSIONER KARPEL: I apologize I'm asking this
4 question at the end, but it occurs to me, I don't think
5 we've talked about it. But could you talk about how prices
6 are set in the U.S. market? How transparent is the market
7 about prices? Are there price lists? There's a bit of
8 discussion in the staff report on pages 4-4 and 4-5, but
9 there's not a lot of information there, and I don't think
10 that was a big focus of the prehearing brief, so could you
11 talk a bit about that?

12 MR. FREEMAN: Prices -- we do issue price lists
13 to our customers. Pricing generally in this market is not
14 on a contractual basis. There's a great percent that's sold
15 in a spot-type transaction. A lot of times you'll see
16 pricing quoted, usually for around a three-month or a
17 quarter-type time period, in our experience.

18 COMMISSIONER KARPEL: Sorry. So these price
19 lists, are they set? Are there discounts negotiated off a
20 price list? Or is there back-and-forth between you and the
21 purchaser or --

22 MR. FREEMAN: Absolutely. You know, it's not
23 always -- the price, we can issue the price list and then we
24 can get feedback on that price list and we can start a
25 negotiation process. There's absolutely a negotiation

1 process that takes place between us and the customers in a
2 discussion.

3 COMMISSIONER KARPEL: Are they sharing with you
4 pricing quotes they're getting from other companies? Or is
5 that not necessary? Because those company's lists are also
6 -- those price lists are also out there publicly?

7 MR. FREEMAN: Right. Yes, in some cases, they do
8 share with what the prices are, such as--in this case--the
9 import prices out of China and India. You know, sometimes
10 we're just simply quoting the, you know, via e-mail, a
11 program as well, versus actually issuing a price list. We
12 do both. Or having a phone conversation. Or having an
13 in-person meeting.

14 COMMISSIONER KARPEL: Mr. Caudle, do you want to
15 talk about Unifi or, or any other representative?

16 MR. CAUDLE: Commissioner Karpel, this is Tom
17 Caudle with Unifi. You know, we are out actively in the
18 market. The overall market is dictated somewhat by raw
19 material prices. But when we go to quote on programs, they
20 will look at our prices and tell us that we're
21 noncompetitive based on Chinese imports or Indian imports.
22 And if we have any chance of getting the business, we're
23 going to have to meet those prices or we'll have to walk
24 away.

25 COMMISSIONER KARPEL: So do you also issue price

1 lists and then negotiate discounts off of that? Or lower
2 prices off of that?

3 MR. CAUDLE: We normally don't have price lists.
4 We deal on a spot basis, based on specific end uses. But
5 there are virtually no contractual agreements in our PTY
6 business in the U.S.

7 COMMISSIONER KARPEL: And can you say whether
8 your two companies practices are representative of the
9 industry as a whole? Or are you aware of other companies
10 having different ways of setting prices or discussing
11 prices?

12 MR. FREEMAN: In our experience, in my last
13 answer, when I talked about issuing a price list or quoting
14 via e-mail, phone or in person, it's our understanding, this
15 is the typical mode of business in our domestic industry.

16 MR. CAUDLE: I would agree with John's
17 assessment. It's kind of a trend of the marketplace.

18 COMMISSIONER KARPEL: I'm just trying to get a
19 sense of how transparent pricing is. I mean this obviously
20 impacts, right, the idea that you're competing on price and
21 there's this downward pressure on price, if you're not
22 getting information about other companies' prices, it
23 impacts that argument.

24 MR. FREEMAN: Well, not every customer will give
25 us feedback on our pricing or our competition. Customers do

1 that. And so when we do have these -- there are customers
2 that do that, and when we have these discussions and we
3 quote our price for a product, you know, they will come back
4 and say, "John, I can import this product from China at this
5 amount lower than your price. You can either lower your
6 price or lose the business." That's a common discussion
7 that we will have.

8 COMMISSIONER KARPEL: Thank you. If there's
9 anything more you think would be helpful for us to know, if
10 you could include that in the post-hearing brief, that would
11 be great on that point. I do have a few other clean-up
12 questions. I'm just go through those quickly.

13 In your post-hearing brief, could you please
14 respond to respondents' allegations on--and this is the
15 STR's brief--Page 27, about Serra Flexes closure and what
16 the reasons for that were. They disagree with the reasons
17 cited by you all and give another reason. It's bracketed,
18 so I don't want to say it here, but if you could just touch
19 on that.

20 Also, this is in relation to a question that
21 Chairman Johanson was asking about the business practices
22 and the turnover at Unifi. Mr. Rosenthal, you mentioned
23 that the financials for the industry were reflective of
24 Unifi's, so that was an argument that the changes in
25 management and the strategies there were not really a

1 factor.

2 But I wonder if you could think about that a bit
3 more in relation to what we see in the staff report with
4 respect to the trends and Unifi's cost of goods sold to net
5 sales versus what we see for the trends for other companies
6 in the industry. And whether we should glean anything from
7 that or not?

8 MR. ROSENTHAL: Commissioner Karpel, I'll
9 certainly -- I didn't mean to say that the trends for every
10 company mirrored one another --

11 COMMISSIONER KARPEL: Okay.

12 MR. ROSENTHAL: What I was suggesting to you is
13 that the declining industry fortunes trade and financial are
14 almost universal across the board, some have slightly
15 different experiences, but my suggestion was that none of
16 that is accounted for by whatever changes in Unifi's
17 management. This is an industry-wide problem.

18 COMMISSIONER KARPEL: Okay.

19 MR. ROSENTHAL: Including non-petitioners, if you
20 look at their questionnaire responses, at least some of them
21 who are not importers, you'll see. But I will expand that
22 more fully.

23 One last thing, in our prehearing brief, there
24 were a number of examples of e-mails and other
25 correspondence that reflected some of the negotiations that

1 Mr. Freeman and Mr. Caudle were talking about in terms of
2 how prices get set and how much transparency there is about
3 prices between customer and the U.S. producer. So we will
4 highlight some of that in addition in our post-hearing
5 brief.

6 COMMISSIONER KARPEL: Thank you. And one last
7 question. And I know everyone's eager to go to lunch.
8 Respondents argue in part, among other arguments, that
9 there's some difficulty of U.S. producers in passing on
10 increased costs to purchasers because of pressure that the
11 purchasers face to keep their own production costs down. Or
12 essentially the implication if they can't do that, then
13 they'll be forced to produce overseas. Is there any sort of
14 unique pressure on the U.S. industry's purchasers that
15 prevent U.S. producers from passing on costs?

16 MR. ROSENTHAL: There's nothing unique in this
17 industry. The Commission hears this all the time that if
18 you make us pay a fair price for the input, our customers
19 are going to go overseas because the downstream product is
20 under pressure. You hear that all the time. It's not a
21 legally relevant concern of the Commission. And as I said,
22 that's an argument in just about every case, at least it's
23 not new here.

24 COMMISSIONER KARPEL: Right. I guess I wasn't
25 looking so much at the legal relevance of whether or not a

1 company may feel like it needs to move overseas or not, but
2 whether there's any -- how that might constrain the ability
3 to pass on increases in costs, if that has been something
4 that has been a reality in this industry.

5 MR. ROSENTHAL: Well, what I would say is reality
6 is that every step of the process is highly dependent on
7 price. Just as all the customers, from the apparel industry
8 to the auto industry, all want the lowest possible price,
9 which is why the imports are so pernicious. Why they don't
10 allow the domestic industry to pass on raw material costs
11 increases, because their customer is saying, if you pass on
12 this price increase, it'll make my product less competitive
13 with somebody else's product. As I said, you hear that all
14 the time, but it's clearly the case here. What should be
15 the lesson from this is the primacy of price in purchasing
16 decisions and why purchasers turn to imports.

17 MS. CANNON: Commission Karpel, I would also add
18 that, if that was true, then what you would expect to see
19 here is, if the imports were subject to paying higher
20 duties, raise their prices, or weren't selling as actively
21 in the market once the preliminary duties were put in place,
22 the purchasers would now just stop buying altogether,
23 because they just can't afford domestic prices. And yet
24 you've heard from Mr. Caudle and Mr. Freeman that the
25 purchasers are coming back to them to buy from them at the

1 prices that they need that would cover their costs. So I
2 think that's also an indication that the scenario they
3 painted for you is not correct.

4 CHAIRMAN JOHANSON: All right. Do any other
5 Commissioners have questions for this panel? No
6 Commissioner do. Do staff have any questions for this
7 panel?

8 MS. HAINES: Elizabeth Haines. Staff has no
9 questions.

10 CHAIRMAN JOHANSON: All right. Do respondents
11 have any questions for this panel? Respondents appear to
12 have no questions for the panel. So let's now take a recess
13 for lunch. Let's return at 1:15 p.m. and I would like to
14 remind parties not to leave confidential business
15 information in the room as the room is not secure. So we'll
16 see you back here at 1:15.

17 (Whereupon a lunch recess was taken, to reconvene
18 this same day 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 CHAIRMAN JOHANSON: Mr. Secretary, are there any
3 preliminary matters?

4 MR. BISHOP: Mr. Chairman, I would note that the
5 panel in opposition to the imposition of the antidumping and
6 countervailing duty orders have been seated. This panel has
7 sixty minutes for their direct testimony.

8 CHAIRMAN JOHANSON: You all may proceed whenever
9 you're ready.

10 STATEMENT OF KRISTEN SMITH

11 MS. SMITH: Good afternoon, Chairman Johanson and
12 Commission. For the record, my name is Kristen Smith of
13 Sandler, Travis & Rosenberg, here today on behalf of STR
14 respondents. While the testimony this afternoon will focus
15 on critical circumstances, we welcome any questions that the
16 Commission has on issues raised in our prehearing brief.

17 This afternoon, Mr. Wada of Chori America will
18 present testimony to the Commission regarding the nature of
19 the automotive industry, industry specifications and end
20 user certification requirements associated with the
21 automotive purchases of polyester textured yarn.

22 We will hear about that highly complex automotive
23 supply chain, which sets the import schedules based on
24 manufacturing schedules of the end users. The testimony,
25 along with information provided confidentially in our case

1 brief, will show that the record evidence does not support a
2 finding of affirmative critical circumstances.

3 Before Mr. Wada begins his testimony, I'd like to
4 take a moment to outline the facts of the record relating to
5 the issue of critical circumstances.

6 Customs data that's provided in the ITC reports
7 confirms that imports over the comparison period reached a
8 28.8% decrease in April 2019, as compared with the six-month
9 period prior to the petition. The six-month comparison
10 period simply does not warrant a finding of critical
11 circumstances.

12 The case law points to the extraordinary factual
13 scenarios necessary to render an affirmative decision.
14 We're not aware of any single case in which the Commission
15 has found affirmative critical circumstances when the levels
16 of imports actually decreased, as they have here during the
17 current polyester textured yarn investigation.

18 Additionally, the confidential record shows a
19 decrease of end-of-period inventory levels of polyester
20 textured yarn from China. The numbers fell far short of the
21 statutory standard of rapid increase and is far from a
22 massive surge sufficient to delay the remedial effect of any
23 order imposed.

24 While imports did increase at the start of the
25 comparison period, the record shows that the timing of these

1 increase in imports relates to other reasons. Importantly,
2 the inability to supplement or substitute Chinese and India
3 imports were significant segments of the market. And this
4 is for a number of different reasons.

5 One is for contracts that were set by importers
6 before the filing of the current antidumping petition in
7 this case. In addition, as we're going to discuss, and
8 you'll hear from Mr. Wada, a lot of the imports are based on
9 very sophisticated supply chains where specific suppliers
10 are set prior to importation.

11 And finally, as discussed earlier today by the
12 petitioners, Section 301 duties have really presented an
13 impact in imports from China. First, business cycles for
14 industries directly impact demand and timing of imports,
15 polyester yarn used in the automotive industry is a great
16 example on the correlation between end use and demand.

17 Mr. Wada will outline the demand from the
18 automotive companies, strict timelines that result from end
19 user demand. Contracts relating to this industry assess
20 very steep penalties for failure to meet obligations in
21 terms of the timing of imports, quality and quantity.

22 Second, subject imports, as I just mentioned,
23 fall under Section 301, List 3. Products on that list,
24 which are based upon HTS codes, were subject to a 10% duty,
25 starting September 24th, 2018, and this amount was scheduled

1 to increase to 25% on January 1st, 2019. And as a result,
2 there was some increase of imports, especially for the month
3 of December 2018. The import data is inflated due to the
4 impact of 301 duties.

5 In sum, the Commission should consider the nature
6 of the industry, which highlights contractual obligations
7 established prior to the filing of the petitioners, supply
8 chain considerations for importers of polyester textured
9 yarn, and domestic manufacturers' downstream products and
10 end users' specifications.

11 In light of the overall decrease in subject
12 imports and other facts directly related to conditions of
13 competition, the facts in this case are simply insufficient
14 to seriously undermine the remedial effect of a potential
15 AD/CVD order. So now, I'm gonna turn this over to Mr. Wada,
16 who is gonna provide some information to you on his business
17 in imports into the United States.

18 STATEMENT OF MASAYUKI WADA

19 MR. WADA: Hello. Good afternoon. My name is
20 Masayuki Wada. I am in the Synthetic Fiber & Automotive
21 Interior Department at Chori America, Inc. I thank the ITC
22 for the opportunity to testify today.

23 I have worked at Chori for over nine years. A
24 New York corporation, Chori is located in New Jersey and
25 North Carolina. Chori imports polyester textured yarn for

1 the automotive industry. I'm here today to provide
2 Commission with information relating to the automotive
3 supply chain and the Chori's purchasing and import
4 decisions. Chori bases each purchasing and importing
5 decision on the timing and the production schedules of our
6 clients in the automotive industry.

7 First, the automotive supply chain is a highly
8 complex supply chain. With thousands of parts needed for
9 the manufacturer of a single automotive, suppliers are
10 required to undergo intensive certification processes and
11 meet strict quantities and timing deadlines. As a result of
12 the unique requirement of the automotive industry,
13 purchasing and import decisions face uncontrollable timing
14 based solely on the needs of our clients. Automotive
15 manufacturers tightly control and manage their supply chain
16 to ensure that required parts are available on an as-needed
17 basis and meet the requirements in terms of necessary
18 quantity and quality for the production process.

19 Quality issues or missed deadlines result in
20 production delays for the entire automotive supply chain.
21 This is a costly issue for the end user of our imported
22 polyester textured yarn. The automotive industry is
23 extremely competitive. Manufacturers cannot successfully
24 compete without some supply chain.

25 Our customers are manufacturers of automotive

1 interior, which includes car seats. Our customer faces
2 strict delivery terms that are set by the automotive
3 companies that they serve. When our customers place an
4 order for polyester textured yarn, we must fulfill each
5 order in the precise timing, quantity and quality that is
6 specified by the company, as dictated by the automotive
7 company. Chori and/or our customers face stiff penalties
8 for failure to meet these strict deadlines.

9 Chori's imports following the filing of the
10 petition were timed based upon automotive production
11 schedules.

12 Second, Chori faces specific quality requirements
13 by the final user for the polyester textured yarn. Chori
14 imports polyester textured yarn to use in the manufacture of
15 automotive seats. The automotive company dictates the
16 specific requirements of the yarn and the resulting fabric.
17 Automotive producer require that the car seat is attractive,
18 durable and safe. Customers purchasing automotive, an
19 expensive purchase intended to last many years, want their
20 car to have attractive, durable and safe interior. The
21 fabric cannot have visible imperfections. Chori customers
22 require "AAA" quality grade polyester textured yarn. This
23 means that the product has no tails on the
24 partially-oriented yarn referred to as POY. POY with a tail
25 or short tail yarn, may not be used because there would be

1 visible knots and variation in the finished product.

2 Automotive companies will reject short tail POY with a tail
3 because it's considered defective and poor quality.

4 To ensure the quality is up to their standards,
5 the automotive producers certify the suppliers. Certified
6 supply is designated to ensure consistency in finished cars
7 regardless of country of manufacture or purchase. Each
8 certified supplier faces extremely specific and rigid
9 requirements from the automotive producers. To be clear,
10 the automotive producer designates the global supplier of
11 polyester textured yarn for use in automotive interior.
12 Only certified suppliers can and will be used in the
13 production of these materials.

14 The certification process is critical to the
15 automotive companies. Suppliers are not able to simply walk
16 in and sell to our automotive customer. Suppliers must
17 undergo an extended certification process of both the
18 company and the product sold. The automotive industry has
19 extremely strict certification requirements that takes
20 significant time for approval. Suppliers cannot simply
21 change and any new supplier must face the same stringent
22 certification process. These strict requirements are
23 necessary as a result of the nature of the automotive
24 industry. Automotive companies faces significant liability
25 when there are defects in the cars that are sold. Long

1 certification processes and checks assure our customers of
2 Chori's ability to deliver safe, up to specification
3 products on a timely basis. Our customer cannot take a
4 gamble on their supply chain. Reliable and consistency are
5 non-negotiable requirements to entering the supply chain.

6 Third, our customer picks the manufacturer of the
7 yarn for quality control and safety reasons. Each purchase
8 order sets forth the exact specification for the yarn, as
9 well as the specific manufacturer. The nature of the
10 automotive industry requires complete transparency from the
11 raw material stage to the end automotive stage. All of
12 Chori's sales to United States are performed in this manner,
13 with the end-user dictating certification processes and our
14 customer ensuring that tight specification, as well as
15 specific manufacturer. This practice was in place long
16 before this investigation began, and will continue to the
17 essential to our import and sales process. This is simply
18 the nature of the automotive industry.

19 Chori urges the Commission to issue a negative
20 critical circumstances determination in this proceeding.
21 The facts surrounding this investigation support a negative
22 critical circumstance decision. Chori's purchasing and the
23 importer decision are based only upon the timing and the
24 production schedules of our customer and not the application
25 of antidumping and the countervailing duties. Chori faces

1 uncontrollable timing of product importation to ensure that
2 we meet the need of our supply chain. Chori faced
3 significant liability if we didn't meet production
4 requirements in both terms of the quality and the quantity.

5 Thank you for the opportunity to speak with you
6 today. I welcome any questions that you may have. Thank
7 you.

8 MS. SMITH: This is Kristen Smith from Sandler,
9 Travis. So as Mr. Wada explained and showed, there's a very
10 close relationship to the sale of polyester textured yarn
11 and the end use of the yarn that it's intended to. And
12 we're happy to answer any questions that you may have, and
13 that's the end of our testimony on this issue.

14 STATEMENT OF SPENCER TOUBIA

15 MR. TOUBIA: Good afternoon, Chairman Johanson,
16 Commissioners and Staff, Spencer Toubia from Crowell &
17 Moring here, again, representing Reliance for the record.

18 As a general housekeeping matter, I'll first lay
19 the groundwork for our legal arguments and some particular
20 arguments that's in the staff report relating to the
21 cumulation issue. Also relating to injury and material
22 injury. I'll then lay the baton over to Mr. Bhatnagar to
23 discuss the differentiation of the Indian products coming to
24 the U.S. market, why those products are different than those
25 sold in the U.S. and sold from China.

1 But I'll first start with the cumulation issue.
2 And really, the two issues that we wanna focus on, factors
3 that we want to focus the most on is fungibility and
4 geographic markets, mostly fungibility. And Mr. Bhatnagar
5 will really take a deep dive into those differences later.

6 But I first wanted to highlight that petitioners'
7 notions that the product is highly interchangeable and a
8 price-sensitive product is incorrect, and not supported by
9 the record. They seem to try to lump in all PTY together.
10 And I think I showed by testimony by petitioners today,
11 even, there were clear-cut differences in products that were
12 imported from India and those sold by the domestic market.

13 And I implore the Commission to just narrowly
14 focus on imports in the markets during the POI and not stray
15 away from kind of the anecdotal allegations that the
16 domestic industry would like to enter the specific market
17 but for the specific prices or it had tried to enter the
18 market in the past.

19 Really what's relevant here is how the market
20 segmented during the POI. And in here, we're also not
21 spinning yarns when we discuss the clear specifications and
22 differentiations between the Indian-produced products and
23 Chinese-produced products and U.S.-produced products. There
24 are just two examples -- I can name two examples right off
25 the top of my head, but there are much more of the clear

1 differences.

2 One, as Mr. Bhatnagar will allude to further is
3 the lack of imports from India for products that are made
4 from recycled PET, and the second is the lack of sales of
5 Indian products to the automotive sector, for which sales in
6 the U.S. and China both contribute heavily in. And I also
7 would like to touch upon the denier issue as well. It's a
8 very important characteristic and it does determine the
9 softness and of course, it's a fabric, and it's one of the
10 many other product characteristics that aren't reflected in
11 the pricing products that Mr. Bhatnagar can certainly allude
12 to during his discussion.

13 And even with that, you still see a
14 differentiation in denier between imports from India and
15 different from India and China. And we alluded that a
16 little bit more in our case brief. And we can discuss a
17 more practical way of splitting up the denier so that it
18 covers the end users in our post-hearing brief.

19 Furthermore, petitioners in their case brief
20 tried to distinguish between the "textile sector and the
21 automotive sector" and kind of left those two sectors as the
22 only two sectors in which there are sales, which is simply
23 not true. There's a huge swath of products that are being
24 imported that use PTY. And those just can't be delineated
25 into textile or automotive sector.

1 And even within the automotive sector, you have
2 products that are completely different that utilize
3 completely different yarn. Just think, as an example, for
4 instance, of your airbags, which utilize PTY, completely
5 different tenacity and strength than you would have with
6 your carpet or upholstery.

7 Petitioners also point to the questionnaire
8 responses to indicate that price is very important
9 distinction among the characteristics among purchasers. But
10 we note that, as this was alluded to earlier in testimony,
11 this isn't the only purchasing factor that's important.
12 Indeed, quality, availability, consistent, are all
13 important. And I think those all play into the role that
14 specific specifications for specific products play within
15 the market.

16 And why imports from India do not overlap in
17 those specifications requirements within imports from China
18 or from the U.S. And as you heard the discussions before,
19 too, the specifications required in the automotive sector in
20 general tend to be very strict. And as you'll hear further,
21 that's one of the reasons why Indian companies choose not to
22 enter into that market.

23 And now I'll briefly touch on the issues relating
24 to material injury and causation. More specifically, the
25 issue of price suppression. As we've seen in the data,

1 there is really no correlation between the level of imports
2 specifically from India and the domestic prices of goods.
3 And we'll just focus on one pricing product here, because
4 that's where a majority of the sales from India are for,
5 which also, by the way, shows that there is specific
6 segmentation within the market that this one pricing
7 product over the others, can have such a high difference
8 between sales from India, sales from China and sales from
9 the U.S.

10 But even with this, we saw, not even a negative
11 correlation between the amount of imports that are coming in
12 from India, but indeed, a positive correlation, which means
13 that prices actually increased as imports came in from
14 India. And really, the best possible explanation for why
15 there is this positive correlation is because, simply
16 imports from India just do not compete with products that
17 are currently being produced in the U.S. And simply do not
18 compete even with products that are even being produced from
19 China. And Mr. Bhatnagar will allude to a little bit
20 further in his discussion on why those specific differences
21 are as they are.

22 And I'll also briefly touch on the idea that, in
23 the U.S., the U.S. producers sell--and there was discussion
24 over this earlier--"high quality" or non-commodity products
25 that are tailored to specific sectors. This certainly will

1 be alluded to further also and Mr. Bhatnagar's discussion.

2 Furthermore, I think jumping into the price
3 differences and jumping into causation, we also look at why
4 other conditions of competition aren't really the clear-cut
5 -- are the reasons we've fallen behind is the fact that the
6 domestic industry is being injured.

7 First, and this was discussed extensively in
8 Promptex' brief, actually, the presence of nonsubject
9 imports, specifically imports from Mexico, where Mexico
10 actually accounted for in 2018 approximately 20% of the
11 total value of imports. There's 13% growth in Mexico from
12 2017 to 2018, and 8% growth from 2016 to 2018. This is
13 certainly a significant competitor to the U.S. market.

14 And one of the reasons, as was thoroughly
15 discussed earlier, was the prevalence of free-trade
16 agreements, specifically of NAFTA, and the Yarn Forward
17 rules that help certain industries in certain sectors gain
18 market share in the U.S. This is also an issue that Mr.
19 Bhatnagar will discuss in further detail moving forward.

20 We also note that there is -- during the
21 testimony today from petitioners, they were saying that
22 total demand was "flat". We actually did see a noted drop
23 in total domestic consumption from 2016 to 2018. And we
24 also saw increased prices of raw materials. And
25 particularly noted, the raw material costs of recycled PET,

1 yarn made from recycled PET, which will be discussed
2 further, there's also increased prices and other raw
3 materials such as PET, POY, MEG, paraxylene.

4 There's also, and Mr. Bhatnagar will discuss this
5 a little bit more in detail as well, the presence of a
6 substitutable products on the market that really were not
7 touched upon in the staff report. Particularly the value of
8 spun yarn or mixed yarn, which uses, not just -- it can use
9 polyester, but also includes cotton and viscous, other
10 materials as well. Those are imported under a different
11 chapter of the HTS, but certainly those are used in textile
12 applications.

13 And those are good example of a substitute that
14 directly competes with just the U.S. market and really has
15 no effects from India, which Mr. Bhatnagar will allude
16 further. There is no presence in that spun market from his
17 company, and certainly spun yarn directly competes
18 specifically with the textile sector and not with yarn for
19 the nontextile applications.

20 Finally, I'd like to pay kind of a arguendo
21 argument if the Commission decides not to cumulate imports
22 on material injury, and specifically on the effect of
23 Section 301. We included a misstatement in our brief
24 earlier where we said that Section 301 duties were raised
25 from 25% in January of 2019, which is incorrect. However,

1 the threat of being raised from 25% was certainly there,
2 where the USTR had implemented federal register notices
3 saying that they will raise the duties from 10 to 25% in
4 early 2019, and as we saw, as negotiations went on, that
5 raised the 25% was delayed and delayed and delayed.

6 That delay had a certain effect on the market.
7 Purchasers were able to find alternative sources and,
8 indeed, were planning on finding alternative sources during
9 that period when the tariffs would be raised from 10 to 25%.
10 And that fact wasn't indeed known during the preliminary
11 determination. That fact should be given some weight now
12 for the final.

13 And with that, I'll pass the baton over to Mr.
14 Bhatnagar who will really discuss and hone in the
15 differences between imports coming in from India and those
16 that are coming in from China and from the U.S.

17 STATEMENT OF SAMEER BHATNAGAR

18 MR. BHATNAGAR: Thank you, Spencer. Good
19 afternoon. This is Sameer from Reliance and thank you
20 Chairman and Commissioners for giving us an opportunity to
21 hear our thoughts.

22 I would like to begin by giving a brief
23 introduction of polyester. When polyester was invented way
24 back in 1950s, it was as a substitute for cotton. Why a
25 substitute for cotton, because cotton is predominately hit

1 by the natural disaster. It is prong to be affected by the
2 termites and -- which is associated with cotton.

3 So, what is the option for having -- for
4 clothing? A growing population involved which is now
5 touching seven billion. That was polyester and polyester
6 has grown over a period of years to be not only used in
7 apparel or clothing, but also in automotive, also in home
8 textile, and also industrial applications. So, here when we
9 talk about the U.S., the U.S. also has predominantly an
10 application of clothing, which is apparel. You have
11 automotive segment in the U.S. market. You have home
12 furnishing or the mattress ticking market, which is part of
13 the home furnishing segment, and you have some industrial
14 applications.

15 So, the imports from Reliance or the honest
16 imports from Reliance are getting only to the home textile
17 function or the industrial application. The reason is the
18 clothing sector in U.S. is protected by the CAFTA and NAFTA
19 rules and any knitter would not like to buy an imported yarn
20 into USA, send it for garmenting to Mexico or the Central
21 American countries and bring back a garment worth maybe \$30
22 or \$40 by paying a duty of 10 percent, assuming it is 10
23 percent. By paying three dollars or four dollars only as a
24 duty complement. Nobody would like to do that. It's simply
25 not practical.

1 Coming to the automotive, as has already been
2 detailed by Mr. Wada and also Spencer, automotive industry
3 is very, very critical application and the yarn has to be
4 approved by not only the seat manufacturers or the headlight
5 manufacturer, but also by the car company itself. Secondly,
6 the lead times from India to cater to such a timeline drawn
7 industry are simply not possible because there can be delays
8 at the transshipment port on the way or something, so the
9 imports cannot get into the very strict timelines that the
10 automotive industry operates upon.

11 The penalties for not meeting the dates or the
12 supply chain issues can lead to penalties which are very,
13 very high and not commensurate with the prices that are
14 being paid for the yarn. Third is the mattress ticking
15 segment. Mattress ticking segment is very, very low hanging
16 and low-end application because the yarn is not visible. I
17 can show you fabric sample for the mattress ticking. This
18 is the yarn which is used in mattress ticking. It is not
19 even visible to the eye.

20 MR. TOUBIA: May we approach the Commission to
21 pass the sample.

22 MR. BHATNAGAR: This is a very, very low-end
23 application and the yarn does not need to be processed at
24 all for the dyeing or for twisting or any other application
25 which is visible to the consumer. Consumer is looking at

1 the overall fabric of the mattress and just buying it to
2 sleep upon. It's not something which is comparable to the
3 high-end clothing or the garments which a person would like
4 to feel or see or see the dyeing consistency and then
5 buying. So, probably the end application demands lower
6 price on the mattress ticking yarns.

7 Fourth application is the industrial application
8 like mops or some fabric which is used in while painting or
9 other things which again do not require the yarn to be
10 processed further or be dyed. Well, it requires specific
11 characteristics. So, these are the lower application where
12 -- yarn is -- and is not competing with the local
13 manufacturers for the apparel industry or for the
14 automotive industry.

15 Coming to the second point of the exports from
16 India are predominantly focused on the East Coast of U.S.
17 The simple reason is that the transit time from India to the
18 West Coast the ship takes about more than two months and
19 nobody wants to wait for two months to receive a container
20 or three months after placing an order. So, West Coast of
21 the U.S. market is simply not accessible from India, only
22 from the supply chain perspective. So, the exports of yarn
23 from India is predominantly restricted to the East Coast and
24 that to only the industrial application or things like
25 mattress ticking.

1 Fourth is, recycled PTY at the time of period of
2 investigation Reliance was not manufacturing recycled PTY.
3 Why recycle, because to make the polymer for recycling, not
4 only the -- part, but the raw material. It requires a
5 special technical input and it requires specialized
6 technology. Why, because the recycled yarn is mainly used
7 for the apparel manufacturing. And has been already
8 discussed, a lot of brands today are placing very much
9 importance on the sustainability of garment and the way they
10 show to the consumer that they care about environment. By
11 using a recycle tag on the garment, the brands are passing
12 on a message to consumer that they have reused a material
13 which was already in place and they're not damaging the
14 environment further.

15 So, the garments made from recycled PTY have to
16 have a consistent dyeing and should appear that these are
17 made from phosphate material and because they're demanding a
18 premium in the market it has to be a good quality garment.
19 So, this requires a specialized technology and Reliance, at
20 the time of POI, was not in this segment at all.

21 Coming to the substitute product, as was
22 discussed by Spencer, on the -- here is a graph that will
23 show you the different type of fibers which are present in
24 various markets. One is cotton, which is a natural fiber.
25 Second, is viscose, which is very similar to natural fiber,

1 but is made from the wood. Third, is polyester, which now
2 dominates the segment with a 50 percent share.

3 Within the polyester, you can make yarn by two
4 methods. One is a continuous filament yarn, which is also
5 called DTY or PTY and the second is spun yarn, which is made
6 from the polyester fiber and can be blended with cotton or
7 viscose or simply used as spun polyester and it can be used
8 to make apparels. It can be used in the mattress ticking
9 and it can be used for other industrial application. So,
10 there is a possibility of substituting PTY with spun yarns.

11 Coming back to the NAFTA and CAFTA region of the
12 clothing because of the duty structure all the FTAs are
13 present here. The exports or import from India do not stand
14 any chance to get into the clothing market. Today, if you
15 look at the different market, clothing would be at least 50
16 or 55 percent of the entire market, followed by 25 to 30
17 percent of the automotive and the balance with the
18 industrial application. So, coming to the conclusion that
19 exports of PTY from India was capturing a very, very small
20 segment in the market, which is mattress ticking and the
21 industrial application and not competing at all with the
22 domestic producers in the majority of end application, which
23 is clothing and automotive. Thank you.

24 MR. TOUBIA: And I make a few points to also add
25 a little bit of context to what Mr. Bhatnagar said.

1 Earlier, when he was talking about recycled DTY, he meant
2 that interchangeably with PTY. DTY is a similar drawn
3 texture yarn.

4 MR. BHATNAGAR: It is similar, drawn textured
5 yarn or polyester texturized yarn are same thing.

6 MR. TOUBIA: And also, I wanted to make a point
7 to which alluded to Petitioners' statements that recycled
8 PTY can be used in the same end segments as non-recycled
9 PTY. When I say "recycled," I mean PTY using recycled
10 materials, which is simply not true. When you look at how
11 those products that use PTY from recycled materials are
12 marketed, they're clearly marketed to show that they use
13 recycled materials, which makes a central product
14 characteristic. It's irrelevant that they can be used in
15 other segments because this is the distinguishing factor
16 between those sales of those specific products. And,
17 indeed, you'll see -- and we can provide some further
18 examples in our post-hearing brief of how specific textile
19 companies market their products as sustainable products that
20 utilize recycled consumer -- post-consumer products.

21 And then, I also wanted to make a final point
22 about the substitutability. Specifically, a statement that
23 was in the staff submission where they say that the supply
24 elasticity of PTY was reduced in a range of 2.5 to 4 because
25 "some deniers or other specifications of yarn are not

1 available from both U.S. and Indian or Chinese producers"
2 which is explicitly -- which really summarizes what we are
3 arguing here. So, we welcome any questions from the
4 Commission and thank you very much for hearing us out.

5 CHAIRMAN JOHANSON: Alright, thanks to all of
6 you for appearing here today. We will now begin
7 Commissioner questions and I'll be the first Commissioner to
8 ask questions.

9 Mr. Toubia, you state that imports from India do
10 not compete in the automotive sector and do not include PTY
11 from recycled inputs; yet, isn't there competition in other
12 segments? Most purchasers reported on pages 11 to 17 of the
13 staff report that U.S. and Indian PTY are frequently or
14 sometimes interchangeable. How can they be interchangeable
15 if they are used in entirely different markets?

16 Also, U.S. producers assert that they do or
17 would like to compete in the mattress ticking business;
18 isn't that not the case?

19 MR. TOUBIA: So, I'll address that question kind
20 of in two points. The first point about the deferring
21 markets is the way that pricing products in staff report for
22 deniers were distinguished was that it didn't take into
23 account really the true differences in the products and the
24 true differences in the market.

25 And as you can see here, there's a slight

1 disparity between what's considered textile market and the
2 ranges in denier that was provided in the staff report. I
3 think that, to me, shows that a lot of the data that shows
4 interchangeability amongst those denier cannot be taken
5 truly at face value, but they are indicative because you do
6 see specific areas where -- and I think those are in
7 confidential reports where we can point those in specific
8 sections of the staff report where imports from India have a
9 much less proportion of percentage of imports of certain
10 denier products and that's truly -- and as we'd stated
11 earlier, denier is not just one of the product
12 characteristics and I think Mr. Bhatnagar can point to other
13 characteristics as well which hearken to how those products
14 can be used in different end segments.

15 But the data, as is, in the staff report that
16 specifically relate to end uses and segments clearly show a
17 lack of competition from India in both the automotive and
18 recycled PET markets.

19 MR. BHATNAGAR: On the point of usage of
20 deniers, various deniers, particularly, the heavier deniers
21 like 150 or 300 or the multiplier of 300 are used for making
22 either suiting material or for industrial application like
23 this, what we have shown, and fine denier like 50 denier or
24 75 deniers are used mainly for the knitting and which are
25 used for like garments like tee shirt, something like that.

1 So, there is a clear distinction between the deniers which
2 are used for different applications and these cannot be
3 clumped together as one. So, that is the -- adding to what
4 Spencer said.

5 MR. TOUBIA: And pointing to the second question
6 of the domestic industry would like to get into a specific
7 market, I again implore the Commission to focus on the POI
8 and the market data that's shown during the POI. And
9 Petitioners have not provided any segmentation data to
10 corroborate and show that they have entered that market in a
11 meaningful way, that they compete in that market in a
12 meaningful way, and that imports are coming in from India in
13 that market and are hurting the industry that would like or
14 that supplies in that market. So, without that sufficient
15 data of showing injury, then that issue is a non-issue.

16 CHAIRMAN JOHANSON: Okay, thanks, Mr. Toubia and
17 Mr. Bhatnagar. How do you all respond to the data in the
18 staff report that indicates subject imports undersold the
19 domestic like product in 106 out 109 instances?

20 MR. TOUBIA: Once again, I point to the way the
21 pricing of products were differentiated and I point to how
22 the fact that there may be shown -- there's shown some
23 underselling it doesn't show really the true picture of why
24 those imports actually would or would not injure the
25 domestic industry because even if there are some instances

1 of underselling or some outliers, in reality, it's not the
2 case -- it's certainly not the case when you differentiate
3 the different product segments.

4 So, if you note that imports from India are not
5 competing with the domestic industry, then any situation
6 where you see at least some underselling is certainly not
7 significant because there's no market in the first place.

8 CHAIRMAN JOHANSON: Okay, thanks, Mr. Toubia.
9 Could you all please provide any support that you might have
10 regarding prior determinations -- let me backup on that.
11 Could you please indicate what support prior Commission
12 determinations provide for your proposition that the
13 threshold requirement of the captive production provision is
14 not satisfied in this instance? And this is discussed at
15 page 31 to 32 of the Sandler Travis brief.

16 MR. TOUBIA: We hold no real position on that
17 issue.

18 MS. SMITH: We'll provide an analysis of cases
19 in our post-conference brief.

20 CHAIRMAN JOHANSON: Okay, thanks, Ms. Smith.
21 Petitioners argue that Indian producers understate their
22 capacity to make PTY if they do not account for excess
23 capacity to make other products that are manufactured using
24 the same equipment. Could you all please comment on this
25 assertion of the Petitioners?

1 MR. TOUBIA: Could you repeat the question
2 again?

3 CHAIRMAN JOHANSON: Yes, sure. Petitioners
4 argue that Indian producers understate their capacity to
5 make PTY if they do not account for excess capacity to make
6 other products that are manufactured on the same equipment.
7 Could you --

8 MR. BHATNAGAR: On the texturizing machine, only
9 texturized yarn can be produced and you cannot make any
10 other product like spun yarn on these same cycle machines.
11 So, the question is not very clear.

12 CHAIRMAN JOHANSON: So, you can only make PTY on
13 this equipment?

14 MR. BHATNAGAR: Yes, on the texturizing machines
15 you can make only PTY; otherwise, nothing else.

16 CHAIRMAN JOHANSON: Okay.

17 MR. BHATNAGAR: You cannot make a substitute
18 product like spun yarn on the PTY machine. There's a
19 separate technology for making product like spun yarn, so
20 these same set of machines cannot be used for making any
21 other type of yarn, only PTY.

22 CHAIRMAN JOHANSON: Okay, thanks, Mr. Bhatnagar,
23 for the explanation. And subject imports from India gained
24 market share in interim 2019 as subject imports from China
25 lost market share. Could you all perhaps address why this

1 was the case?

2 MR. TOUBIA: We can certainly address that issue
3 in our post-conference submission -- in our post-hearing
4 submission. I apologize.

5 CHAIRMAN JOHANSON: Okay, thanks, Mr. Toubia.
6 You all allege that PTY with recycled PET content is more
7 expensive to produce and point out that PET resin cost
8 increased from January 2016 to August 2018 and then fell
9 back somewhat. How do these factors explain the fact of
10 U.S. industry's cost-of-goods-sold to sales ratio increase
11 during every period on the record?

12 MR. BREEDEN: You are right, the
13 cost-to-goods-sold to net sales did trend up during the
14 period; however, it was a fairly mild pivot up. And to the
15 extent that the claims we've heard that -- you know the fact
16 they couldn't raise their prices as high as they'd like
17 caused all this you know loss of sales, you know profits
18 going way down, it doesn't really seem to -- the math
19 doesn't really seem to work, given that that spread -- that
20 trend up was fairly small.

21 CHAIRMAN JOHANSON: Okay, thanks, Mr. Breeden.
22 Any other comments? No? Okay, my time has expired.
23 Commissioner Kearns.

24 COMMISSIONER KEARNS: Alright, thank you all for
25 being here today. I appreciate your testimony. Let me, so,

1 Mr. Breeden and Mr. Wada, so you are both importers of
2 imports from -- is it from both of the subject countries or
3 where do you import from? I'm sorry -- yeah.

4 MR. WADA: We import from China.

5 COMMISSIONER KEARNS: Only from China?

6 MR. WADA: Yes.

7 COMMISSIONER KEARNS: Okay, thank you. And so,
8 you haven't really had any experience with comparing Chinese
9 imports to Indian imports or -- have you had any experience
10 with that? Have you considered importing Indian product?

11 MR. WADA: Sometimes we do, but you know it
12 depends on the requirement. If the Indian product satisfy
13 that product for our customer, we may consider purchasing
14 from India, but so far, most of the product purchasing from
15 China right now.

16 COMMISSIONER KEARNS: Okay. And why is it that
17 the Indian product has been -- wouldn't satisfy your
18 purchasers?

19 MR. WADA: Quality issue and also we don't have
20 good supply chain network with India. We have many branches
21 and partner suppliers in China, so more network, so better
22 -- you know more convenient for us get the yarn from China
23 than India.

24 COMMISSIONER KEARNS: Okay, thank you. And
25 then, turning to the lawyers, about captive production you

1 answered Chairman Johanson's question on this, but I wanted
2 to ask Petitioners argue that the Commission should look at
3 the domestic industry's internal consumption as percentage
4 of the producers U.S. shipments, citing PET sheets, the
5 preliminary decision we had in September. Can you address
6 this issue of whether we should be considering total
7 shipments or just U.S. shipments?

8 MS. SMITH: Yes, we'll address this in
9 post-conference briefs.

10 COMMISSIONER KEARNS: Okay. And can you also
11 address the Petitioners' argument on page 16 of its brief
12 that the Commission found the initial threshold question for
13 captive production was satisfied in Carbon and Certain Alloy
14 Steel Wire Rod on similar facts where the merchant market
15 sales accounted for 69 to 71 percent of total shipments?

16 MS. SMITH: Yes, we'll do that.

17 COMMISSIONER KEARNS: Okay, thank you. I wanted
18 to ask about price suppression. You argue that increased
19 raw material costs were responsible for injury to the
20 domestic industry. Isn't that consistent with the
21 Petitioners' argument at page 38 and 39 of their briefs
22 where the content that domestic producers were not able to
23 increase prices commensurate with their rising costs due to
24 significant underselling by subject imports?

25 MS. SMITH: The raw material costs do impact

1 pricing, but also pricing decisions, such as we've talked
2 about in our case brief, are also really tied to the end use
3 of the product. There's only a set end use that the final
4 end user is willing to pay because they can't pass along the
5 cost to their client. So, for example, we were talking
6 about ticking for mattresses. U.S. manufacturers of
7 mattress can only pay a certain price for mattress ticking
8 before it doesn't make sense to manufacture in the U.S. and
9 they turn import the final finished product from a third
10 country.

11 Like that's something that we can see with
12 proceedings before the Commission right now with the
13 mattress anti-dumping case. There's an anti-dumping case
14 going on right now, mattresses from China. A very high
15 anti-dumping rate came out of that, a 1700 percent or about
16 that. You know that demonstrates that there's only a
17 certain price that U.S. customers, the consumer, will pay
18 for a product before it's necessary to import it from a
19 third country. And I think we see a lot of that in this
20 case for end use. So, whether it's apparel, there's a set
21 price that the consumer will pay for apparel, also
22 automotive. And as we had been talking about mattress
23 ticking and I think that's a really important condition of
24 competition that the Commission really needs to consider in
25 this case because it's very important for pricing.

1 COMMISSIONER KEARNS: Okay. And do you think
2 that you've seen that over the POI? Have you see that when
3 prices go up that there's just less demand and instead you
4 see higher imports of downstream products?

5 MS. SMITH: Yes, during this period -- and we
6 can provide information in our post-conference brief, but
7 based on confidential information from our clients, that
8 purchase or import, the subject merchandise, that's the
9 exact issue they face. When is it too expensive that I can
10 no longer purchase domestic or imported product? It's a
11 very big issue with the apparel and textile industry. As
12 the Commission knows, apparel and textile it's a very
13 difficult industry. It's a diminishing industry for the
14 United States and fabric manufacturers in the U.S. face very
15 stiff competition for their product versus product from
16 other countries.

17 And so, if they can no longer buy the yarn at a
18 price that makes sense for them to manufacture fabric here,
19 they'll move to a third country and manufacture there. Then
20 the final product, the clothing, will be imported. So,
21 there really won't be a market for yarn.

22 COMMISSIONER KEARNS: Okay. Now, on captive
23 product, though, I think you'd said in your briefs, you
24 pointed out that the percentage of the value of the
25 downstream product that is made up of PTY in some cases is

1 quite small. Doesn't that sort of undercut the argument
2 that if the price is too high that the production of the
3 downstream article will move overseas?

4 MS. SMITH: I don't think so. I mean I
5 understand it's your question, but, for example, apparel it
6 depends -- like on the percentage of the yarn. That's part
7 of that. But if it no longer -- for example, for Mr. Waha,
8 if it no longer makes sense to manufacture the car seat or
9 the interior of the automobile here in the U.S., it would be
10 moved to another country.

11 COMMISSIONER KEARNS: Okay. I wanted to talk to
12 you for a second about the chart you all have on display
13 here about whether or not there are substitutes for PTY.
14 All five responding U.S. producers, 23 of the 26 of the
15 responding importers, and 23 of the 25 responding purchasers
16 reported that there are no substitutes for polyester texture
17 yarn. How do you respond to that?

18 MR. BHATNAGAR: Is this something from Reliance?
19 -- particularly yarn like spun yarn -- it depends on the
20 final product which you are making. If the Respondents had
21 been making products which are typically made only of
22 polyester, they would not use any other product, which is
23 natural in nature or originated fiber like viscose. So, it
24 can be the side of the Respondents. It depends on what they
25 are making actually. If you're making a shirt where you

1 only use only PTY, you would not like to change it to maybe
2 a cotton shirt or maybe a viscose shirt because even the
3 post-fabric production there is different kind of merchants
4 for that. Maybe for dyeing they do not have setup to dye a
5 cotton-made fabric, so it depends. And what is the in house
6 manufacturing they have, that they have this product like
7 this.

8 COMMISSIONER KEARNS: Okay, thank you. I also
9 wanted to ask you all -- and this can be, at least, in part,
10 post-hearing. But you heard the questions I asked
11 Petitioners this morning relating to critical circumstances.
12 And so, if you can help us understand you know and help us
13 think through should we just sort of automatically go with a
14 five/six-month period to consider or when should we be open
15 to different periods in evaluating critical circumstances.
16 I don't know if you have any thoughts on that now, but I'd
17 appreciate it if you do.

18 MS. SMITH: We'll definitely address that
19 post-hearing, but we do feel that the Commission should use
20 the regular six-month comparison to get the full effect and
21 understanding of imports into the United States and the
22 impact on any potential Order that may come out of this
23 proceeding.

24 COMMISSIONER KEARNS: Okay. Alright, thank you.
25 I have no further questions right now.

1 CHAIRMAN JOHANSON: Commissioner Stayin.

2 COMMISSIONER STAYIN: Thank you. In Table IV-9
3 -- I'm sorry. V-9 summarizes the price trends by country
4 and by product. And it shows the domestic price increase
5 ranged from 1.6 percent to 6.1 percent during the period of
6 January 16 through June 19 while import prices increased
7 from 9.8 percent to 39.5 percent. Significantly, prices
8 declined only for imported Product Number 2. Please comment
9 on this very unusual development.

10 Table V-9, page V-19.

11 MR. BREEDEN: This goes to my last point, which
12 is, so imports have undersold U.S. prices. That's clear.
13 But we've seen no drag on the prices charged by U.S. firms.
14 So, you have to ask yourself why is that and the reason that
15 they don't compete in the exact same market segments or for
16 the same products.

17 COMMISSIONER STAYIN: Any comments -- that's for
18 India. How about China?

19 MR. TOUBIA: I kind of highlight what Mr.
20 Breedden -- I'd like to highlight what Mr. Breedden had
21 mentioned there. I think this is just one of the instances
22 where you'd see a stark difference between the competition
23 of products.

24 COMMISSIONER STAYIN: This isn't one product.
25 These are products.

1 MR. TOUBIA: These are products, but these
2 include kind of the -- that is a good point and that's
3 something that we can discuss further in our post-hearing
4 brief and we would like to.

5 COMMISSIONER STAYIN: Okay. The domestic
6 industry today spoke about the impacts of the preferences
7 and that to their thinking there weren't any significant
8 impacts. They didn't even know, they say, whether there was
9 a preference behind the offer to buy. And so, they're
10 saying that these preferences did not have an impact on the
11 domestic industry and it did not give it an advantage over
12 imports from China and India. Do you have a comment on
13 that?

14 MS. SMITH: I have I guess two comments on that.
15 First, I do find it surprising that they don't know their
16 sales are going to the CAFTA and NAFTA market. That's a
17 very important market for the domestic industry. And we can
18 put more information in our post-hearing brief, but
19 certainly customers that they've dealt with for a long time
20 they know where their sales are going. They noted that
21 they, at least by the end of the year, have to provide
22 certifications as far as the country of origin, so I think
23 that that -- I'm surprised that they say that and I don't
24 think that the administrative record reflects that. And as
25 I said, we can put confidential responses to that question

1 in our post-conference brief.

2 One thing that surprised, though, when
3 Petitioners were talking about the special preference
4 programs, so CAFTA/ NAFTA, was that they were saying that it
5 was easily interchangeable with imports from China or from
6 India and that's simply not true. Indian goods, Chinese
7 goods cannot be used for these preferential programs. Under
8 the Yarn Forward Rules, it needs to be U.S. or one of the
9 qualifying countries' yarn that is used to make apparel in
10 the NAFTA/CAFTA region and then imported to the United
11 States duty-free. And so, goods from China will never be a
12 substitute for any garments that are made under these
13 programs.

14 MR. TOUBIA: I also would like to add some
15 context on that about the Yarn Forward Rule. So,
16 essentially, right, you have the Yarn Forward Rule, which
17 basically says anything down from the market the country of
18 origin of the yarn is the country of origin for anything
19 else that's being used to make -- for that yarn moving
20 forward. And therefore that yarn particularly the country
21 that is of particular importance and it's because it's such
22 an important raw material in textiles down the value chain.

23 MS. SMITH: And I guess I have one more point.
24 Also, to supplement what country it might be going to or
25 used for as far as NAFTA and CAFTA, you know, as Mr. Waha

1 testified, for his imports -- and this was for automotive --
2 it's a very, very tight supply chain. And he's told very
3 specifically what specific product needs to go to what
4 specific customer, production plant, things like that. And
5 so, there would never be a situation, for example, for Mr.
6 Waha and his company not to know where his yarn is going.
7 It just simply doesn't happen and so I think that's also
8 something that's important to keep in mind.

9 COMMISSIONER STAYIN: Okay, thank you. With
10 respect to the margins of underselling, looking at the chart
11 on V-10 on page V-19, it shows that imports from China were
12 below those for U.S. products in 53 of 56 instances, 25.3
13 million pounds and the margins of underselling -- this is
14 through the period of investigation. The margins of
15 underselling ranged from 4.8 to 49.3 percent. Now, this is
16 from China. Product from India -- the prices for the
17 product from India were below those of the U.S. produced
18 product in 53 instances, amounting to 8.4 million pounds
19 with margins of underselling ranging from 2.4 percent to
20 55.6 percent. Would you please comment on that? And to the
21 extent you may not have a comment right now please do look
22 at that in your post-hearing brief.

23 MS. SMITH: We'll address that in our
24 post-conference -- post-hearing brief.

25 COMMISSIONER STAYIN: Okay.

1 MR. TOUBIA: We will address it as well. And I
2 think another issue that we'll really hit on in our
3 post-hearing brief too is how those pricing products were
4 fashioned; particularly, in the intersection of the denier
5 and particularly how the level of underselling or
6 overselling pursuant to certain pricing products may not
7 actually paint a clear picture of the end products that are
8 being used.

9 COMMISSIONER STAYIN: Okay, thank you. In the
10 Petitioners' comments, they argue that direct imports are a
11 significant method of PTY sales on the U.S. market and that
12 the Commission should analyze the adverse price effects of
13 those sales. Significantly, Petitioners contend that price
14 competition is not occurring at different levels with trade,
15 that U.S. products compete directly against foreign producer
16 pricing for these sales and lose sales due to the much lower
17 import pricing. Would you please give your comments on
18 that? Your position on direct imports and indirect imports
19 and how the Commission should analyze those issues and apply
20 analysis.

21 MS. SMITH: We'll address that issue in our
22 post-hearing comments.

23 MR. TOUBIA: We'll do the same. I also point to
24 the Petitioners' statements of the importance of price in
25 decision-making. Certainly, noted that in any manufacturing

1 business in the U.S. price is of extreme importance, but
2 also, specifications of your product, what you need to
3 produce, those are also extremely important as well.

4 COMMISSIONER STAYIN: I understand. You have
5 maintained that there may be an issue with respect to the
6 interchangeability or substitutability between the imported
7 products from China and from India. Would you like to
8 explain that? I know that you have commented about the
9 interchangeability of products from India? Are they the
10 same, your comments about the interchangeability of imports
11 from China?

12 MR. TOUBIA: I'm going to have Mr. Bhatnagar
13 speak a little bit on the differentiation, but I first want
14 to note that there is a prevalence of imports and this is --
15 and I won't allude to confidential information. Whenever
16 you look at the table that differentiates between different
17 imports of end uses of imports in the automotive market.
18 So, that's one of the key end use markets where you see a
19 differentiation.

20 MR. BHATNAGAR: As Mr. Waha, who is an actual
21 user of yarn for automotive industry has mentioned that he
22 is using only China's PTY and he has not been satisfied with
23 the Indian PTY; mainly, only quality and the supply chain
24 perspective. So, not only the quality of the product is
25 important, but also the supply chain when you're catering to

1 a very, very stringent industry like automotive and it's
2 simply not as easy as changing a shirt that you change the
3 supply of car. Thank you.

4 MR. TOUBIA: I think Pomptex's argument in their
5 brief actually hits the point of those strict specifications
6 and why those can only be handled by certain imports in the
7 automotive industry. I think they discussed that in their
8 brief.

9 MS. SMITH: I think that the issue of whether
10 products can be substituted is really based on the end use.
11 As someone had mentioned earlier, all yarn is not the same
12 and so whether it's a mattress, automotive, apparel, it
13 really depends on the end use of that product.

14 COMMISSIONER STAYIN: Do the U.S. producers also
15 compete in those channels?

16 MS. SMITH: Yes, they do. So, for example, the
17 end use for automotive they are involved with it, but not
18 substitutable. So, as Mr. Wada discussed, and we can
19 discuss in more detail in our post-conference briefs, the
20 automotive has a very sophisticated supply chain where
21 specific suppliers are chosen worldwide. For example, Mr.
22 Wada serves a lot of Japanese companies and so he can only
23 provide certain producers of yarn that are specified by his
24 customers at set times specified by his customers and so
25 it's not something that he can easily switch.

1 COMMISSIONER STAYIN: Thank you very much. I
2 apologize to my colleagues. I just was rolling along here
3 and went beyond my time.

4 CHAIRMAN JOHANSON: Okay, Commissioner Karpel.

5 COMMISSIONER KARPEL: Thank you. I want to go
6 back to some arguments that were shared earlier this
7 afternoon. And in particular, if we could look at Table V-8
8 of the staff report. And I think as far as I understood
9 Reliance's arguments is that this table, if it were broken
10 out differently among the denier, it would show something
11 different in terms of the overlap of sales among subject
12 imports and domestic product. And I guess I wanted to ask
13 you what should the breakout be here and if we broke it out
14 that way what would we see?

15 MR. TOUBIA: That's an excellent question. And
16 that specific breakout we can allude to in our
17 post-conference brief -- in our post-hearing brief. I do
18 note, though, that the specific lacking of sales in
19 particular one of those ranges from India compared to the
20 rest of imports in particular. Since that's confidential
21 information, I can't allude to which specific range, but
22 there is lack of presence there.

23 COMMISSIONER KARPEL: And then, along those same
24 lines, in terms of your chart up here or your drawing, you
25 have -- in the bottom right you have a thing that says

1 "Find" 60 to 70. And then you have "Course" which is 120 to
2 1,200. And then for the 120 to 1,200 you say that's
3 non-textiles and for the 60 to 74 you say that's textiles;
4 am I understanding that?

5 MR. TOUBIA: And this was just a general
6 representation to give a flavor of the idea of what the
7 differentiation is. Mr. Bhatnagar can really dive into kind
8 of that differentiation as well, but that does show that
9 really it is difficult to delineate specifically by denier
10 in choosing both -- not just the end use, but also there are
11 many other specifications that should be taken into account
12 when determining whether specific imports compete with one
13 another, but I'll let Mr. Bhatnagar add onto that.

14 MR. BHATNAGAR: Well, adding on to what Mr.
15 Spencer has said, typically, the fine deniers are used --
16 what he's mentioned as textile should be actually clothing.
17 Normally, typically, the fine deniers are used mainly for
18 the clothing applications. And as you go higher, like 1200
19 denier or 900 denier, these go for industrial application
20 like all the mattress ticking applications which are not
21 meant for the clothing usage. So, that is probably what he
22 wanted to show you. Thank you.

23 MR. TOUBIA: On the inverse on the automotive
24 side, I also point to Table II-2 and II-10 that shows kind
25 of similar differences.

1 COMMISSIONER KARPEL: But is your assertion,
2 though, that imports from India are primarily in this 120 to
3 1,200 denier?

4 MR. BHATNAGAR: Yes, predominantly, because we
5 are not participating in the clothing end application of the
6 market because of NAFTA and CAFTA and we are not supplying
7 to the automotive sector, so this is the home textile, or
8 the industrial application is the only segment where the
9 Indian yarn is going.

10 COMMISSIONER KARPEL: And so, in terms of Table
11 VI-8, we sort of broke it down into one, two, three, four
12 categories, right? And is what I'm hearing you say is that
13 three of those categories, based on your assertion here in
14 your drawing, three of those categories represent industrial
15 uses, and only one of those categories represents the
16 clothing industry.

17 MR. TOUBIA: That is our basic assertion. And I
18 think it shows to the subjectivity in a way that this
19 specific denier count was split up.

20 COMMISSIONER KARPEL: Where does automotive --
21 where would that fall?

22 MR. BHATNAGAR: For the automotive segment,
23 there are different places where you can use PTY. One is
24 the head liner, which is the clothing on the roof of the
25 car. Second, is the seat manufacturing. And you have other

1 smaller applications of PTY inside of the automobile. So,
2 the denier for the head liner it will be a fine denier, like
3 75 x 24, which is being used, but we are not present in that
4 segment.

5 MR. TOUBIA: We did intend to -- we intended to
6 provide a report in our pre-hearing brief that really
7 provide a lot of in depth knowledge about the automotive
8 industry -- automotive style industry and the applications
9 of yarns within that industry. Unfortunately, I included
10 the incorrect exhibit in that version, but we will include
11 that report, along with an analysis of the specific
12 segmentations within the textile -- within the automotive
13 textile industry in our post-hearing brief.

14 COMMISSIONER KARPEL: So, do you agree with what
15 I think I understood from this morning was that there is a
16 general correlation between denier and whether a product is
17 higher or lower -- lower-end product such that the lower
18 denier sort of roughly corresponds to a higher-end product
19 and higher denier roughly corresponds to a lower-end
20 product? Do you agree with that sort of general
21 characterization?

22 MR. BHATNAGAR: Yes, generally, it can be
23 broadly categorized like that. I said it can be categorized
24 like you mentioned.

25 COMMISSIONER KARPEL: Yes, okay.

1 MS. SMITH: For the automotive industry that's
2 not quite the case and we'll provide additional information
3 in our post-hearing brief.

4 COMMISSIONER KARPEL: And still on this line of
5 discussion, when we get to the pricing products, which are
6 broken down by at least one element is denier. So, we have
7 150, 70 -- two products at 70 and one at 300. I guess I'm
8 not sure I understand your argument about the pricing
9 products maybe not being the best ones to show what was
10 really going on in the market in terms of pricing. Are you
11 making an argument in that regard and if so, how does it
12 relate to what we just discussed about denier?

13 MR. TOUBIA: That's something I can discuss in
14 the post-hearing brief as well. I don't think that's
15 necessarily the argument that I was making. I think
16 specifically that when you get to denier there is obviously
17 -- there are some set ranges where it could be considered
18 textile or non-textile. But where you get in between those
19 two, that's where there's some congruency or incongruency
20 between the end user applications.

21 So like for instance when you look at the
22 chart here, anything ranging from that range of 74 to 1,200,
23 you can see deferring end use and applications. It's not
24 clear-cut in that regard. But denier certainly is
25 indicative and is one of the many characteristics that helps

1 segment the product.

2 (Pause.)

3 COMMISSIONER KARPEL: Moving on, since we've
4 touched on already the supplier certification issue, in the
5 STR Respondents' brief at page 30 and 31, there's arguments
6 that the supplier certification process is lengthy and a
7 stringent process, and I think we've heard some of that
8 today. But then there's also information on this in the
9 staff report at II-12 that shows only one.

10 A purchaser reported that a U.S. producer
11 failed to meet the quality or the quality specifications,
12 and that no purchasers reported that a subject producer
13 failed to meet those quality or certification requirements.
14 Given that, I'm wondering how much certification or meeting
15 certain quality requirements of an end user really affects
16 competition? Is it the fact that, you know, any of the
17 suppliers out there can or both domestic and imported
18 product suppliers could meet these quality specifications?
19 Or are these certification requirements?

20 MS. SMITH: So the response to part of that
21 question is confidential, and so we'll provide that on the
22 confidential record. But as far as certification,
23 especially with respect to the automotive industry and Mr.
24 Wada's business, we were discussing this yesterday and he
25 was explaining that first the product itself needs to be

1 certified. So that takes a long process, to make sure the
2 product works that specific automobile company.

3 And then after that's been approved, then the
4 supplier needs to be qualified. That includes an audit,
5 going on site to inspect, but also looking at things like
6 financial standing of the company, the ethics of the
7 company. So it's a very long process and can take up to or
8 over a year from start to finish. So it's very difficult to
9 change suppliers and product based on how this supply chain
10 is set up.

11 We'll provide some more details, specific
12 information that's confidential in our post-hearing
13 submission.

14 CHAIRMAN JOHANSON: Sure.

15 COMMISSIONER KARPEL: I'm over time, but do
16 you -- do your end users typically only qualify one
17 supplier, or do they have multiple that they can use? I'd
18 assume there's some interest in diversifying their supply
19 options.

20 (Pause.)

21 MS. SMITH: There can be multiple, as after
22 Mr. Wada's customer has approved the product and then the
23 supplier. So there could be more than one supplier that's
24 approved.

25 CHAIRMAN JOHANSON: Okay. Commissioner

1 Schmidtlein.

2 COMMISSIONER SCHMIDTLEIN: All right, thank
3 you very much. Thank you all for being here. I'm so sorry
4 I missed your presentation, so if I'm a little bit redundant
5 in terms of what you've already covered, my apologies. So I
6 just want to make sure I understand the arguments and what
7 the data in the record is that supports those arguments. If
8 I understand you, one of the primary arguments is that
9 there's attenuated competition between subject imports and
10 U.S.-produced product.

11 So one question I had was, and again I
12 apologize if you covered this in your direct presentation,
13 how do you square that argument with the fact that subject
14 imports took market share directly from U.S. producers,
15 which suggests that there's head to head competition?

16 (Pause.)

17 MS. SMITH: So as far as the different
18 competition, as far as what Mr. Wada was saying, we'll put
19 some of that in the post-conference brief. English isn't
20 his first language, so we want to make sure that he's
21 actually telling you exactly what he needs to tell you. As
22 far as overall competition between subject imports in the
23 United States, we think that actually what the record shows
24 is that there's input between subject imports and
25 non-subject imports.

1 And so I think actually imports from China, if
2 you look at the record, are competing with countries like
3 Mexico that showed a large increase of imports to the United
4 States. We think that's something that's really important
5 for the Commission to consider when making their decision in
6 the case.

7 COMMISSIONER SCHMIDTLEIN: So can you
8 elaborate just a little bit more in terms of when you say
9 the record shows that there's competition between subject
10 and non-subject specifically Mexico, but not with the U.S.,
11 what would I look at in the record that's demonstrating
12 that?

13 MS. SMITH: What's demonstrating that?

14 COMMISSIONER SCHMIDTLEIN: Right.

15 MS. SMITH: I think the pricing and the size
16 of imports coming from Mexico are important. When you look
17 at the declines in China, comparing that to Mexico, that's
18 something that's important for the Commission to look at and
19 consider.

20 COMMISSIONER SCHMIDTLEIN: Okay, okay. All
21 right. I will definitely take a look at that, and I invite
22 you to add to that in the post-hearing briefs if you'd like.
23 So along the same lines, in terms of the breakdown between
24 the different counts of denier, right, can you repeat -- I
25 know that I came in, I think, I'm not sure if Commissioner

1 Kearns was asking this or one of the other Commissioners,
2 that in your view the breakdown between 0 to 100, 101 to 250
3 and so forth is not the appropriate -- is not the
4 appropriate line. Those aren't the appropriate lines to
5 draw; is that correct?

6 MS. SMITH: So again Kristen Smith from
7 Sandler Travis. On behalf of the importers that we work
8 with, of course denier is important. Certain applications
9 use certain deniers. But it's much more detailed than that.
10 So for example for automotive, while certain deniers are
11 used, the typical range and I'll detail this more in our
12 post-hearing brief, ranges between 75 percent, 75 to 150
13 denier.

14 There's some really important factors of the
15 yarn that Mr. Wada imports that's really important for his
16 specific end use. So as we detailed in our case brief and a
17 little bit in our testimony here today, the fact that he
18 needs to purchase yarn that does not have a tail, and the
19 reason for that is if you had tails, there's going to be
20 like a knot in the fabric or a snub when you look at in
21 imperfections.

22 So that's something that's not going to be
23 able to use in an automobile, and if you were to give
24 product that had these tails to this customer and they were
25 to use it and it was defective, he would face significant

1 penalties for providing that type of product. So for the
2 automotive, that's just one example. We can provide you
3 more. It's more than just the denier of the fabric.
4 Sometimes it's the finish. I know the staff report talked
5 a little bit about how it was dyed, whether it goes straight
6 through or if it's just dyed on the top of the yarn.

7 All of those things are really important for
8 the industry. We talked about recycled product. For some
9 companies, that is very important. For example, that
10 retailers right now like to highlight that they're selling
11 recycled for sustainable goods, so that's something that
12 they're looking for.

13 So there's a lot of different qualities in
14 addition to denier that are looked at and that are
15 important.

16 COMMISSIONER SCHMIDTLEIN: Sure. But just in
17 terms of, because we're trying to get an idea of where the
18 overlap is. So I understood your point to be well, if you
19 draw a different line and we categorize it as 0 to 150 and
20 so forth, that you're going to see China or India zero out
21 in one of those categories. Is that what you're arguing,
22 that because the lines, the way we've drawn the lines don't
23 make sense because they should be more aligned with
24 segments, is it kind of what I was hearing you say?

25 In other words like automotive is a higher end

1 product, but it's generally 75 to 150? The next category,
2 you know, would fall within a different range besides -- 101
3 to 250 would be 150 to something else. I don't know. I'm
4 just -- I don't want to put words in your mouth. I'm just
5 trying to further understand like what would be the
6 rationale be for drawing these lines differently?

7 Is it because we want to align them more
8 accurately with segments or end uses? Is that what you're
9 getting at or --

10 MS. SMITH: So again Kristen Smith from
11 Sandler Travis. The Indian respondents were talking a lot
12 about different deniers and what impact to the Indian
13 industry, so I'll let them explain that point of view to
14 you. Our view is that, you know, end use is very important
15 and it is more than just strictly deniers.

16 As I mentioned like for automotive, how the
17 yarn, the quality of the yarn, how it's produced is very
18 important. But I'll let others explain what they have to
19 say.

20 COMMISSIONER SCHMIDTLEIN: Go ahead, yes.

21 MR. TOUBIA: Thank you, Commissioner. The way
22 that the questionnaires themselves were fashioned is
23 confidential, so we can discuss confidentially in the
24 post-hearing brief how that then would have no effect on the
25 data as we see now, if we were to delineate -- if we were to

1 split up these deniers very differently.

2 But as a practical matter, and I think as
3 we've shown here, there certainly is some overlap or they're
4 certainly not drawn up in a way that distinguishes between
5 the market accurately.

6 COMMISSIONER SCHMIDTLEIN: Can you elaborate?
7 You can't elaborate on that right now?

8 MR. TOUBIA: That's something that I can
9 elaborate further in the post-hearing brief and I'd really
10 like to, because I think it's something that we can have a
11 longer discussion to, and I'm just afraid of -- I'm afraid
12 of hitting confidential information. Hopefully that was
13 submitted in questionnaire responses.

14 COMMISSIONER SCHMIDTLEIN: Okay, okay, all
15 right. I welcome you to do that. Let's see if there's
16 anything else I want to cover right now. I think that's all
17 I have right now for this round. Thank you.

18 CHAIRMAN JOHANSON: On pages 24 to 25 of the
19 Sandler Travis Rosenberg brief, you allege that Unifi's
20 business is highlighted by poor hiring and business
21 decisions and describe rapid turnover in senior personnel.
22 Are you all aware of any specific bad decisions that might
23 have been caused by this management turmoil, or any evidence
24 that it had an impact on the company's performance?

25 MS. SMITH: Well, I think any time that you

1 see high turnover of high level professionals at an
2 organization, that's an indicator that something's wrong. I
3 know that there were reports at different times of
4 fraudulent behavior. That was the reason for some of the
5 turnover, and then there was turnover of folks that came
6 later down the road. But I think that that speaks for
7 itself.

8 I think that that's highly unusual and it
9 reflects very poorly on a company when that happens. But as
10 far as specific putting to sales were down because of that,
11 no, I can't do that.

12 CHAIRMAN JOHANSON: Okay. Thanks for your
13 response, and if you have any industry publications,
14 etcetera, which might have articles that might indicate that
15 this did impact the performance of the company?

16 MS. SMITH: Sure. We're happy to --

17 CHAIRMAN JOHANSON: That would be appreciated
18 for any post-hearing brief. Is it your contention that
19 non-subject imports, particularly imports from Mexico, have
20 driven the negative price effects of the U.S. industry?

21 MS. SMITH: This is Kristen Smith from Sandler
22 Travis, yes. We do believe that imports from non-subject
23 countries such as Mexico have had an impact on pricing on
24 polyester textured yarn.

25 CHAIRMAN JOHANSON: Do you have any figures to

1 that effect?

2 MR. BREEDEN: So Mexican imports of yarn
3 during the POI increased by 24 percent. Market share went
4 up by two points. At the same time, product from other
5 non-subject sources for yarn from other non-subject sources
6 during 2016 to 2018, quantity actually went down. It was
7 only in the 2018 to 2019 period where that went up, and that
8 was likely due to China being pushed out by the 301 duties.

9 CHAIRMAN JOHANSON: And you don't -- you don't
10 happen to have the Mexican pricing information do you? I
11 just don't recall --

12 MR. BREEDEN: Yeah, I do. So Mexico, their
13 prices were higher than China and India, but they undersold
14 the U.S. prices in 34 of 43 quarters.

15 CHAIRMAN JOHANSON: Okay, okay. Thanks Mr.
16 Breedon. I'm going to ask a question regarding market
17 segmentation, which is something of course you all have
18 addressed this afternoon. Respondents argue that Unifi
19 sells high-priced branded products, while subject imports
20 focus on commercial quality or mass market products. To
21 what extent do you believe that branded markets are
22 distinct from the other PTY markets?

23 MR. TOUBIA: This is Spencer Toubia. I think
24 you saw one example earlier today of recycled materials from
25 Unifi. That's definitely a big one. I can kind of pass it

1 over to Mr. Bhatnagar to discuss further the relation of
2 branded products. However, it is clear to note that certain
3 branded products obviously do require certain specifications
4 that may segment it differently within the marketplace. The
5 clear example that we've seen here is Unifi's brand that
6 uses recycled PET.

7 MR. BHATNAGAR: Well, on the branded segment,
8 this will be applicable only for the clothing industry. So
9 if you look at the apparel or clothing industry, then the
10 brands become more important, okay, from the end application
11 point of view. But if we look at the automobile industry or
12 the mattress industry or other industrial application, then
13 the branding does not play so much of role because these are
14 all either highly specialized industrial products or
15 commodities which go into manufacturing commodities like a
16 mattress.

17 So branding is more important for the clothing
18 segment only, and obviously the price differential is on the
19 branded versus non-branded, as you know for the garmenting.
20 There is a differential in the price.

21 CHAIRMAN JOHANSON: How about in the
22 automotive sector?

23 MR. BHATNAGOR: Sorry?

24 CHAIRMAN JOHANSON: In the automotive sector
25 is branding?

1 MR. BHATNAGOR: Automotive? No, no, it
2 doesn't matter. It does not matter, no. It's the yarn
3 specification and the yarn durability which matters for the
4 industry, for the automotive industry, because it is an
5 industrial application. It's not going directly to a
6 consumer, you know. It goes through the car manufacturer
7 where they approve. So it doesn't matter in the automotive
8 industry.

9 CHAIRMAN JOHANSON: But then again the
10 automotive producers have very high standards?

11 MR. BHATNAGOR: They have very high standards,
12 yes. So branding does not matter. It is the yarn
13 properties or the yarn durability which matters, as Mr. Wada
14 has also explained a little in his testimony.

15 CHAIRMAN JOHANSON: Okay, and I think I have
16 just one more question. In your opinion, how have the
17 Section 301 duties on Chinese PTY of ten percent of 2018,
18 which increased to 25 percent in 2019, how have they
19 affected supply and price in the U.S. market?

20 MS. SMITH: So we believe that the imports
21 subject to Section 301 have definitely impacted supply on
22 the U.S. market. We've seen prices increase, and that's in
23 the staff report. Also a decline of first when they were
24 waiting to be increased, we did see an increase, for
25 example, December 2018 of imports from China. But since

1 they've been imposed, there's been a decrease that we've
2 seen of Chinese imports.

3 CHAIRMAN JOHANSON: Okay.

4 MR. TOUBIA: This is Spencer Toubia. So to
5 interrupt.

6 CHAIRMAN JOHANSON: Yeah.

7 MR. TOUBIA: I do note something that I said
8 earlier, and that right when you first saw the threat of
9 tariffs being raised from 10 percent to 25 percent, you see
10 a -- at the same time you see a significant drop off of
11 imports from China.

12 CHAIRMAN JOHANSON: Okay, all right. Well
13 thank you. Commissioner Kearns.

14 COMMISSIONER KEARNS: I have no further
15 questions.

16 CHAIRMAN JOHANSON: Commissioner Stayin.

17 COMMISSIONER STAYIN: Just a couple of
18 questions. With respect to the automobile sector, does the
19 U.S. industry participate in that sector? Or does the
20 automobile sector buy the products that are produced by the
21 U.S. producers?

22 MS. SMITH: Yes, this is Kristen Smith from
23 Sandler Travis. The automotive -- petitioners do
24 participate in the automotive industry. However, this is
25 confidential information that we'll address in our

1 post-hearing brief. Based on certain specifications and
2 qualifications, you know, there are some products that may
3 not be provided by the domestic industry.

4 COMMISSIONER STAYIN: Okay.

5 MR. TOUBIA: I think Table Roman numeral II-2
6 and Roman numeral II-10 allude to the different end uses in
7 automotive versus textile.

8 COMMISSIONER STAYIN: Again that reference?

9 MR. TOUBIA: Table Roman numeral II-2, and
10 then there's Table Roman numeral II-10.

11 COMMISSIONER STAYIN: Okay, thank you. The
12 questionnaire responses received by the Commission
13 represented only 63.1 percent of imports from China. In
14 contrast, the questionnaire responses representing 94
15 percent, 94.1 percent of imports from India were received.
16 That suggests that the Commission has much more complete
17 data from Indian imports compared to Chinese imports.

18 With respect to the issue of threat, one of
19 the issues of course is the volume and the capacity of the
20 Chinese producers and the Indian producers. Without that,
21 that data, it then goes to how do you find out and what can
22 you rely on? There is a suggestion that we should do, take
23 an adverse impact position decision on with respect to those
24 Chinese, with respect to China at least in the issue of
25 threat.

1 If you have anything more you can help me with
2 in getting that kind of data, obviously the capacity of the
3 Chinese production is very important in determining threat.
4 While there was I think with India, we've got 94 percent
5 response so I think we're pretty good on that.

6 MS. SMITH: We can address this further in our
7 post-hearing brief, but I think with respect to China two
8 things. First is import data -- the import data from China
9 shows the trends of imports into the United States, but also
10 export data out of China shows that the U.S. is actually a
11 relatively small marketplace for China, and it shows trends
12 for where China sends it's exports of the subject
13 merchandise.

14 And I think those are both helpful resources to
15 look at when considering threat.

16 COMMISSIONER STAYIN: So, China has a significant
17 capacity to produce this project and they are selling it to
18 other markets? Do you have -- you can provide us with that
19 information?

20 MS. SMITH: Export trends, right? Exports we can
21 show.

22 COMMISSIONER STAYIN: Exports --

23 MS. SMITH: Exports out of China.

24 COMMISSIONER STAYIN: Out of China.

25 MS. SMITH: Yes.

1 COMMISSIONER STAYIN: Are going to other
2 countries?

3 MS. SMITH: Other countries.

4 COMMISSIONER STAYIN: And, we're trying to find
5 out what the capacity in China is to produce these products
6 and they have shipped to the United States. We know the
7 volume here and the shipping elsewhere, so they must have a
8 significant capacity with respect to the ability to produce
9 these products, and of course, that's an issue that is going
10 to be considered if we deal with the threat issue.

11 So, any information you can provide us on that
12 would be very helpful. I think that I asked a lot of my
13 questions, and I'll pass it to the rest of my colleagues,
14 thank you very much for your responses and your attention.

15 CHAIRMAN JOHANSON: Commissioner Karpel?

16 COMMISSIONER KARPEL: Yeah, thank you. A few
17 questions on critical circumstances. Miss Smith, in your
18 opening statement you mentioned that certain contracts were
19 set before the surge in imports that Petitioners identify as
20 the basis for their critical circumstance argument.

21 Can you -- are those in the record, or could they
22 be put on the record?

23 MS. SMITH: Sure, I believe that we do have some
24 on the record. We can add additional to the record in our
25 post-hearing submission.

1 COMMISSIONER KARPEL: And generally speaking,
2 would those contracts show that they were made a date before
3 the petition was filed to supply a volume of merchandise
4 through what -- the spring of 2019, or?

5 MS. SMITH: So, what they would show are orders
6 placed prior to the petition being filed, but that were
7 imported after the petition being filed, so basically
8 they're purchases that were made prior to knowing about the
9 case, but the import dates, you know, due to production and
10 travel to the United States were physically imported after
11 the petition.

12 COMMISSIONER KARPEL: Thank you, and then I just
13 want to -- I think Commissioner Kearns asked you about the
14 time period we ought to be looking at to analyze critical
15 circumstances, but assuming for case of argument that we
16 accept the petitioner's position that we should look at the
17 November to January timeframe, and then compare that with
18 the three months prior to that.

19 What is your view on the percentage increase,
20 they cite, I think it was around 26 percent, being something
21 that should give rise to a critical circumstance finding?

22 MS. SMITH: Well we disagree, and we think it
23 should be a longer period. I also disagree with the
24 percentages that they provide. In our case brief, we talk
25 about different cases where the Commission did look at

1 critical circumstances. I don't have the exact numbers off
2 the top of my head, but they were significantly higher than
3 23 percent, I think it was 70-something percent.

4 One of them was at least 70-something percent,
5 the increase during the period that the Commission looked at
6 and, in that situation, they issued a negative critical
7 circumstance decision.

8 COMMISSIONER KARPEL: But in terms of their
9 arguments that that quantity, which I think, based on public
10 data, was roughly around 2.4 million pounds and that
11 represented that 26 percent increase, plus the confidential
12 information they cite on a build-up of inventories at the
13 end of 2018. What is your reaction to what they said in
14 response to my question that that volume of subject
15 imports, coming in at that time period, delayed the remedial
16 effect of the preliminary duties by a certain amount of
17 time, such that that delay itself, is something that
18 represents a serious undermining of the remedial effect of
19 the orders.

20 I'd like to hear your response to that argument
21 from your perspective.

22 MS. SMITH: Sure, well I think that as we
23 discussed in our pre-hearing case brief, and to a certain
24 extent Mr. Wada talked about today, imports to the United
25 States, some automotive, a large sector for the United

1 States yarn. These imports were based on preset supply
2 chains and so, these were sales that never would have gone
3 to the domestic industry.

4 The example that we just talked about, contracts
5 that were already in place before this case was even filed,
6 those two were sales that were made that were never going to
7 be sales to the domestic industry. I think that there's a
8 lot of other examples that are in the record, and we could
9 provide further information documentation of that in our
10 post-conference submission.

11 COMMISSIONER KARPEL: Thank you, it will be
12 interesting for me to see what the volume of those
13 contracted sales are in relation to the increase in volume
14 we see in that period, so I think if you could do that.

15 Just a few more questions. I wanted to return to
16 something that I make sure I understand your argument. But
17 am I correct in understanding that you are -- if low-priced
18 subject imports weren't available for purchase by some
19 purchasers, that they would not purchase any PTY, and would
20 choose to instead, import the finished product.

21 And, if that's your argument, what can I look at
22 in the record to know that there's a factual or
23 substantiated basis for that assertion?

24 MS. SMITH: So, I think an important example of
25 that would be fabric producers in the United States, price

1 points where they can still manufacture their products here
2 in the United States, and sell it to parallel companies
3 versus when importing imported product it makes sense just
4 to move the production.

5 I believe that we have examples of that in our
6 pre-hearing brief. I can provide examples of that from our
7 clients. That's a very big issue and a very big concern of
8 theirs that you know, these are U.S. companies -- U.S.
9 manufacturers, that are using yarn for their production.

10 And the problem that they face is that if the
11 yarn is too expensive, it doesn't make sense to produce here
12 any longer, and I'll need to rely on producing outside of
13 the U.S. for these reasons, so.

14 COMMISSIONER KARPEL: And then I'd like to get
15 your reaction to something Petitioners argued this morning,
16 was that in that -- for the preference programs, those are
17 just a preference, it's not a requirement, that there's a
18 decision at some point that purchasers made.

19 Do I want to buy domestic product, or maybe
20 product from another CAFTA or NAFTA country, and then make
21 sure that the resulting end product can benefit from the
22 tariff preference, or do I want to buy lower-priced subject
23 imports because I could -- because those subject imports are
24 so low-priced, I can give up my eligibility for a preference
25 in a downstream product.

1 What is your reaction to that argument and is
2 there any evidence we should be looking at to try to
3 understand if that's really going on or not?

4 MS. SMITH: So, I disagree with what they have to
5 say as far as it's a preference program. I think that if
6 someone is intending to import a product and manufacture it
7 in a NAFTA/CAFTA country, I mean those are long-established
8 relationships for manufacturing, it's not easily switched.

9 With that said, I think that Petitioners
10 arguments actually demonstrate -- but what we've been
11 talking to the Commission about, that end product, the final
12 end product that you use the yarn for, that price really
13 matters. Because there really is a set price that someone
14 will buy a shirt or a sweater, and once it becomes too
15 expensive, the retailers can't sell it for that price, then
16 production for that end product will move to a third
17 country, and that is an issue in this case.

18 MR. TOUBIA: And this is Spencer Toubia. I think
19 also, that the prevalence of NAFTA/CAFTA in a region also
20 reflects the commercial reality of the point that we're in
21 right now. I mean the tariff rates right now for a similar
22 yarn product is about 8.8 percent and as Mr. Bhatnagar has
23 alluded to earlier, and he can allude to this more, they
24 simply have not been able to supply to the textiles an
25 entire -- the apparel sector, an entire sub-sector of the

1 market because of these preference programs.

2 MR. BHATNAGAR: Actually, the importer, if you
3 look at the price offering imported demand, we're just
4 coming back. And the higher the price of the imported
5 demand higher the duty. So, if you're looking at a \$30
6 demand and the duty incidences say, for example 10 percent,
7 the cost of duty is \$3.

8 If the cost for garment is \$40 and duty is say
9 approximately for instance, 10 percent, the duty incidence
10 is \$4 on the garment. So, which -- does not justify that
11 anybody will buy a lower-price yarn and let go of the duty
12 serial, it doesn't make sense.

13 COMMISSIONER KARPEL: Thank you. One last
14 question and if you want to address this in the post-hearing
15 brief, that's fine with me. I think this is more for
16 Reliance and the lawyers. You have an argument on pages 12
17 -- I think it's 11, either page 11 or 12, of your
18 pre-hearing brief.

19 And you note the staff's elasticity estimates and
20 make an argument there that that affects whether the
21 products compete based on price. So, it's pretty short in
22 your brief there and if you have more to say about it, or
23 more to explain, maybe you could do that in your
24 post-hearing.

25 MR. TOUBIA: Will do, thank you.

1 CHAIRMAN JOHANSON: Commissioner Schmidtlein?

2 COMMISSIONER SCHMIDTLEIN: I have no further
3 questions, thank you very much.

4 CHAIRMAN JOHANSON: Do any of the Commissioners
5 have further questions? No Commissioners do. Do staff have
6 any questions for this panel?

7 MS. HAINES: Elizabeth Haines, staff has no
8 questions.

9 CHAIRMAN JOHANSON: Okay, do Petitioners have any
10 questions for this panel?

11 MR. ROSENTHAL: No, we don't, thank you.

12 CHAIRMAN JOHANSON: Okay, Petitioners do not have
13 questions. Then this panel is dismissed. I will go ahead,
14 and we will now call the Petitioners for their closing
15 argument.

16 MR. BURCH: Rebuttal and closing remarks on
17 behalf of Petitioners will be given by Paul C. Rosenthal and
18 Kathleen W. Cannon, of Kelly Drye & Warren. Mr. Rosenthal,
19 Miss Cannon you have 19 minutes.

20 CLOSING STATEMENT OF KATHLEEN CANNON

21 MS. CANNON: Good afternoon. For the record,
22 again, I'm Kathleen Cannon and I appreciate your attention
23 today. I wanted to make a few points in rebuttal to
24 Respondents' testimony on the issues of cumulation and
25 pricing.

1 Respondents argue that you shouldn't cumulate, or
2 at least Reliance argues that for several factors. They say
3 that the Indian product isn't made from recycled inputs.
4 Please look at confidential slide 5 to our presentation,
5 which shows that here is extensive overlap in the virgin
6 input product, between all sources.

7 So, whether or not there's any recycled, you've
8 got more than a reasonable overlap of the product types they
9 do sell. That is also true for deniers. You heard a lot
10 about deniers today, and if you look at confidential slide
11 4, you will see huge overlap in multiple product categories
12 of the Indian product with both the Chinese product and the
13 U.S. product.

14 So, their attempts to differentiate their product
15 by looking at some of these or trying to parse out some of
16 these deniers is incorrect. I would urge you to continue to
17 look at the purchaser shift chart, which is slide 15, as
18 well as the underselling charts on slides 12 and 13, which
19 show specifically for India, that the purchasers shifted
20 from U.S. product to subject imports from India, and that
21 there was underselling by subject India in a wide array of
22 the product that you looked at.

23 So, that shows direct competition contrary to
24 their claims. They also urged you to ignore products the
25 U.S. couldn't make and didn't make and said just only look

1 at what we actually reported as being made. Well, in fact,
2 the data that I just referred you to in these slides is what
3 we actually did make and sell. That's what the Commission
4 asked for.

5 So, the truth is what you have in your database
6 is what we sold. But I also would suggest that that is not
7 the proper perspective, because think about it. If you're
8 only going to look at what a company actually can sell, or
9 actually does sell, even if it's attempting to sell and can
10 sell something else, but is precluded from doing so based on
11 lower price, you are ignoring the most severe injury that an
12 industry is suffering, so that is not the proper perspective
13 here at all.

14 And with respect to their claim that we didn't
15 give specifics on some of the attempts to sell products like
16 mattress ticking, that's incorrect. We did give very
17 detailed specifics in the declarations that we provided
18 already, and we'll provide further details in our
19 post-hearing brief.

20 Reliance stated that PTY is sold into segments --
21 different segments that you aren't looking at. One of those
22 they cited was air bags. That is not true. Air bags are
23 made of nylon, or high tenacity polyester, they're not made
24 from PTY, so that isn't even a segment that's appropriate
25 for you to be looking at.

1 They stated that Unifi doesn't sell or focus on
2 mattresses, but again, as I said, Unifi sells to the
3 mattress customers, it's done so during the period, it's
4 declined over time, but that's because of the low prices of
5 imports.

6 Reliance also said they sell into furnishings,
7 industrial and areas like that but not automotive, and tried
8 to differentiate themselves that way. Again, the U.S.
9 industry sells into furnishings, industrial segments as
10 well. There is overlap in every single one of those
11 segments.

12 Then the complained to you about the pricing
13 products and they say well these don't really take into
14 account a fair comparison and break out the deniers
15 properly. Well, please recall that they had a chance to
16 address the pricing products in comments on draft
17 questionnaires, which the importers did file comments, but
18 they didn't say anything about those deniers, which were
19 what you were using preliminarily.

20 And they made no arguments to suggest that there
21 was any problem with them, or they should be changed. So,
22 it's a little late now for them to start suggesting that
23 there are problems with that when they had the opportunity
24 for them to do that, and that's specifically what you asked
25 Respondents to do when they comment on your draft

1 questionnaires.

2 But in any event, they're wrong that there's a
3 problem with your price descriptors. Your price descriptors
4 are perfectly appropriate and this chart that they have
5 given you, where they suggest that there is this demarcation
6 between the finding in your 60 to 74 that goes into
7 textiles, and coarse denier at 120 and above it goes into
8 non-textiles is wrong.

9 The coarse denier, whatever they're calling 120
10 and above denier, goes into automotive, it goes into
11 apparel, it goes into hosiery, it goes into socks, it goes
12 into home furnishing, it goes into a wide array of things.
13 It is not limited to industrial applications. Nor are their
14 attempts to demarcate the automotive segment correct,
15 because we have deniers, as I said, in excess of 120 that
16 are sold into that segment as well.

17 So, all of these attempts to sort of try to
18 breakdown and demarcate deniers differently now, are both
19 belated and wrong. And also, on that point, I would just
20 say that the domestic industry strongly disagrees with their
21 claims that the U.S. industry does not or cannot make the
22 full range of products.

23 I think it was said it depends on what the spec
24 is. The industry can make all the specs, as they've
25 testified. There's nothing that they can't make. They only

1 can't compete on price. On the pricing factor, I would also
2 emphasize that the Respondents acknowledged this afternoon
3 about the cost increases that we faced, yet they continued
4 to hammer that prices didn't decline.

5 Again, this is price depression. We couldn't
6 raise our prices sufficiently to cover those cost increases
7 and that created the problem. A couple more small points.
8 Reliance talked about the 301 tariff and said that these are
9 the effects of the tariff and here's how they kick in.

10 I found it curious that it was Reliance
11 testifying about that because they're India, the tariffs
12 don't apply to India. They apply to China. I didn't hear
13 anything from the importers from China about the effects of
14 the tariffs and their timing. And I'm also puzzled, given
15 that Reliance has urged the Commission to decumulate why
16 they think the 301 tariffs are relevant to them at all.

17 And then finally, with respect to Mr. Wada's
18 testimony about Chori and critical circumstances. I would
19 urge you to look at Table 4-1 at page 4-2 of your report and
20 see how much of the imports in 2018 Chori accounted for as
21 compared to the other importers.

22 Those numbers are confidential, so I can't go
23 into them, but you will see that whatever Chori's position
24 is here and reasons for importation do not explain the surge
25 in imports from China that happened in 2018.

1 CLOSING STATEMENT OF PAUL C. ROSENTHAL

2 MR. ROSENTHAL: I'll continue the closing -- our
3 response. Every time the Commissioners ask for support in
4 the record, Respondents couldn't provide it. I said at the
5 outset, in the overview, or my opening statement how silent
6 they were in the pre-hearing brief about what are the really
7 key issues of the case, and any case? Volume, price and
8 impact.

9 Instead of addressing those directly, they
10 avoided them. They had an unerring instinct for the
11 capillary in this case. And every time you asked a
12 question, they said they couldn't answer it, or they
13 fumbled, and they said we'll answer it in the post-hearing
14 brief.

15 Well, let me help you right now, because I don't
16 want you to lease this room without having some answers that
17 they should have provided you on volume price and impact.
18 Commissioner Schmidtlein asked directly, "How do you answer
19 the question about the market share increase by the subject
20 imports coming directly at the expense of the domestic
21 industry?"

22 There were the crickets for a while, and then
23 they came up with something, but no citations to record. I
24 suggest, all you have to do is look at slide 25 in this
25 handout here. You will see that the problem was not the

1 subject -- non-subject imports, which were declining as
2 subject imports were increasing from 2016 to 2018, the
3 entire problem with the domestic industry's market share
4 was due to the subject imports, no other source.

5 Commissioner Johanson asked about underselling in
6 106 of 109 instances and the response was -- well,
7 underselling data doesn't show the true picture. Well, what
8 was the true picture? They didn't provide it to you and
9 they certainly didn't provide any record support for that.

10 As Ms. Cannon points out, there are complaints
11 now that oh, your pricing products were wrong and they
12 didn't capture the right data -- not only are too late, but
13 it wouldn't matter how you sliced or diced those pricing
14 products because there is underselling in every instance
15 just about that you found.

16 And if you don't believe that there is direct
17 underselling and direct pricing competition between India
18 and the U.S. producers and China and the Indian producers as
19 Miss Cannon mentioned, go back and look at slide 15.

20 This slide 15 breaks down the purchasers -- this
21 is a public document, it breaks down the purchaser's reports
22 on shifting from domestic product to imports, and it breaks
23 down involving both China and India.

24 The notion that India is not competing based on
25 price and is not competing directly with the U.S. industry

1 is directly bellied by this chart. This chart shows that
2 ten purchasers reported buying the import instead of the
3 domestic, in the case of India. Nine said the imports were
4 lower-priced, and nine said that price was the primary
5 reason for purchasing the subject imports from India over
6 the domestic industry.

7 I don't know how much more evidence of direct
8 competition based on price one could find. I thought a
9 response to one of the questions proposed and answered by
10 Miss Smith was somewhat ironic because she was trying to
11 blame imports for the non-subject imports through the
12 condition of the domestic industry.

13 I showed you in slide 25 that non-subject
14 imports, at least through '18, were declining at the expense
15 of subject imports, but now she says that you can blame
16 Mexico for causing U.S. prices to decline, yet she doesn't
17 say a word about the potential impact of prices by China and
18 India, even though there's underselling on the record on 106
19 out of 109 instances of comparisons.

20 By the way, I've never seen more -- a record more
21 replete with instances of underselling than this one.
22 Usually you see more of a mixed pattern because people are
23 going head to head for sales. This is remarkable. And yet
24 the Respondents say barely a word to explain it other than
25 there's something wrong with your pricing data.

1 Miss Cannon mentioned the price suppression
2 issue. I don't know how obvious it is -- it should be
3 obvious, but essentially the response to that is well, you
4 should ignore that because the purchasers have said if they
5 have to pay higher prices for these products they're going
6 to off-shore, and therefore, somehow, that disqualifies any
7 arguments concerning price suppression and the decisions by
8 purchasers not to pay higher prices to the domestic
9 industry, even the domestic industry is facing higher raw
10 material costs.

11 Well, if the answer was that purchasers can't pay
12 higher prices, then there'd be no case ever successful in
13 this industry. You would begin to do what Congress has
14 directed you not to do, which is to consider the prices on
15 the downstream industries and consumers.

16 What matters here is what the effect is of the
17 price competition at the customer level. What it tells you
18 is that the customers have said, "We're not going to buy the
19 domestic prices as they're increasing, we're going to buy
20 imports instead, because they are lower priced." And it
21 doesn't matter that they're facing competition of their own
22 on the downstream product.

23 What matters is that the reason they purchased
24 the imported prices, the subject imports, is because they
25 were, in fact, lower-priced and unfairly traded as found by

1 the Commerce Department.

2 One other topic -- a statutory factor virtually
3 ignored by the Respondents once again, was impact. Reliance
4 says in its brief on page 1, that the domestic industry is
5 healthy. I note there's not a citation to that, nor is
6 there anything in the staff report that they point to that
7 suggests that this is a healthy industry.

8 Quite to the contrary, if you look at all the
9 data in the record, you see an industry that is struggling
10 to provide -- I would say hanging on by a thread, but I'm
11 only allowed a certain number of eye rolls per day. And, it
12 is truly one -- and I couldn't get into this in response to
13 Commissioner's Stayin's question about the number of
14 companies who have lost money in any given year and it is
15 true that the pattern is not the same for every single
16 company, but the overall trend is the same, and that's
17 downward.

18 And it correlates perfectly with the increased
19 volume of imports -- subject imports, it correlates
20 perfectly with the underselling and the shifts to the
21 subject countries. So, as you're looking at this, the
22 bottom line, totally unaddressed by Respondents, is this
23 industry is not only not healthy, it is heading towards a
24 point where it will not be sustainable.

25 So, in sum, we think this record is

1 overwhelmingly supportive of an affirmative determination,
2 or affirmative determinations, and we urge the Commission to
3 vote in that way when the time comes for your vote. Thank
4 you.

5 MR. BURCH: Thank you Mr. Rosenthal and Miss
6 Cannon. Closing and rebuttal remarks on behalf of
7 Respondents will be given by Kristen Smith of Sandler,
8 Travis & Rosenberg, and Spencer Toubia, of Crowell & Moring.
9 Miss Smith and Mr. Toubia, you have 24 minutes.

10 CLOSING STATEMENT OF SPENCER TOUBIA

11 MR. TOUBIA: Thank you Chairman, Commissioners
12 and staff. This is Spencer Toubia, representing Reliance.
13 I think there is a lot that got jumbled in the discussion of
14 different pricing products and how they're segmented.
15 That's partially our fault for not staying on focus and
16 staying on message.

17 I think there are two points yet that are clear
18 and remain the same regarding that. One is, just look at
19 prices. Prices across the board. Take a look at how those
20 have been affected throughout the entire POI.

21 And then the second point is -- take a look at a
22 lot came up about market share. And I implore the
23 Commission to take a look at Table C-2 and take a look at
24 commercial -- at consumption. And then, at the end of the
25 day, I ask that difference in market share -- was that

1 changed because of imports from India, which have remained
2 relatively flat throughout the POI, or has it been in
3 differences in price and consumption? And I'd say the
4 latter.

5 And with that, those are the two really strong
6 points that we wanted to discuss at the end when we point to
7 C-2 for the Table C-2 for the Commission to really take a
8 look at the indicators for consumption -- total consumption.
9 And we implore you to rely on that and to determine then,
10 okay, then what really was the cause in decrease in market
11 share? Was it imports coming in from India which have
12 remained flat, or was it some other reason? And with that,
13 I'll pass the baton along to Miss Smith, thank you.

14 CLOSING STATEMENT OF KRISTEN SMITH

15 MS. SMITH: Well first, thank you for the
16 opportunity to be here today and testify before you. I
17 wanted to bring up a few points in our closing comments
18 before the Commission today.

19 Petitioners point to the fact that they think
20 that we haven't shown really reasons for loss of market
21 share and the impact of imports. But I think it's really
22 important to turn around and show what Petitioners haven't
23 shown, really the burden of proof in our mind is on
24 Petitioners to show you that they're being injured by
25 imports into the United States.

1 During their testimony today, and also in their
2 case briefs that were filed with the Commission, there were
3 some really important issues that they tried to shy away
4 from, or it might be distort. One of the big ones really is
5 NAFTA/CAFTA preferential programs.

6 They try to portray that as something well it's
7 not really important to our industry, it really doesn't mean
8 that much. But if you look at the administrative record at
9 the staff report, actually a large share does go to
10 preferential programs or Buy America programs, a lot of U.S.
11 domestic production.

12 And it is something that's important to them.
13 Back in their filings with the U.S. government, the FCC,
14 they talked about how important NAFTA/CAFTA is to their
15 business. They tried to distinguish it a little bit,
16 perhaps certain products and things like that, but that's
17 not what the administrative record in this case shows.

18 NAFTA/CAFTA are important markets for them. They
19 compete not just with their domestic counterparts, but also
20 for NAFTA, imports from Mexico, for CAFTA, from the CAFTA
21 products, and that's something really important for the
22 Commission to consider as part of the case.

23 They also really shy away from end use and the
24 importance of that. And that's really, really important
25 when you're looking at price. Different end users have

1 different requirements, different pricing and when we talk
2 about whether imports from China or India are injuring the
3 domestic industry, it's really important to understand the
4 impact of end use on purchasing and importing decisions --
5 it's really important.

6 As we testified with respect to the automotive
7 industry, these are really sophisticated supply chains,
8 where decisions are made on the global basis, where there is
9 very strict conditions on picking suppliers that are not
10 easy to change.

11 As we mentioned in our testimony, we'll be
12 providing further confidential information to address these
13 issues in our post-conference briefs. They talked a lot
14 about pricing and why they won't survive, but they really
15 ignore pricing levels when you can no longer sell a product
16 into the United States. That's also something that's really
17 important.

18 And that shows perhaps, some of the reasons why
19 they're having trouble with the industries. There are
20 different market segments that could only -- that their
21 purchases are based on the price that they can sell their
22 end product. If they can't manufacture for a price where
23 they can sell their product, the final end product in the
24 United States, that product will be manufactured -- the
25 final end product, outside of the United States.

1 And then the domestic industry is in a worse
2 position because there will not be fabric companies or
3 manufacturers to sell their yarn to. And that's something
4 that they really shy away from and don't address. And
5 there's a reason for that. They don't want to address it,
6 because they know that that's a problem with their sales
7 within the United States.

8 And then finally, as we talked about -- we really
9 strongly believe that the record in this case demonstrates
10 that there should be no critical circumstances found in this
11 case. As we discussed in our testimony before the
12 Commission and also in our pre-hearing submission, the
13 administrative record demonstrates that imports were not --
14 do not impact the remedy that may come out of this case and
15 these sales were sales that would not go to the domestic
16 industry, they were sales that were premade prior to the
17 announcement of the case.

18 They were sales that were made prior to the
19 supply chains, also that would not go to the domestic
20 industry. And based on the administrative record in this
21 case, we urge the Commission to issue a finding of negative
22 critical circumstances. And again, I thank all of you for
23 your questions and we'll do our best to answer your
24 questions in our post-hearing submission. And thank you for
25 the opportunity to testify before all of you today, thank

1 you.

2 CHAIRMAN JOHANSON: Thanks to all of you for
3 appearing here today. I'll now make the closing statement.
4 Post-hearing briefs, statements responsive to questions and
5 requests of the Commission and corrections to the transcript
6 must be filed by November 20th.

7 Closing of the record and final release of data
8 to parties occurs on December 6th and final comments are due
9 on December 10th. With that, this hearing is adjourned.

10 (Whereupon the hearing was adjourned at 3:44 p.m.)

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CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Polyester Textured Yarn from China and India

INVESTIGATION NOS.: 701-TA-612-613 and 731-TA-1429-1430

HEARING DATE: 11-13-19

LOCATION: Washington, D.C.

NATURE OF HEARING: Final

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: 11-13-19

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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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Court Reporter