

Introductory Remarks by Richard Cunningham,
Counsel to CJ Indonesia and CJ America

Thought for Today:

“What if they gave a war...and nobody came.”

In our presentation today on behalf of CJ, the Indonesian exporter, we will make the following two major points:

First, contrary to what you just heard from Mr. Thomas, this is a very tenuous case presented by the petitioner. The most fundamental weakness in that case is that petitioner is clearly not suffering present material injury. This is true as to 2013, and it is even more dramatically true as to interim 2014.

- As to 2013, what petitioner has claimed to be poor operating results is in fact nothing of the sort. This is apparent from examination of two aspects of AJINA’s financials: raw material costs and SG&A expenses – neither of which has anything to do with subject imports.
- And as to 2014, the petitioner’s performance can only be described as spectacular. Moreover, petitioner’s success in 2014 was not the result of absence of subject imports from the U.S. market, because both Chinese and Indonesian MSG continued to be sold in substantial quantities. Nor was it the result of AJINA raising its prices. Rather, the petitioner’s banner year results almost entirely from two major cost factors, both unrelated to subject imports. One is a sharp decline in raw material costs. And the second factor is “other factory costs,” again a factor unrelated to subject imports.

My second point is a corollary of the first point. Since there is demonstrably no case here of present material injury caused by subject imports, petitioner can prevail, if at all, only by arguing that there is a threat of future material injury if antidumping duties are not imposed. On this issue of threat, we want to focus on imports from Indonesia. In a threat case, you have discretion not to cumulate Indonesian imports with imports from China, and we will show you why it is both fair and economically sound to issue a separate determination as to Indonesia. When you do so, it will be clear that imports from Indonesia have not caused and do not threaten material injury to the domestic producer:

- Indonesian imports are a small portion of total subject imports, an even smaller portion of total imports, and a miniscule percentage of U.S. apparent consumption.
- There is no rising trend of Indonesian imports. Their first significant sales in the U.S. came in 2012 and they have not increased significantly above their 2012 volume.

- There is no likelihood that Indonesian imports will increase substantially in the future. There is no available excess capacity or plans for future capacity increases. The U.S. market is a tiny portion of CJ's sales, and the company has a very large domestic market and large and growing markets in other countries.
- Finally, CJ's pricing has not adversely affected AJINA's pricing. To the extent that I can do so without violating confidentiality, I want to spend a few minutes walking you through the four pricing products, to make it clear how petitioner has – especially with respect to Indonesia – seriously mischaracterized the pricing data.

Those, then, are our two basic points. First, that this is a weak case and that there is no case at all of present material injury caused by subject imports. Second, since this can only be a threat case, you can and should “de-cumulate” the Indonesian imports. And when you do so, you will find that a negative determination is warranted as to Indonesia.

In addition, to those two major points, we will be making a number of suggestions to help the Commission in its analysis of the data.

However, I want to conclude these introductory remarks by returning to the thought with which I began:

The Chinese respondents, who represent the great bulk of the subject imports, and who are roundly criticized in petitioner's brief for reducing their price late in the POI, are not participating in this hearing and have not filed briefs. When a party – especially one responsible for the bulk of the subject imports – fails to appear, it is only natural that the Commission will look more skeptically at that party's side of the case.

Frankly, I have no problem with that. But I am concerned that such justifiable skepticism as to China should not adversely impact the Commission's consideration of Indonesia.

I would therefore make two suggestions:

- Number One – I urge you to make a particular effort to consider Indonesia's arguments fully, separating them clearly from any concerns you may have as a result of China's failure to participate.
- Number Two – I suggest that a decumulated analysis – which is possible since this is a threat case – is the best way to make sure that the recalcitrance of the Chinese companies does not unfairly infect the analysis as to Indonesia.