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In Support of the Continuation of the Antidumping Duty Order:

On behalf of National Candle Association (NCA):

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CHRIS GODDARD, Director, Engineering and Quality,  
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MARK W. LOVE, Senior Vice President, Economic  
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P R O C E E D I N G S

(9:30 a.m.)

1  
2  
3 CHAIRMAN KOPLAN: Good morning. On behalf  
4 of the United States International Trade Commission I  
5 welcome you to this hearing on Investigation No.  
6 731-TA-282 (Second Review), involving Petroleum Wax  
7 Candles From China.

8 The purpose of this second five-year review  
9 investigation is to determine whether revocation of  
10 the antidumping duty order on petroleum wax candles  
11 from China would be likely to lead to continuation or  
12 recurrence of material injury to an industry in the  
13 United States within a reasonably foreseeable time.

14 Notice of investigation for this hearing,  
15 list of witnesses and transcript order forms are  
16 available at the Secretary's desk. I understand that  
17 those in support of continuation are aware of the time  
18 allocations. Any questions regarding the time  
19 allocations should be directed to the Secretary.

20 As all written material will be entered in  
21 full into the record it need not be read to us at this  
22 time. The witnesses are reminded to give any prepared  
23 testimony to the Secretary. Do not place testimony  
24 directly on the public distribution table. All  
25 witnesses must be sworn in by the Secretary before

1 presenting testimony.

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

6 Madam Secretary, are there any preliminary  
7 matters?

8 MS. ABBOTT: No, Mr. Chairman.

9 CHAIRMAN KOPLAN: Very well. Let us proceed  
10 with the opening remarks.

11 MS. ABBOTT: Opening remarks in support of  
12 continuation of orders will be by Randall J. Stayin,  
13 Barnes & Thornburg.

14 CHAIRMAN KOPLAN: Good morning. I don't  
15 think your microphone is on.

16 MR. STAYIN: There we go.

17 CHAIRMAN KOPLAN: Now it is.

18 MR. STAYIN: You're right. It wasn't.  
19 Again, good morning. On behalf of the National Candle  
20 Association we thank you for the opportunity to appear  
21 before you in support of continuation of the  
22 antidumping order.

23 The imposition of the order in 1986 was very  
24 effective in allowing the domestic industry to recover  
25 from the material injury found by the Commission in

1 the original investigation. Today, revocation of the  
2 order would likely lead to the immediate recurrence of  
3 material injury to the U.S. candle industry

4 The turnaround in the condition of the  
5 domestic industry was the direct result of the  
6 dramatic reduction in imports from China after the 54  
7 percent antidumping duty was imposed. The industry  
8 was able to recover, to restore profitability, expand  
9 production and employment, develop new products and  
10 new product uses that greatly increased demand for  
11 candles in the United States.

12 The continuing positive effect of the order  
13 further permitted the industry to thrive during the  
14 1990s when candle demand increased strongly. In the  
15 1999 sunset review determination the Commission noted  
16 both a substantial growth in consumption that had  
17 occurred since the original investigation and the  
18 domestic industry's participation in that growth.

19 However, since the 1999 sunset review the  
20 condition of the domestic industry has weakened. This  
21 weakness has been caused by a combination of low  
22 growth in demand and continued growth in imports from  
23 China, despite the continuation of the order at the 54  
24 percent margin and later at a 108 percent margin. The  
25 industry therefore is particularly vulnerable to

1 revocation of the order.

2 In the several years prior to the period of  
3 this review, imports from China surged to levels many  
4 times those reached in the original investigation.  
5 Much of this occurred in a surge within essentially a  
6 two-year time period.

7 As shown in Exhibit 10 of our brief, imports  
8 from China increased from 46 million pounds in 1997 to  
9 152 million pounds in 1999. Chinese producers dropped  
10 their prices by one-third and more than tripled their  
11 exports to the U.S. market from the 1997 level even  
12 with the order in place.

13 This experience shows how quickly the  
14 Chinese would be able to ramp up exports to the United  
15 States were the order revoked. Most U.S. producers  
16 question whether they could continue in business in  
17 the face of the onslaught that would follow.

18 The continued growth in exports and an  
19 increase in the dumping margin rate to 108 percent is  
20 the result of unrelenting efforts by Chinese producers  
21 and exporters and by U.S. importers to circumvent the  
22 order. One effective means by which the order has  
23 been circumvented in the last several years of this  
24 review is through the use of candles containing a  
25 blend of petroleum wax and palm or other vegetable

1 waxes where the non-petroleum wax makes up slightly  
2 more than 50 percent of the content.

3           Beginning in 2001, these blended candles  
4 first entered the U.S. market, and the Department  
5 determined that they were outside the scope of the  
6 order. In making these scope determinations, the  
7 Department relied upon the Commission's description of  
8 petroleum wax candles as those composed of over 50  
9 percent petroleum wax. However, this description  
10 arose out of the Commission's like product analysis of  
11 beeswax candles, which it described as composed of  
12 more than 50 percent beeswax.

13           In the original investigation, the  
14 Commission found that beeswax candles do not compete  
15 with petroleum wax candles. Because of its high cost  
16 and unique characteristics and uses, beeswax candles  
17 were specifically excluded from the order. The  
18 Commission determined that 95 percent of beeswax  
19 candles are sold to churches and religious dealers and  
20 are priced considerably higher than petroleum wax  
21 candles.

22           Because of the different characteristics and  
23 uses and the fact that beeswax candles do not compete  
24 with petroleum wax candles, the Commission concluded  
25 that beeswax candles should not be considered domestic

1 like products.

2 The Commission could not consider blended  
3 wax candles as part of its investigation because these  
4 candles had not been developed and were not being  
5 imported into or sold in the United States at the time  
6 of the original investigation. Neither blended wax  
7 candles nor palm wax candles were commercially  
8 developed in the United States at the time of the  
9 original investigation.

10 The National Candle Association has filed  
11 two anticircumvention petitions, and the Department  
12 has initiated later-developed merchandise and minor  
13 alterations investigations of blended wax candles from  
14 China. In the initiation notice, the Department  
15 stated that, "There is no clear basis for the  
16 Department to make a conclusive determination that  
17 candles with non-petroleum waxes in a different  
18 proportion are not later-developed merchandise."

19 In order to be later-developed merchandise,  
20 the subject item cannot have been specifically  
21 excluded in the original order. The Commission did  
22 not conduct a like product analysis of palm wax or --

23 CHAIRMAN KOPLAN: Mr. Stayin, your light has  
24 come on.

25 MR. STAYIN: Okay. Thank you very much. We

1 will then go on with our testimony.

2 CHAIRMAN KOPLAN: Certainly. If you give  
3 your prepared statement to the reporter, I'm sure it  
4 will be carried in full in the record.

5 MR. STAYIN: (Not audible)

6 CHAIRMAN KOPLAN: Not a problem.

7 MS. ABBOTT: The panel in support of  
8 continuation of the order has been sworn, Mr.  
9 Chairman.

10 (Witnesses sworn.)

11 CHAIRMAN KOPLAN: Thank you, Madam  
12 Secretary.

13 You may proceed.

14 MR. STAYIN: The Commission did not conduct  
15 a like product analysis of palm wax or blended wax  
16 candles and, therefore, did not exclude them. The  
17 U.S. industry did not mention them because they had  
18 not been seen in the market.

19 The Commission has consistently defined  
20 domestic like products to be those products with the  
21 same intrinsic quality and essential characteristics  
22 and uses as the subject imports. The similarities and  
23 the intrinsic qualities and essential characteristics  
24 between petroleum wax candles and blended wax candles  
25 are obvious. The only characteristics that a consumer

1 can ascertain when shopping for candles -- that is,  
2 how the candle looks, feels and smells -- are  
3 essentially the same for both candles.

4 Before you are examples of candles. On the  
5 far left you have palm wax and petroleum wax. Palm  
6 wax, petroleum wax, and then in front the small  
7 pillars, palm wax and petroleum wax. Mr. Love will  
8 describe the other candles during his presentation.

9 For each one of these candles -- I bought  
10 them yesterday at JoAnn Stores in Woodbridge.

11 CHAIRMAN KOPLAN: When you say far left are  
12 you talking about our left or yours?

13 MR. STAYIN: I'm sorry. My left. It's your  
14 right. It's your right.

15 CHAIRMAN KOPLAN: Okay. Thank you.

16 MR. STAYIN: In front of it is the sales  
17 slip. The same price was charged for the palm wax and  
18 the petroleum wax pillars and tapers and smaller  
19 pillars. The same price, palm wax or from wax  
20 candles. As you see them, you can't tell the  
21 difference between them whether it's one or the other.

22 Blended wax candles have essentially the  
23 same physical characteristics and uses as petroleum  
24 wax candles. They are completely interchangeable and  
25 compete head-to-head with the U.S. petroleum wax

1 candles, unlike the beeswax candles.

2 We also recognize that Mexico recently  
3 finished its five-year review of its antidumping order  
4 against candles from China, which resulted in  
5 continuation of its order and the 103 percent duty on  
6 all candles from China, including blended wax candles.

7 During the period of review, the product mix  
8 of imports from China switched dramatically from being  
9 predominantly subject to being predominantly non-  
10 subject imports of paraffin/palm wax blends, yet the  
11 average unit value of all imports from China was 87  
12 cents in 1999 and only 95 cents in 2004. This shift  
13 from subject to non-subject did not significantly  
14 affect the price of these products.

15 By 2004, the year in which imports of  
16 blended wax candles recorded their largest surge, the  
17 share of total imports from China accounted for by  
18 subject imports had fallen to 22 percent in 2004,  
19 while the share accounted for by non-subject imports,  
20 primarily paraffin/palm wax blends, had risen to 78  
21 percent of imports from China. The shift from  
22 petroleum wax candles to petroleum/palm wax blends in  
23 order to circumvent the duty, the antidumping duty, is  
24 clear and significant.

25 Revocation would eliminate any incentive to

1 continue to circumvent the order. It would permit the  
2 Chinese producers and U.S. importers not only to shift  
3 back to subject imports on a massive scale, but also  
4 to expand the total quantity of imports dramatically.

5 Based on the facts available, including the  
6 physical characteristics and uses, interchangeability,  
7 common channels of distribution, common manufacturing  
8 facilities, equipment and employees, customer  
9 perceptions and price, the NCA respectfully requests  
10 that the Commission clarify the domestic like product  
11 to include all blended wax candles other than beeswax  
12 candles.

13 In addition, we ask the Commission to make  
14 clear that it did not exclude blended wax candles in  
15 its original determination, and, most important, we  
16 ask for an affirmative determination to continue the  
17 dumping order.

18 Again we thank you very much for the  
19 opportunity to be before you. Our first witness is  
20 Mr. Bob Higgins.

21 MR. HIGGINS: Good morning. I am Bob  
22 Higgins, Vice President, Manufacturing and Logistics,  
23 of Candle-Lite, Inc.

24 CHAIRMAN KOPLAN: Could you move your  
25 microphone a bit closer to you?

1           MR. HIGGINS: A division of Lancaster Colony  
2 Corporation located in Leesburg, Ohio. Candle-Lite  
3 has been manufacturing candles since the 1840s. In  
4 1972, Lancaster Colony acquired Candle-Lite to  
5 complement its other houseware operations.

6           Lancaster Colony is a diversified marketer  
7 and manufacturer of three distinct product groupings:  
8 specialty foods, glassware and candles, and  
9 automotive. Today, Candle-Lite is the largest U.S.  
10 manufacturer of candles.

11           Additionally, I serve as the president of  
12 the National Candle Association. The NCA is an active  
13 organization consisting of approximately 200 member  
14 companies, accounting for more than 90 percent of the  
15 candles manufactured in the United States.

16           Its mission is to serve and represent U.S.  
17 candle manufacturers and their suppliers and to  
18 promote a healthy environment for the U.S. candle  
19 industry. U.S. retail sales of candles are estimated  
20 at approximately \$2 billion annually, excluding sales  
21 of candle accessories.

22           As president of the National Candle  
23 Association, I am convinced of the importance of the  
24 antidumping duty order to the survival of the U.S.  
25 candle industry. In my role as Vice President of

1 Manufacturing and Logistics of Candle-Lite, Inc., I  
2 can attest to the critical role that the order has  
3 played and continues to play in the welfare of our  
4 company.

5 Candle-Lite supplies some of the largest and  
6 most demanding retailers and private label customers.  
7 It offers over 2,000 finished selling units or stock  
8 keeping units, including scented and unscented candle  
9 styles such as tapers, pillars and votive candles, as  
10 well as a comprehensive line of filled-glass candles  
11 made from glass produced in Lancaster Colony's own  
12 glassware plants.

13 Candle-Lite's highly automated candle  
14 manufacturing plant encompasses over 900,000 square  
15 feet of state-of-the-art production, warehousing and  
16 distribution facilities in Leesburg, Ohio. Candle-  
17 Lite is the largest employer in Leesburg, and with the  
18 exception of the Highland County School Department it  
19 is the largest employer in Highland County.

20 Since 1999, Candle-Lite, among other things,  
21 has had to reduce its workforce to compete with the  
22 increase of record level cheap Chinese candle imports.  
23 In May 1999, Candle-Lite employed over 1,300  
24 employees. In May 2005, it employs 750 full-time  
25 employees. In preparation for this upcoming holiday

1 season it anticipates hiring an additional 200  
2 seasonal employees.

3           The antidumping duty order is critical to  
4 Candle-Lite's continued survival. Imports of  
5 petroleum wax candles increased markedly in 1998 and  
6 have increased each year thereafter. This increase in  
7 the record level Chinese imports has had an adverse  
8 effect on Candle-Lite's revenue, employment and  
9 margins. Faced with intense competition from Chinese  
10 imports, the selling price of Candle-Lite's petroleum  
11 wax candles has decreased approximately 21 percent  
12 since January 1999.

13           In addition, the cost of petroleum wax  
14 increased approximately 15 percent since January of  
15 1999. There have been similar cost increases for  
16 other raw materials as well. These raw material cost  
17 increases, coupled with decreased prices of petroleum  
18 wax candles sold, has significantly decreased margins.

19           In response to the increase of raw material  
20 costs, especially petroleum wax, and the severe price  
21 pressure as a result of the continued increase of  
22 Chinese imports, Candle-Lite has changed the mix in  
23 its product range, began importing petroleum wax and  
24 reformulated certain formulas for producing petroleum  
25 wax candles.

1           Candle-Lite has substantially increased the  
2           number of wax-filled containers that it sells and  
3           decreased the number of columns and pillars over the  
4           past five years. Varying the product mix results in  
5           the use of different raw materials.

6           Beginning in 2001, Candle-Lite encountered  
7           palm and petroleum blended wax candles for the first  
8           time in its history. The recent appearance of palm  
9           and petroleum blended wax candles from China in the  
10          United States market has contributed to the decrease  
11          in shipments of candles made in the United States,  
12          further depressing the price of U.S. produced candles.

13          These palm and petroleum blended wax candles  
14          are essentially the same as petroleum wax candles.  
15          The blended candles are now readily available in the  
16          most popular candle types and sizes and have the same  
17          function and purpose as petroleum wax candles.

18          These imports of cheap palm and petroleum  
19          blended wax candles from China continue to capture  
20          market share and have driven down the price of  
21          petroleum wax candles in the United States marketplace  
22          because there is no dumping duty collected on these  
23          imports.

24          Without the antidumping duty order, Candle-  
25          Lite would likely lose market share and experience

1 crushing price pressure from the increase in imported  
2 candles from China. Loss of market share and severe  
3 price pressure would likely lead to an even further  
4 decrease in employment, production, profits, cash flow  
5 and capacity utilization and a hesitation to make  
6 significant capital investments in the business. Were  
7 the order to be revoked, Candle-Lite would most likely  
8 dramatically reduce domestic manufacturing of  
9 petroleum wax candles.

10 Candle-Lite is not the only U.S. candle  
11 producer that is suffering depressed margins as a  
12 direct result of the increase in Chinese imports. The  
13 increase in Chinese dumped candles since 1999 has  
14 affected the domestic industry as a whole.

15 This increase in dumping was recognized  
16 through the administrative review process as the  
17 antidumping duty on all Chinese producers and  
18 exporters increased to 108 percent in April of 2004,  
19 which is double the 54 percent rate that had been in  
20 effect since the order was issued in 1986.

21 However, the increase in dumping can be  
22 traced back to actions by Chinese exporters beginning  
23 in 1997 when the Chinese shipped 46 million pounds of  
24 candles to the United States. That volume tripled  
25 only two years later to 152 million pounds. Only five

1 years later, in 2004, the Chinese shipped 208 million  
2 pounds of candles or four times the volume of its  
3 shipments in 1997. The Chinese dropped its prices  
4 from \$1.52 a pound in 1997 to 87 cents in 1999. In  
5 2004, the price per pound was 95 cents.

6 There is no doubt that the antidumping duty  
7 order is critical to the health of the domestic candle  
8 manufacturers. Since the late 1990s, sales and  
9 margins of U.S. manufacturers of petroleum wax,  
10 including Candle-Lite, have greatly declined due to  
11 increased dumping of products imported from China.

12 U.S. candle manufacturers have experienced a  
13 decrease in employment, production, profits, cash  
14 flow, capacity utilization and necessary capital  
15 investments in the business. Without the antidumping  
16 duties it would be very difficult for U.S.  
17 manufacturers to compete with Chinese manufacturers  
18 selling dumped candles into the United States.

19 Revocation of the antidumping duty order on  
20 candles from China would have an immediate and  
21 significant impact on the volume and prices of imports  
22 from the PRC and would dramatically and adversely  
23 impact the state of the United States candle producing  
24 industry.

25 I thank you.

1 MR. STAYIN: Mr. Pappas?

2 MR. PAPPAS: I'd like to thank the  
3 Commission for the opportunity to present our  
4 position. I am George Pappas, president of Lumi-Lite  
5 Candle Company, Inc., a family-owned company located  
6 in Norwich, Ohio. I am past president of the National  
7 Candle Association and currently serve as chairman of  
8 the ASTM Committee for Visible Testing Standards and  
9 am also a member of the ASTM Fire Safety Committee.

10 Lumi-Lite Candle was founded in 1958. We  
11 consider ourselves masters of the art of candlemaking  
12 and fragrance creation. We develop proprietary blends  
13 of fragrance, color and waxes that are used to  
14 manufacture products that provide our customers the  
15 safest and highest quality products available.

16 We are a candlemaker's candlemaker in that  
17 our private label division has provided quality  
18 candles and fragrance products to other candle  
19 companies to add to their existing product lines. We  
20 also produce private label candles for non-candle  
21 company customers.

22 Our company prides itself on its ability to  
23 hire and retain the chronically unemployed and people  
24 with disabilities. In 1997, we received the Ohio  
25 Department of Transportation Friends of Transportation

1 Award for our work and financial contributions to a  
2 regional transit system that was built around the  
3 company's paid transportation for our employees who  
4 did not have a means of transportation. Further, in  
5 2004 we received the Ohio Governor's Award for our  
6 work in hiring and retaining people with disabilities.

7           Unfortunately, it has become necessary to  
8 discontinue the transportation program in 2003 because  
9 there were no longer enough company riders to justify  
10 the program. Our disabled employees' jobs are now at  
11 risk because our net operating income has been driven  
12 down by the dumped PRC candle imports in spite of many  
13 cost reduction measures and substantial improvements  
14 in our production efficiency.

15           In the past, our business was a mix of mass  
16 merchandisers, chain stores and specialty gifts  
17 stores. The volume was substantial, and we were able  
18 to service these companies until they began to request  
19 reductions in price to meet the competitive prices of  
20 imported Chinese candles. We were unable to meet  
21 their requests, and they stopped buying from us as  
22 they began to import more and more candles from the  
23 PRC.

24           Our present customer base is primarily  
25 composed of small, independently owned specialty gift

1 shops. Our customers are also being injured by Big  
2 Box retailers who buy most of the candles from the  
3 PRC.

4 Lumi-Lite has developed new, safer and  
5 higher quality candles to help our customers  
6 differentiate their candle offering from the PRC  
7 imports. However, customers who like our products  
8 have become afraid to purchase from us because Big Box  
9 retailers are able to sell for less. Many of our  
10 customers are concerned that they may not survive.

11 Our company recovered and grew after the  
12 imposition of the dumping order in 1986. Since 1998,  
13 our company has contracted despite the existence of  
14 the antidumping order. Market share began to erode in  
15 1998 when orders were lost to lower cost Chinese  
16 candles from our large mass merchandiser and  
17 department store customers.

18 During this period sales, employment,  
19 revenue and profits declined. Expenditures for  
20 capital projects and research and development continue  
21 despite falling sales. Expenditures of capital  
22 improvement have focused on process improvement. R&D  
23 expenditures have focused on candle fire safety,  
24 candle smoking and new products. Lumi-Lite has been  
25 issued many utility patents for candle safety and

1 several design patents for candles during this period.

2           During the period of review, the Chinese not  
3 only increased their dumping margin from 54 to 108  
4 percent. They also began circumventing the order by  
5 shipping blended candles made of petroleum and palm  
6 wax. Until recently, I had not seen a palm or wax  
7 blended palm petroleum candle during the entire  
8 history of our company.

9           In 2001, importers began filing scope  
10 requests claiming that their candles were made of over  
11 50 percent palm wax and, therefore, outside the scope  
12 of the order. Neither palm nor other vegetable oils  
13 are solid at room temperature and cannot be used as a  
14 candle wax. The oil must be substantially transformed  
15 through a hydrogenation process to produce a wax that  
16 has essentially the same physical characteristics of  
17 the petroleum wax.

18           Candle producers can use the same equipment  
19 to make either petroleum wax candles or blended palm  
20 wax candles. These blended wax candles are similar to  
21 and in terms of appearance, odor and feel  
22 indistinguishable from petroleum wax candles. We  
23 believe that a very large volume of these candles are  
24 currently in the U.S. market and sold to customers at  
25 the same prices as the dumped petroleum wax candles,

1 despite the fact that materials used to make these  
2 candles cost more.

3           The Department of Commerce has initiated a  
4 later-developed product anticircumvention  
5 investigation and a minor alterations  
6 anticircumvention investigation of these blended  
7 candles. We ask the Commission make it clear that it  
8 did not exclude palm wax candles or these blended  
9 candles in its like product analysis in the original  
10 investigation.

11           When Commerce excluded these blended wax  
12 candles from the scope of the Order it created a huge  
13 loophole through which palm wax candles containing  
14 more than 50 percent palm wax are coming through  
15 Customs without duty. In addition, we believe that  
16 many candles with less than 50 percent palm wax are  
17 being fraudulently entered to avoid the duty.

18           Notwithstanding all of these adversities, we  
19 are optimistic that the 108 percent antidumping duty  
20 imposed in 2004, a successful circumvention  
21 investigation at Commerce and improved enforcement at  
22 Customs will again level the playing field and give  
23 the U.S. manufacturers a fair chance to compete in the  
24 U.S. market. Make no mistake, however, that our  
25 survival ultimately depends on the continuation of the

1       antidumping order.

2                   MR. LA ZAR:   Good morning.   I'm Colton  
3       LaZar, Marketing Director of General Wax & Candle  
4       Company located in North Hollywood, California.  
5       General Wax & Candle Company is one of the largest  
6       candle manufacturers on the west coast.

7                   General Wax was founded in 1949 by my  
8       grandfather.   I have literally grown up working in all  
9       facets of the candle manufacturing business.  
10       Additionally, I previously worked as the marketing  
11       manager for Blyth HomeScents International from 1998  
12       to 2002 where I gained valuable experience marketing  
13       candles in the U.S. marketplace.   I returned to  
14       General Wax & Candle Company in 2003 as the director  
15       of marketing.

16                   Since 1998, the market in the U.S. has  
17       become incredibly difficult due to increased  
18       competition from Chinese imports resulting in severe  
19       price depression for our company.   In the candle  
20       industry buyers consider price, quality and service as  
21       the three main attributes in their purchasing  
22       decision.   Price by far is the number one attribute  
23       that dominates in selling to the mass merchandisers.

24                   Since 1998, the Chinese have steadily  
25       dropped their prices, making it more difficult to

1 compete particularly in selling to the large mass  
2 merchandisers in the U.S. In one telling example, in  
3 1998 General Wax had sales in the \$1 million range to  
4 one of the largest mass merchandisers in the U.S. In  
5 2005, our sales dropped dramatically to the \$100,000  
6 range because the mass merchandiser began to purchase  
7 directly from the Chinese.

8 As a result, General Wax has had to downsize  
9 its workforce. General Wax reduced its workforce from  
10 125 employees in 1999 to 95 employees in 2005. We  
11 also had to reduce the variety of finished goods that  
12 we were able to offer to purchasers. In 1998, we  
13 offered 1,000 finished goods. In 2005, we only offer  
14 600 finished goods. Total domestic shipments also  
15 dropped.

16 Additionally, we are facing severe  
17 competition due to palm/petroleum wax blended candles  
18 imported from China that began appearing in the U.S.  
19 marketplace in 2001. Prior to 2001, I had not seen  
20 these blended wax candles in the U.S. marketplace.  
21 These blended wax candles are entirely interchangeable  
22 with traditional petroleum wax candles and compete  
23 toe-to-toe in the U.S. marketplace with the petroleum  
24 wax candles.

25 Because no duties are paid on these blended

1 wax candles, we cannot compete with the low price that  
2 these blended candles are being sold in the United  
3 States. General Wax is struggling now to meet the  
4 incredibly low prices for the dumped Chinese candle  
5 imports. It would be extremely difficult for General  
6 Wax to maintain its existence without the antidumping  
7 duty order.

8 If the antidumping duty order were to be  
9 revoked, General Wax would face an even greater loss  
10 of revenue. Within a few short months of the order  
11 being revoked General Wax will have a significant drop  
12 in production levels, decreased purchasing power,  
13 lower employment, less revenues, increased costs,  
14 losses and a lack of R&D.

15 Additionally, General Wax anticipates the  
16 cost of paraffin wax will increase due to the  
17 increased cost of oil. The energy cost, workers'  
18 compensation and health insurance will all continue to  
19 increase, directly impacting our profit and losses.

20 We believe within a year or two of the order  
21 being revoked the existence of General Wax & Candle  
22 Company would be in serious jeopardy. To counteract  
23 the detrimental effects from the increasing Chinese  
24 imports, we have engaged in aggressive marketing, and  
25 we are trying to emphasize our internet sales. Of

1 General Wax's total 2004 sales, approximately seven  
2 percent is from the internet sales. We also hope to  
3 develop and offer a wider range of products to help  
4 generate more sales.

5 With the continuation of the antidumping  
6 duty order, the new dumping rate of 108 percent and  
7 positive determinations by the International Trade  
8 Administration in the two circumvention  
9 investigations, we believe that we can compete fairly  
10 in the U.S. marketplace with the Chinese imports.  
11 However, I have no doubt that revocation of the order  
12 would jeopardize our ability to serve as a U.S. candle  
13 producer.

14 Thank you.

15 MR. GODDARD: I am Christopher Goddard,  
16 Director of Engineering and Quality at Home Fragrance  
17 Holdings, a privately held candle producer that is  
18 located in Houston, Texas.

19 Our plant is on 17 acres, which includes  
20 187,900 square feet of floor space. Our employment of  
21 production workers has declined from 450 in 1999 to  
22 200 at present. Candles account for 90 percent of  
23 HFH's revenue.

24 Our company offers approximately 2,000 SKUs,  
25 which include candles produced in a wide variety of

1 colors and fragrances, as well as candle accessories.  
2 Customers can either choose to purchase our core line  
3 candles, which include approximately 200 SKUs  
4 containing 18 fragrances covering a range of textures,  
5 shapes and sizes while featuring the customer's label  
6 and packaging, or we can develop and manufacture a  
7 complete custom line of private label products for  
8 them.

9 CHAIRMAN KOPLAN: Could you move your  
10 microphone a bit closer?

11 MR. GODDARD: I'm sorry. Sure. We consider  
12 ourselves a pioneer in the design and production of  
13 innovative candles and home fragrance products. We  
14 have redesigned existing products with new and  
15 improved performance features and introduced new  
16 products with different sizes, colors, scents and  
17 other fashionable characteristics. For example, we  
18 originated a concept of candle-scaping.

19 The manufacture of the company's products  
20 involves the use of various highly automated processes  
21 and technologies, as well as certain hand crafting and  
22 finishing. Unfortunately, imported candles from China  
23 have had a significant negative impact on our company.  
24 As a direct result of lower cost products from China,  
25 we have experienced a steady and significant decline

1 in the retail price of scented candles causing serious  
2 harm to our competitiveness and profitability.

3 Furthermore, while costs continue to  
4 escalate we have been largely unable to pass on such  
5 cost increases to our customers, creating mounting  
6 pressure on gross margins as they become squeezed at  
7 both ends of the profit equation.

8 Additionally, market price erosion has  
9 prevented HFH from serving mass merchandisers such as  
10 supermarkets, drugstores and discount chains, a  
11 distribution channel now dominated by low-cost imports  
12 from China.

13 The appearance and quality of HFH products  
14 has always been deemed worthy, but the price points  
15 have never been low enough despite more than \$12  
16 million of investment in equipment and facilities in  
17 our quest to remain competitive in the scented candle  
18 business.

19 We also have concerns that Chinese blended  
20 candles of petroleum wax and soy, palm or vegetable  
21 waxes are perceived by the customer as an adequate  
22 substitute for petroleum wax candles. This is  
23 especially true as the initial purchase decision is  
24 made without the benefit of being able to burn a  
25 candle. Thus, as long as the appearance of the

1 product is similar there is no obvious differentiation  
2 between petroleum and blended candles.

3           These Chinese blended candles began to  
4 appear in the U.S. market in 2001. Should these  
5 later-developed products remain outside the scope of  
6 the existing antidumping order their increasing import  
7 volumes would ultimately displace petroleum wax  
8 candles in the majority of applications where scented  
9 candles are now used.

10           In response to the onslaught of Chinese  
11 imports, HFH has taken certain strategic measures in  
12 its attempt to remain a viable enterprise in the  
13 scented candle business. Fundamentally the company  
14 has substantially reduced production of basic smooth  
15 and textured candles similar to the ones on the table  
16 in front of you, which are our core offerings and  
17 previously the most profitable high-volume products.

18           As it is virtually impossible to compete  
19 effectively with the Chinese in this product segment  
20 due to the unfairly traded imports, we have migrated  
21 to increasingly complex candle designs in order to  
22 both distinguish our products from baseline Chinese  
23 imports and to meet the demands of our key private  
24 label customers who want the option of offering a  
25 premium candle product.

1                   This change in strategy has in the past and  
2 will continue to require HFH to invest significantly  
3 in equipment, as well as in the research and  
4 development necessary to bring such products to market  
5 which have more stringent tolerance levels, lower  
6 yields and higher production costs.

7                   The result has been a steady demand on the  
8 company's limited capital resources and a significant  
9 decline in the gross margin of our business, making it  
10 increasingly difficult to remain profitable in the  
11 face of persistent Chinese dumping.

12                   Revocation of the standing antidumping order  
13 on petroleum wax candles from China would almost  
14 certainly increase import volumes, further depress  
15 prices across the retail landscape and ultimately  
16 threaten the ability of domestic producers such as HFH  
17 to continue as a going concern.

18                   Thank you.

19                   MR. STAYIN: Mr. Love will be our next  
20 witness.

21                   MR. LOVE: Good morning. My name is Mark  
22 Love, Senior Vice President of Economic Consulting  
23 Services, consultants to the NCA in this review.

24                   I was a participant in the original  
25 investigation of Candles From China 20 years ago, as

1 well as was involved in the first sunset review and  
2 other trade related activities of the NCA. I have to  
3 note that Mr. Stayin and I are not the only ones who  
4 were present at the creation of this order. We were  
5 reassured when we learned that the supervisory  
6 investigator in this case was actually the  
7 investigator in the original investigation, so we were  
8 happy about that.

9 I do have to compliment the staff on the  
10 report. I'm just kind of amazed at how thorough a job  
11 was done in so little time, so I have to extend my  
12 compliments to the staff.

13 I have with my testimony a set of five  
14 exhibits. I don't know if you have them in front of  
15 you. Okay. Great. These are just replications of  
16 exhibits already submitted into the record, but they  
17 might be useful for reference purposes, particularly  
18 Exhibit 1 which gives a nice historical series of the  
19 quantity of imports since 1983.

20 Okay. I'll begin my testimony with a  
21 historical review, which I'll try to keep brief. We  
22 think it's important to have that review to understand  
23 the effectiveness of the order since its imposition,  
24 the current state of the U.S. market and the domestic  
25 industry and the likely increases in imports that

1 would occur upon revocation.

2 I will then turn to our estimates of the  
3 likely impact of revocation on import volume price and  
4 the domestic industry. These estimates that we've  
5 come up with and presented in our prehearing brief are  
6 based directly on the observed behavior of Chinese  
7 producers and exporters during the period of this  
8 review, and they lead us to conclude that material  
9 injury will occur if the order is revoked.

10 We think the effectiveness of the order is  
11 beyond dispute. Mr. Stayin went through the initial  
12 impact of the imposition of the order in 1986.  
13 Imports from China fell by 80 percent. Their market  
14 share fell from 19 percent of the U.S. market to a  
15 negligible level. Prices of imports from China went  
16 up, taking price pressure off domestic producers, and  
17 all these positive effects allowed the domestic  
18 industry to recover from the material injury that had  
19 occurred.

20 The order, which continued to apply to all  
21 Chinese exporters and producers in the following years  
22 at 54 percent, also allowed the domestic producers to  
23 benefit from and participate fully in the significant  
24 growth in demand for candles which occurred basically  
25 through the decade of the 1990s.

1                   Now, further proof of the effectiveness of  
2                   the order we think comes indirectly from the continual  
3                   efforts by the Chinese exporters and U.S. importers to  
4                   circumvent the order ever since it was imposed. It  
5                   implies a very strong restraining impact throughout  
6                   the whole period. We admit that at times these  
7                   circumvention activities have in fact reduced the  
8                   effectiveness of the order below what it should have  
9                   been.

10                   For example, in 1987, the year after the  
11                   order was imposed, transshipments of Chinese candles  
12                   started to come through Hong Kong. There was a big  
13                   surge in imports from Hong Kong in 1987 and 1988, and  
14                   this required Customs, who has done a great job  
15                   throughout the period, to take vigorous action to  
16                   reduce those transshipments. They were successful.

17                   No sooner had those transshipments stopped  
18                   than imports from Macao, which are really Chinese  
19                   imports, surged. In 1990, Customs again had to go in  
20                   and stop that circumvention. At that point we think  
21                   the order was very effective.

22                   Through the next few years, total imports  
23                   from China and Hong Kong combined remained well below  
24                   their peak levels during the original investigation  
25                   for a number of years and even as the U.S. demand for

1 candles was increasing, so we think that period was  
2 very effective as far as the order is concerned.

3           However, in the mid 1990s circumvention  
4 began again. An unfortunate element of this  
5 circumvention was an increase in the fraudulent  
6 declaration by U.S. importers that their shipments of  
7 subject candles were out of scope. This is risky  
8 business. It's illegal, and we think that for some  
9 years that risk had kept the circumvention, this type  
10 of fraud, down.

11           However, by the mid 1990s the practice  
12 clearly had become widespread, and with the increasing  
13 fraudulent entries imports from China began to surge  
14 again. You've heard several witnesses already talk  
15 about the 1997 to 1999 period when imports from China  
16 tripled, even though the 54 percent duty was in  
17 effect.

18           Now, once again U.S. Customs had to take  
19 action. Based on a confidential investigation in  
20 1998, which was requested by the NCA for some time,  
21 Customs discovered that well more than half of imports  
22 from China, that is total candle imports, were in fact  
23 subject imports. This was a surprise frankly.

24           In 1997, the total value of candle entries  
25 that were assessed a duty was about \$5 million, and in

1 that same year total imports from China were like \$67  
2 million, so the assumption had been up to that point  
3 that most imports from China were non-subject, novelty  
4 candles, figurines, birthday candles and the like.

5 The investigation in 1998 proved that most  
6 of the candles were in fact subject candles and should  
7 have been assessed a duty, and that finally started to  
8 happen in 1998 and in 1999, and by the year 2000 \$70  
9 million of entries of candles from China were assessed  
10 a duty, as they properly should have been.

11 Now, this was a seminal event because it  
12 provoked certain reactions by the Chinese producers,  
13 and those reactions have affected very much the  
14 competitive environment during this review period.  
15 There were three main ones.

16 First, as noted, you have the Chinese  
17 producers dropped their prices. They went from \$1.52  
18 per pound in 1997 down to \$1 a pound in 1998. They  
19 were just increasing the amount by which they were  
20 dumping the candles, clearly an obvious response to  
21 try to mitigate the fact that subject imports were now  
22 being more properly assessed a duty.

23 The second response was to start to funnel.  
24 They had taken a playbook back from the 1980s and  
25 starting to funnel transshipments fraudulently through

1 Hong Kong. Once again Customs had to come to the  
2 rescue, did a major investigation and put an end to  
3 most of those transshipments.

4 The third response was for the Chinese  
5 producers and exporters to finally start using the  
6 administrative review process. We had gone 13 years  
7 with no administrative review before the Commerce  
8 Department. Very, very unusual with a 54 percent duty  
9 covering all producers and all exporters.

10 We knew that that process would not be  
11 helpful to them because we knew if the true prices  
12 were accurately reflected in the record at the  
13 Commerce Department there would be no reduction in the  
14 duty. There would in fact be an increase in the duty  
15 because of the price drop we talked about in 1998.

16 Well, sure enough. It took a long time.  
17 Slowly but surely the system worked through properly,  
18 and we got the duty up to 108 percent, which is  
19 basically what it should have been starting in 1999-  
20 2000.

21 There was also a fourth response, one which  
22 we only became aware of well after the fact, and this  
23 of course is the development of the blended wax  
24 candles, which you've heard a lot about. I won't go  
25 into a lot of detail about that, the origins of that.

1 Others can discuss that better than I, but the  
2 importance of this for the purposes of what is going  
3 to happen upon revocation is to realize that these are  
4 in our view perfect substitutes for subject candles.  
5 Very strange.

6 I would like to talk about these samples  
7 there. If I leave the microphone will that screw up  
8 the transcription?

9 CHAIRMAN KOPLAN: We have a hand-held mike  
10 if it's available, but you do have to stay with a  
11 microphone so the reporter can pick up what you're  
12 saying.

13 MR. LOVE: A microphone. That's all right.  
14 I was afraid I won't be able to read the writing on  
15 this from here. I'll do my best.

16 Anyway, you have six candles up there. Five  
17 now. The blue pillars, eight inch pillar, six inch, I  
18 have the four inch, and the last one is the three  
19 inch, and then you have two three-inch pillars white  
20 and kind of a brown looking one.

21 I just bought these a month ago at Target.  
22 I went in, and they were all sitting there on the  
23 shelves right together. I have the receipt too, by  
24 the way, which means I can return them within 90 days.

25 Okay. This four-inch guy here. Actually,

1 let me read this here. It says, "Enjoy this  
2 candle..." --

3 CHAIRMAN KOPLAN: Does that help?

4 MR. LOVE: Does this work? Am I on? Okay.  
5 Good. The lighting is terrible over there. I'm  
6 sorry.

7 "Enjoy this candle with the knowledge..." --

8 CHAIRMAN KOPLAN: Can you check to make sure  
9 that's on?

10 MR. LOVE: Hello? Hello? Is this on?  
11 Okay.

12 "Enjoy this candle with the knowledge you  
13 are selecting the finest, cleanest, environment  
14 friendly candle in its class." Okay. It says, "Top  
15 grade pure solid wax for a dripless, long-burning  
16 candle" something. You look at the bottom and it  
17 says, "Contains 52 percent palm wax." Okay. That's  
18 this one.

19 You've got the same language here. You've  
20 got the same language here if you look underneath, 52  
21 percent palm wax, 52 percent palm wax.

22 This guy. This guy is good. This guy has  
23 the same language about enjoying the finest wax in its  
24 class and so forth and so on, and then it says, long-  
25 burning, high quality, and it says paraffin wax. "Top

1 grade pure solid paraffin wax."

2           These are sold as a set, indistinguishable,  
3 same price. Well, they are different prices of  
4 course, but the same store, same shelf and so forth.  
5 Palm wax. Paraffin wax. This is subject. This is  
6 not subject.

7           Same thing here. One of these is subject  
8 and one is not. I forget which. One is 52 percent  
9 palm wax, and the other is specifically paraffin wax,  
10 described the same by the language on the top of the  
11 candle. We look at this as a perfect substitute.  
12 Thank you.

13           Okay. I refer to Exhibit 3, which shows  
14 very clearly the trend in substitution of these  
15 blended wax candles for the subject candles, and I  
16 want to make clear here that the shift that you see  
17 there, which is dramatic. As Mr. Stayin said, in 2004  
18 the palm wax candles basically account for 78 percent  
19 of total imports.

20           Remember that the coverage of imports from  
21 the questionnaire surveys is kind of love, and our  
22 view is that you are missing particularly coverage of  
23 subject imports, okay? We have evidence as to why  
24 that's true, so I don't think that necessarily if you  
25 truly had all the information on the 208 million

1 pounds of candles that came in in 2004 that 78 percent  
2 of them would be palm wax. I think it could be more  
3 like 50/50, but the trend is clearly there, and the  
4 substitution is clearly there.

5 What we have is circumvention through this  
6 technique, minimal growth in demand over the period of  
7 review. The industry had predicted this, by the way,  
8 in the last review that the strong growth in the 1990s  
9 would slow down and in fact it did, and that has  
10 created a vulnerability which the representatives of  
11 the four companies here today have testified to I  
12 think rather clearly, and I don't need to repeat that.

13 Now, the question is what's going to happen  
14 on revocation, okay? You'd think it would be easy in  
15 this case. You've got a 54 percent duty on every  
16 supplier from China over the whole review period, and  
17 a year ago it went up to 108 percent. You'd think  
18 this is a no-brainer. It's easy to see that there's  
19 going to be a problem.

20 However, it's never easy. The substitution  
21 effect that we've seen with the blended candles for  
22 the subject merchandise complicates matters. Let me  
23 give you my bottom line, which we present in more  
24 detail in the prehearing brief.

25 Our prediction is that in the first year,

1 just the first year alone, imports from China, total  
2 imports, subject and non-subject, would increase by  
3 about 50 percent to well more than 300 million pounds.  
4 That's an increase in one year alone of more than 100  
5 million pounds, and this represents 25 percent of  
6 current production in employment and would have a  
7 very, very powerful effect on the output of the  
8 industry, their sales and shipment volume.

9 Price effects will be there as well, and we  
10 predict that in the first year even a price decline of  
11 10 percent would put more than half of the domestic  
12 producers into a negative loss position, so I think  
13 this would constitute material injury that would occur  
14 we think within the very first year.

15 The question is how did we get to that  
16 figure? Three effects. First of all, if you just  
17 look at subject imports -- not total imports; just  
18 subject imports -- once the order goes it would  
19 skyrocket because, as has been pointed out, the  
20 blended wax candles are more expensive to produce.  
21 The economics of cost would shift all those blended  
22 candles back into subject imports, okay? That's the  
23 first effect.

24 The second basis on which we based our  
25 estimates was the fact that exports from China have

1 increased significantly over the last five or six  
2 years at an average rate of about 134 million pounds a  
3 year. These are exports to the world. A significant  
4 portion of that has come to the United States, and we  
5 predict that that growth will continue in the next  
6 year, and a significant portion of those candle  
7 exports will come to the United States without the  
8 order.

9           Finally, of course, we would see a shift in  
10 some of the exports to the rest of the world to the  
11 United States. Some of the questionnaire responses  
12 indicate that there is a price differential between  
13 prices in the United States and in the rest of the  
14 world relating to the order. Without the order  
15 there's going to be a move to equilibrate prices  
16 between markets, and that will cause a shift of a  
17 significant amount of candles from the rest of the  
18 world to the United States.

19           Even a shift of only 10 to 20 percent of  
20 exports to the rest of the world, which I believe were  
21 about 650 million just in 2004, would mean a lot of  
22 candles coming here to the United States that are now  
23 being shipped to the rest of the world.

24           All those three effects together are the  
25 basis for our we think reasonable estimate of the

1 increase of more than 100 million pounds in imports  
2 from China after the first year of revocation.

3 That concludes my statements, and thank you  
4 very much for your attention.

5 MR. STAYIN: That concludes our testimony.

6 CHAIRMAN KOPLAN: Thank you. Thank you very  
7 much for your presentation. I also appreciate the  
8 fact that you have submitted your statements to us in  
9 advance of this hearing or at the time of this  
10 hearing.

11 We will begin the questioning with  
12 Commissioner Lane.

13 As a housekeeping matter, I should mention  
14 to you, Mr. Love, that your Exhibit 3 has been revised  
15 by the Commission and will be made available to you at  
16 the next APO release. I'm referring to Table 4-2. It  
17 was revised based on importer questionnaire responses  
18 accounting for approximately 60 percent of total  
19 imports from China in 2004. You will be getting that  
20 shortly.

21 Commissioner Lane?

22 COMMISSIONER LANE: Good morning. Thank you  
23 all for coming and telling us about your industry.

24 Mr. Love, let me start with you, and let me  
25 start with a question as to your Exhibit 3. That

1 exhibit shows that 78 percent of the imports from  
2 China are non-subject. You state on page 5 of your  
3 testimony that as much as half of the imports from  
4 China in 2004 may have been of the petroleum wax  
5 blend.

6 If you believe that half of the imports from  
7 China are blended, what makes up the balance of the 78  
8 percent non-subject candles in 2004?

9 MR. LOVE: My suggestion that 50 percent of  
10 total candles are subject is based on our belief that  
11 the coverage of imports that you got through the  
12 questionnaires is particularly light on the subject  
13 imports.

14 We'll see what the final data show, but if  
15 you had the full data we believe that subject imports  
16 could be as much as 50 percent of the 208 million in  
17 2004, so that would leave our estimate of about 50  
18 percent that would be non-subject of which most would  
19 be palm blended candles.

20 I'm sure there are continued imports of  
21 truly non-subject candles that we would agree are non-  
22 subject -- figurines, birthday candles, Roman numerals  
23 that you put on birthday cakes and that type of thing,  
24 but those are a relatively small portion of the market  
25 and a relatively small portion of imports, and that's

1       been true since the beginning of this order.

2               Is that helpful?

3               COMMISSIONER LANE:  Yes.  Thank you.

4               MR. STAYIN:  May I comment?

5               COMMISSIONER LANE:  Yes, you may.  Mr.  
6 Staylin?

7               MR. STAYIN:  Stayin.

8               COMMISSIONER LANE:  Stayin.

9               MR. STAYIN:  Yes.  If you go to Wal-Mart or  
10 you go to K-Mart or Target and you go to their candle  
11 shelves you are not going to see -- you are not going  
12 to see -- a novelty candle.  You're not going to see a  
13 numeral.  You're not going to see a figurine.  What  
14 you're going to see are those candles which are the  
15 candles that are the highest sellers and which are the  
16 core of the business of the U.S. industry.

17               What I'm trying to say is that the non-  
18 subject candles that are coming in have got to be  
19 these palm wax/petroleum wax candles because you're  
20 not seeing what we traditionally thought of as the  
21 novelty and the excluded candles.

22               COMMISSIONER LANE:  Okay.  The next question  
23 I have is are the U.S. producers making blended  
24 candles?

25               MR. STAYIN:  To a small degree they are, and

1 it's just a small number of them. There has not been  
2 a demand from the customers for these candles, but  
3 there has been a big PR campaign by the U.S. soybean  
4 industry to try to encourage the use of soy wax in  
5 making candles.

6 The U.S. Department of Agriculture has been  
7 funding the soybean industry for years to develop  
8 alternative uses for soy oil, and in 1996 they started  
9 to make a breakthrough and tried to make a wax from  
10 soy oil and to make, therefore, a mixed paraffin/soy  
11 wax candle.

12 That really is what started the very idea of  
13 bringing a blended candle into the United States. The  
14 Chinese said aha, there's this big promotion trying to  
15 say that these candles are somehow special, and it  
16 turns out they're exactly the same thing.

17 COMMISSIONER LANE: Okay. Maybe I  
18 misunderstood you. I thought that we were talking  
19 about blended candles as petroleum and these other  
20 substances, and then you said that the U.S. producer  
21 is not making them because there is no demand for  
22 that, but yet at the same time people are buying the  
23 Chinese that are the blended.

24 MR. STAYIN: But they're not buying them  
25 because they are special because they are blended.

1 They're not buying them because they want palm.  
2 They're buying them because that's what's on the shelf  
3 at Wal-Mart and what's on the shelf at all these other  
4 stores. They're cheap. That's why they're buying  
5 them, not because they're palm wax.

6 COMMISSIONER LANE: Okay. Now I understand.  
7 So people are going to buy candles, and they're buying  
8 them because of price and are not trying to read the  
9 fine print like Mr. Love did to see what they were  
10 made of?

11 MR. STAYIN: Would you like to respond to  
12 that, Bob?

13 MR. HIGGINS: Yes. I would just agree with  
14 that. They're buying them on price. That's the big  
15 thing. There's no demand for soy candles or blended  
16 candles. Not much anyhow.

17 COMMISSIONER LANE: Okay. Mr. Pappas?

18 MR. PAPPAS: Commissioner Lane, the other  
19 factor here is that from a domestic manufacturer's  
20 point of view this is a much more expensive candle for  
21 us to make.

22 The price spread between the imported  
23 product which is being sold at the dumped price of the  
24 paraffin candle and a candle produced by our firm that  
25 has vegetable-based materials in them is really --

1 there's a big spread because even if they were  
2 properly priced, you know, basically it costs more to  
3 make vegetable candles.

4 COMMISSIONER LANE: From a quality  
5 standpoint -- you said that people go in and they buy  
6 based on price, but from a quality standpoint if a  
7 candle doesn't burn or smokes or whatever what are the  
8 quality differences between petroleum-based candles  
9 and these candles from vegetable or other substances  
10 or a blend?

11 MR. PAPPAS: Basically when we look at  
12 vegetable candles we don't look at vegetable as the  
13 fuel. That's what they're attempting to be done here.  
14 They're trying to say 100 percent palm. That was the  
15 original part.

16 If you read the staffer's report there's  
17 actually some comments that indicate people tried to  
18 do this but had to go away from it because it does not  
19 produce a candle that is basically usable. What we  
20 see the differences have to do with the nature of the  
21 waxes. Vegetable waxes tend to be very linear. They  
22 have very sharp melting points, and what happens is  
23 that when you use these materials we have issues that  
24 may or may not be of interest to the Chinese.

25 Our customers require that candles burn all

1 the way across. They're totally consumed. People  
2 want value. They want candles to burn all the way to  
3 the bottom. When we have to do this we find that  
4 vegetables are, if you will, an appropriate additive  
5 no more different than stearic acid or any other  
6 traditional -- basically stearates have been used in  
7 the past.

8           When these candles burn they tend to leave a  
9 shell, or in some cases you have to wick them so large  
10 that even though they're vegetable-based products they  
11 produce more smoke than a paraffin candle. It's not  
12 an easy question. You know, that's the difficulty  
13 that we have as manufacturers.

14           We have the Soybean Council, who I think,  
15 God love them, they're trying to promote a product and  
16 I feel they have a right to do that, but we have to  
17 look at how does the candle perform, and that's how we  
18 make a decision at the candle company. It isn't soy.  
19 It isn't palm. It isn't paraffin. It's the best  
20 candle we can make.

21           Currently a lot of the formats coming from  
22 overseas we will not make because they won't meet our  
23 customers' expectations.

24           MR. HIGGINS: If I could add to that?

25           COMMISSIONER LANE: Mr. Higgins? Yes, go

1 ahead please.

2 MR. HIGGINS: Thank you. Basically there is  
3 no difference. The soybean industry is touting it as  
4 a natural product that burns safer and cleaner and  
5 what have you, but that's not the fact. It depends on  
6 how it's wicked and formulated.

7 Paraffin candles burn equally as well, so  
8 there is really no difference at a blended candle I  
9 should say like 50 percent or less. These other  
10 candles, they can burn and pass, but George is  
11 mentioning if you try to make it out of 100 percent  
12 they don't burn well at all. They have to be blended.

13 They are more expensive so it's obvious  
14 they're blending these waxes just to circumvent the  
15 duty.

16 COMMISSIONER LANE: Okay. I have a lot more  
17 questions, but I guess I'd better stop and wait for  
18 the next round. Thank you.

19 CHAIRMAN KOPLAN: Thank you, Commissioner.  
20 Commissioner Pearson?

21 COMMISSIONER PEARSON: Good morning to the  
22 panel and welcome. Unlike some of the products that  
23 we consider for the Commission, I actually know what  
24 candles are so I'm enjoying this.

25 I have for starters a very basic question

1 that relates only peripherally to what we're talking  
2 about here. This weekend I'll have the opportunity to  
3 go camping with a group of Girl Scouts, so I'll go  
4 down into the basement and rummage around in a box,  
5 and I will dig out my candle lanterns of which I have  
6 a small collection.

7 These candles are a long-burning type.  
8 They're supposed to go for eight or nine hours,  
9 something like that. What kind of candle is that?  
10 What's it made out of?

11 MR. HIGGINS: I'm trying to think. Ask that  
12 again. What type of candle?

13 COMMISSIONER PEARSON: Well, it's a candle  
14 specially made for use in a candle lantern so that you  
15 can hang it up inside the tent and play cards or read  
16 scary stories.

17 MR. HIGGINS: No, not really. Not to my  
18 knowledge. It's probably in a tin. Is it in a tin, a  
19 tealight?

20 COMMISSIONER PEARSON: No.

21 MR. HIGGINS: Or a container?

22 COMMISSIONER PEARSON: It's a metal base,  
23 but otherwise freestanding.

24 MR. HIGGINS: A metal base? It has a little  
25 base? It's a tealight or a food warmer maybe that you

1 can drop in there and light.

2 COMMISSIONER PEARSON: Well, no. It stands  
3 up vertically about four inches high.

4 MR. HIGGINS: It might be a household  
5 candle, straight functional white wax, pure wax  
6 household candle.

7 COMMISSIONER PEARSON: If it's pure wax it  
8 would most likely be petroleum wax?

9 MR. HIGGINS: Yes.

10 COMMISSIONER PEARSON: Okay. Well, I'm not  
11 sure whether I'll get into this degree of detail with  
12 the Girl Scouts, but thank you for clarifying it.

13 Shifting now to another question, Mr.  
14 Higgins, in your testimony, which I followed along and  
15 found quite interesting, there were some things that  
16 were said that didn't seem to me to conform entirely  
17 to the information that we had in the staff report, so  
18 I went back and tried to understand here.

19 Toward the bottom of page 5 you indicated  
20 that, "Since the late 1990s, sales and margins of U.S.  
21 manufacturers of petroleum wax, including Candle-Lite,  
22 have greatly declined due to increased dumping of  
23 product imported from China."

24 I looked at the value of shipments over the  
25 period of this investigation, and this is BPI,

1 business proprietary data, and so you wouldn't have  
2 it, although Mr. Stayin and Mr. Love would, but as I  
3 look at the information that we have available rather  
4 than seeing a decrease in sales I'm seeing an  
5 increase. I'm wondering. Would you be able to  
6 explain that discrepancy?

7 MR. LOVE: Yes. I can make a comment or two  
8 on that if I may. I think what he's referring to is,  
9 first of all, the significant decline in the average  
10 unit value of candle shipments by domestic producers  
11 in the aggregate, and that shows through fairly  
12 clearly in the staff report data.

13 Also, we provided to you on an APO basis in  
14 our prehearing brief an analysis of the environment  
15 that Mr. Higgins' firm is operating in, as well as the  
16 other three firms here. It's basically they're  
17 serving the traditional high-volume mass merchandiser/  
18 department store channels of distribution, which  
19 accounts for about 80 percent of the whole market, and  
20 it's in that area where imports from China, subject or  
21 non-subject, have always focused.

22 Of course, with the increase in total  
23 imports from China and the blended candles from China,  
24 it's created a much more intense pricing environment  
25 in those channels so what Mr. Higgins is talking

1 about, Mr. Pappas and Mr. LaZar and Mr. Goddard, what  
2 they're looking at is consistent with what Bob has  
3 testified to.

4 We try to kind of explain that and show that  
5 in our prehearing brief. I can go into more detail if  
6 you'd like, but we think it's a true phenomenon what  
7 Mr. Higgins is referring to.

8 MR. HIGGINS: Candle-Lite's sales alone have  
9 dropped over 30 percent in the last five years, our  
10 gross sales.

11 COMMISSIONER PEARSON: Mr. Stayin?

12 MR. STAYIN: There is a distortion in that  
13 data in that there is a segment that is somewhat  
14 insulated from Chinese competition, and that segment  
15 is what has skewed the numbers so that it shows  
16 shipments are going up.

17 The large segment, the overwhelming segment,  
18 probably 80 to 90 percent of the industry itself, is  
19 experiencing the decline. There's this one unique  
20 segment that has done very well according to their  
21 statistics, and it has skewed the numbers up.

22 COMMISSIONER PEARSON: Are you able to say  
23 anything more about that segment, or is that something  
24 that would get into the --

25 MR. LOVE: We can expand on that a bit. I'm

1 hesitant to say too much because I'm just scared to  
2 death of, you know, revealing APO information, but  
3 it's a segment of the market that we refer to as  
4 direct sellers, okay, and it involves the essential  
5 feature of it is an integration of the operation from  
6 production all the way through to sales to the  
7 individual customer at the end, okay?

8           One of the models that has been used to do  
9 this successfully is the Tupperware model where the  
10 producer/distributor will contract with or establish a  
11 relationship with individuals who will then in their  
12 home present candles and other gift-type articles to  
13 their friends, their customers.

14           It tends to be a distribution that sells to  
15 individuals with higher disposable income, and because  
16 there's complete integration there's no entry point  
17 for competition from either import or domestic  
18 suppliers to affect the price of the candles that are  
19 sold in that fashion.

20           It's very difficult to do this. We've been  
21 told by the gentlemen here in this room that there  
22 have been a number of attempts to do this and some  
23 have failed, but some have been very successful. It's  
24 a small part of the market; we estimate about 10  
25 percent of the market. It's not going to get any

1 bigger than that. It's just there, and it happens to  
2 be shall we say atypical and much different a trend  
3 than what these gentlemen here have had to deal with.

4 If you'd like more, I just hesitate to get  
5 into numbers and specifics, but it's in our prehearing  
6 brief. I'd be happy to go further into that in a  
7 posthearing brief.

8 COMMISSIONER PEARSON: Okay.

9 MR. LOVE: Is that helpful?

10 COMMISSIONER PEARSON: Well, frankly it  
11 would be helpful to maybe elaborate on it a little  
12 further in the posthearing brief because, you know,  
13 Mr. Higgins' statement also indicates that margins of  
14 U.S. manufacturers have declined, and of course the C  
15 table, the summary table that I'm looking at, would  
16 contradict that statement.

17 MR. LOVE: Yes. Exactly. Sorry.

18 COMMISSIONER PEARSON: And then, you know,  
19 flipping over to the next page there's a reference to  
20 manufacturers having experienced a decrease in  
21 production. Again I see the production numbers  
22 rising. Basically it's no change from the beginning  
23 to end of the period with a dip in the middle.

24 There's a reference to profits having  
25 decreased. Again I see profits having risen. There's

1 a reference to capacity utilization having gone down,  
2 which our data indicates that that's correct, but I  
3 note that it seems to be caused not by a decrease in  
4 output, but rather by a substantial increase in  
5 domestic production capacity so it's a correct  
6 statement, but one that might require a little  
7 interpretation for us to understand it well.

8 The problem I have is that on the record in  
9 the staff report we have some fairly definite  
10 information that may or may not require clarification,  
11 but it's laid out.

12 MR. LOVE: Yes.

13 COMMISSIONER PEARSON: Then we have the  
14 statement by Mr. Higgins, which seems to contradict  
15 some of it, so how do I interpret this? You know, is  
16 the statement anecdotal, or with proper explanation  
17 does it dovetail with what I'm seeing in the staff  
18 report?

19 MR. LOVE: I would say both. I would say  
20 both. It's true to his experience and his firm over  
21 the period of review, but it's also true with respect  
22 to the majority of producers who serve the traditional  
23 high-volume sales channels in the market, which  
24 basically accounts for about 75 to 80 percent of the  
25 entire market.

1 I would refer you to Exhibit 15 of our  
2 prehearing brief. These are APO data so I hesitate to  
3 even characterize them. I would however say that when  
4 he says decreasing margins that is true of the vast  
5 majority of companies that are serving these high  
6 volume channels of distribution that account for 75 to  
7 80 percent of the market.

8 It is a true statement for not just his  
9 firm, but for all the other companies as well, and it  
10 is the anomaly of these direct sellers who are  
11 insulated from the import competition from China that  
12 cause the discrepancy, okay, so I would urge you to --  
13 I would refer you basically to Exhibit 15 of our  
14 prehearing brief. It kind of elaborates on that a  
15 bit. We can do more of course if you wish in the  
16 posthearing brief.

17 COMMISSIONER PEARSON: Okay. Well, I will  
18 take a look at Exhibit 15 after I get my reading  
19 glasses.

20 Mr. Stayin?

21 MR. STAYIN: I was just going to say that  
22 the data in the report is the gross data. What we  
23 have done is break out that segment based on the  
24 information that were in the responses.

25 When you break out that segment and look at

1 the other data, the rest of the responses that you  
2 have, then you will see that it supports the testimony  
3 of each one of these individuals here. Without the  
4 anomaly you don't have that trend that the report  
5 shows right now.

6 COMMISSIONER PEARSON: Okay. Shifting  
7 gears, am I correct to understand that you're asking  
8 us to go back and redefine what the Commission did in  
9 1986 regarding the definition of petroleum wax  
10 candles?

11 MR. STAYIN: We're asking that the  
12 Commission clarify what the petroleum wax candle is,  
13 what the like products are, and that petroleum wax  
14 candles are candles that contain petroleum wax.

15 The only reason that you had the 50 percent  
16 number is because the Commission was trying to  
17 determine -- basically the Catholic church required  
18 that all candles be beeswax candles. They then  
19 modified it to saying well, if it's 50 percent, over  
20 50 percent beeswax, then that will satisfy our  
21 requirement in our church.

22 That is how you came up with the 50 percent  
23 number for beeswax. The beeswax candles are not  
24 candles that competed against petroleum wax candles.  
25 They were not like products. What you're dealing with

1 now is another product that is a like product, okay,  
2 and that's these blended wax candles.

3 We are asking that you determine that all  
4 blended wax candles except beeswax candles are within  
5 the like product definition.

6 COMMISSIONER PEARSON: Okay. With the fact  
7 that my light is changing and in the expectation that  
8 some of my colleagues might have further questions on  
9 this, I will pass for now. Thanks.

10 CHAIRMAN KOPLAN: Thank you, Commissioner  
11 Pearson. Actually, I would like to follow up on your  
12 question.

13 Mr. Stayin, let me stay with you on that.  
14 In the NCA response to the notice of institution of  
15 this five-year review dated September 21, 2004, you  
16 state at page 36, and I quote, "The NCA agrees with  
17 the Commission's definitions of the domestic like  
18 product and the domestic industry as stated in the  
19 Commission's original determination."

20 On page 2 of your comments on adequacy filed  
21 October 18, 2004, you state that, "The Commission is  
22 urged to conduct an expedited review as authorized by  
23 19 U.S.C. § 1675 (c) (3) (B)."

24 However, I note that on March 7, 2005, the  
25 Department of Commerce published a notice of

1 initiation of anticircumvention inquiries regarding  
2 this order, which is still pending. Final  
3 determinations from Commerce are not due until January  
4 of 2006.

5 Subsequently in your prehearing brief dated  
6 May 16, 2005, you state at page 7, and I'm quoting,  
7 "NCA respectfully requests that the Commission clarify  
8 the domestic like product analysis and determination  
9 to make it clear that domestic like products include  
10 all candles other than beeswax candles containing  
11 petroleum wax."

12 Is your motivation in urging the Commission  
13 to expand the definition of the domestic like product  
14 intended to affect the outcome of the Commerce  
15 Department's anticircumvention investigation? I must  
16 tell you that I regard those investigations as totally  
17 separate from my analysis and this second review, and  
18 what I'm struggling with here as I look at the history  
19 of your filings in this second review, the first I see  
20 this issue you're raising today is in your prehearing  
21 brief.

22 MR. STAYIN: Yes. That's when we saw the  
23 number that 78 percent of candles coming in from China  
24 in 2004 were non-subject candles, and we realized that  
25 this thing is a much bigger problem than we ever

1 dreamed it was.

2 That volume is so huge. We just had no  
3 idea, so we felt that at this point we had to address  
4 this issue and ask the Commission to reconsider this,  
5 to consider this new product that came into the  
6 market. The Commission has the authority to --

7 CHAIRMAN KOPLAN: But it's been in the  
8 market since 2001.

9 MR. STAYIN: It's been in the market during  
10 the period of review, yes.

11 CHAIRMAN KOPLAN: Right.

12 MR. STAYIN: Right, but it hasn't really  
13 reached the volume until we got into 2004. The volume  
14 increased. 2001 is when they first started to ask the  
15 Department whether or not this was within the scope of  
16 the order.

17 CHAIRMAN KOPLAN: Okay. Let me stay with  
18 you on this. What exactly do you propose as the  
19 domestic like product that is like and most similar to  
20 subject imported petroleum wax candles? At page of  
21 your brief, you describe, and I quote: "Candles  
22 containing a blend of petroleum wax and palm, soy, or  
23 other vegetable waxes where the nonpetroleum wax makes  
24 up slightly more than 50 percent of the content,  
25 hereinafter referred to as 'blended wax candles.'"

1                   At page 7, you request the Commission to,  
2                   and I quote, "clarify the domestic like product  
3                   analysis and determination to make it clear that  
4                   domestic like products include all candles other than  
5                   beeswax candles containing petroleum wax."

6                   Is there any lower limit on the percentage  
7                   of petroleum wax in blended wax candles? Can the  
8                   balance be any wax?

9                   MR. STAYIN: I think I should really ask our  
10                  clients that. Our position is that all candles have  
11                  some additives to them, and so you might have some of  
12                  these things as additives, but the bottom line is that  
13                  there is no question that these are like products and  
14                  that the Commission didn't have an opportunity to  
15                  consider this during the original investigation  
16                  because they didn't exist, and that's why we're asking  
17                  you to take a look at it now, because it just came  
18                  into our market in the period of this review, this  
19                  five-year review.

20                  CHAIRMAN KOPLAN: But you had actually asked  
21                  us to expedite this review. We wouldn't have even had  
22                  this --

23                  MR. STAYIN: I'll tell you something. The  
24                  Candle Association has been fighting so many battles  
25                  to preserve this order, that they voted to ask for an

1 expedited review rather than to incur the expense of a  
2 full review.

3 CHAIRMAN KOPLAN: Let me ask you this  
4 because you've made this a very important issue for  
5 you. Footnote 21 on page I-13 of the staff report,  
6 identifies the NCA members that, and I quote, "produce  
7 some candles as blends of petroleum wax and vegetable  
8 waxes." An e-mail from you is cited as the source of  
9 the information. The firms and the levels of  
10 production are confidential. However, I can say that  
11 the data presented do not necessarily indicate to me  
12 that blended candles of less than 50 percent paraffin  
13 wax account for a significant share of domestic  
14 production. Some of the blends identified in that  
15 footnote are of greater than 50 percent paraffin wax  
16 and so would fall within the definition of petroleum  
17 wax candles. In other cases, the blend is not  
18 identified.

19 In your post-hearing submission, could you  
20 please provide data on domestic production of candles  
21 produced with a blend of petroleum and vegetable waxes  
22 in which the petroleum wax accounts for 50 percent or  
23 less?

24 Secondly, having identified the domestic  
25 producers, please provide information regarding the

1 similarities and differences between these producers'  
2 petroleum wax candles and their blended wax candles  
3 with less than 50 percent petroleum wax in terms of  
4 physical characteristics, interchangeability, channels  
5 of distribution, common manufacturing facilities,  
6 processes and employees, consumer perceptions, and  
7 price? Would you do that for me?

8 MR. STAYIN: Absolutely. I may comment that  
9 we have information in our brief regarding all of  
10 these issues and evidence that retailers are selling  
11 both candles in their shops, in their stores, on the  
12 same shelves, as you see before you; and, therefore,  
13 what you're finding is they are sold everywhere  
14 together, sold exactly as the same candles, and in  
15 most cases, the consumer doesn't lift up the bottom to  
16 see the country of origin. He just looks at the  
17 candle, looks at the price, that looks good, and he  
18 buys it.

19 But, yes, I will respond to each one of  
20 those questions that you had asked.

21 CHAIRMAN KOPLAN: I appreciate that very  
22 much.

23 Mr. Love, in your oral testimony, and I  
24 think it was framed on page 6 of your prepared  
25 statement, you mentioned that prices in the U.S.

1 market are higher than prices in other markets as a  
2 result of the current order. Can you present any data  
3 or relative prices of petroleum wax candles in other  
4 markets, either now or for purposes of the post-  
5 hearing submission?

6 MR. LOVE: We will make an effort to do  
7 exactly that. I will state that my assumption about  
8 price differentials was based on questionnaire  
9 responses from companies to the Commission who we  
10 believe were in a position to know this, but we will  
11 work on that for the post-hearing brief.

12 CHAIRMAN KOPLAN: Thank you.

13 The NCA brief states, at page 25, citing the  
14 staff report, Chapter 2, page 10, and I quote: "Palm  
15 wax has actually been considerably more expensive as a  
16 wax raw material than petroleum wax." Other than  
17 anecdotal information, and I know Mr. Pappas testified  
18 this morning, and he touched on this, can industry  
19 witnesses provide data on the relative prices of  
20 petroleum wax, soy wax, and palm wax?

21 MR. LOVE: The answer is yes.

22 CHAIRMAN KOPLAN: Mr. Pappas?

23 MR. PAPPAS: Generally speaking, in the  
24 period involved, it was almost double the cost for the  
25 vegetable waxes as compared to the paraffin waxes that

1 we had during the period.

2 CHAIRMAN KOPLAN: Can you all elaborate on  
3 that in your post-hearing submission in detail?

4 MR. PAPPAS: We can give Mr. Stayin the  
5 numbers, yes.

6 CHAIRMAN KOPLAN: That would be very  
7 helpful.

8 MR. PAPPAS: I think also it could be noted  
9 that in the staff report there are other comments that  
10 indicate the same thing.

11 CHAIRMAN KOPLAN: I appreciate that. I'm  
12 looking for data, if I could get that.

13 I see my light is about to come on. I thank  
14 you for your answers thus far to my questions, and  
15 I'll turn to Vice Chairman Okun.

16 VICE CHAIRMAN OKUN: Thank you, Mr.  
17 Chairman, and let me join my colleagues in welcoming  
18 all of you here today. We appreciate all of the  
19 information you've given us and your willingness to be  
20 here to answer questions.

21 Mr. Stayin, let me just ask a couple of more  
22 on the like product question, as I look back and try  
23 to understand how the Commission came up with the  
24 original 50 percent or greater than 50 percent. I'm  
25 not quite sure I see where we got to that anyway. So

1 I'm willing to look at it.

2 But what I'm trying to understand is when  
3 we're talking, and I haven't had a chance to look at  
4 the bottoms, but when you're talking about the  
5 definition -- I know the chairman just asked you to  
6 put some of this for post-hearing, but if something is  
7 considerably less, I'm trying to figure out, is it a  
8 percentage that you're looking for when we're talking  
9 about blendeds, or if its petroleum wax with 80  
10 percent everything else, does it still make a candle  
11 that holds up?

12 Mr. Pappas, you may have started to talk  
13 about this, about how it holds together, but I'm just  
14 trying to make sure I understand whether the blends  
15 can go on the high side or on the low side and doesn't  
16 matter, and is there a definition that the Commission  
17 could use that gets to the ones that you say are  
18 competing directly that we've seen in this increase  
19 during the period of investigation? Help me out on  
20 that.

21 MR. STAYIN: I think that it may depend on  
22 whether it's in a container, a wax-filled container,  
23 or standing straight up. I would like both Mr. Pappas  
24 and Mr. Higgins to comment on that.

25 MR. HIGGINS: Typically, back when we got

1 the original order, there were other additives in our  
2 candles, but they were in the range of a half percent  
3 to maybe 10 -- even 20 was a stretch, but probably 10  
4 percent of other additives like stearic acid and some  
5 other ingredients. The more soy wax or palm oil you  
6 put in these candles, the more difficult it is to  
7 burn. So if a candle contained 10 or 20 percent, it  
8 would be considered an additive and not the majority.

9 So I think if it was over 50 percent of  
10 another product besides paraffin wax, it was  
11 considered that item, like beeswax. If it was 51  
12 percent beeswax candles formula, then they considered  
13 it beeswax instead of paraffin. But it's more  
14 difficult, the more soy and vegetables waxes you put  
15 in, for it to burn and for it to be a functional  
16 candle.

17 MR. PAPPAS: Unfortunately, candles are as  
18 simple as they appear to be. Most people would define  
19 them as a piece of wax with string in them. They are  
20 much, much more complicated than that. The heart of  
21 the fuel of the candle has to do with the fragrance,  
22 the wick, the size of the container, the style of the  
23 candle, and it's very hard for me to sit here and say,  
24 okay, here is a catch-all definition of everything  
25 that works. That's the difficulty I have with what's

1 being said here.

2 I don't want to get off the subject, and if  
3 I do, you tell me, but I think we can look here to  
4 some past experience not with basically the vegetables  
5 but with gel candles. We saw this type -- it was a  
6 product where they took mineral oil and basically  
7 gelled it. They started coming in from China. They  
8 were the be-all, end-all. This was a product that was  
9 outside the scope. Basically, when Commerce took a  
10 very strong look at this, they determined that the  
11 mineral oil in it was basically a hydrocarbon chain  
12 and was very like paraffin. The result was, all of a  
13 sudden, there weren't any more gel candles coming in.

14 This is a replay of the same thing. If this  
15 were the feature and benefit that they claim that it  
16 is, why aren't they on these candles? Why wouldn't  
17 they be in the main display panel featuring the fact  
18 that it's vegetable based? It only appears on the  
19 bottom of some of them. That's a very small number,  
20 and my guess is that if somebody in Customs looks at  
21 that candle, they can see that the number that they  
22 claim that it has palm wax.

23 My difficulty here is it's hard to sit here  
24 and give you a rule because candles are very unique.  
25 We have some very unique applications that we use some

1 of these materials in, and they are something that we  
2 can't -- we have not been able to expand our line to  
3 the breadth that they have here because we basically  
4 feel the product doesn't do what our customers expect.

5 VICE CHAIRMAN OKUN: Mr. Stayin, I think you  
6 had mentioned the Mexico order as having included  
7 blended products. Have you seen that order? Do you  
8 know how they defined it?

9 MR. STAYIN: Mexico defines it as all  
10 candles from China.

11 VICE CHAIRMAN OKUN: All candles.

12 MR. STAYIN: All candles from China.

13 VICE CHAIRMAN OKUN: No reference at all to  
14 types of waxes or anything.

15 MR. STAYIN: Not waxes nor novelties or  
16 anything.

17 VICE CHAIRMAN OKUN: Okay. All right. So  
18 that would be helpful. I have some other questions to  
19 follow up, but I will appreciate the additional  
20 information that you've been asked to provide as well.

21 Let me ask a price question. I might have  
22 several, but the one that I've been thinking about  
23 here, trying to look at this different data that's  
24 been collected, and you've referenced AUVs. How  
25 relevant, or how much weight should we put on AUV data

1 when you've talked about the product's mix, and do you  
2 have a sense of whether the product mix itself has  
3 changed over time, recognizing that this candle sells  
4 for much less than that candle? I'm just trying to  
5 figure out how to look at these AUVs. Mr. Love, do  
6 you want to comment on that?

7 MR. LOVE: Yes. I share your concern about  
8 the AUV data. It's what, Chesterton said you should  
9 use statistics as a drunk uses a lamp post for support  
10 and not illumination? And I think there is a little  
11 bit of that with respect to the AUV data.

12 For example, the big decline in the AUV of  
13 imports from '97 to '98, from \$1.52 to \$1.00; there is  
14 no question that that was an absolute decline in the  
15 price throughout the market, and the domestic  
16 producers have confirmed that. They started really  
17 being concerned at that point. However, product mix  
18 also, I think, plays a role. My guess is that at that  
19 time, as the volumes surged, you had a greater portion  
20 of the lower-priced, commodity-type candles coming in  
21 and a smaller portion of the novelty candles, the  
22 figurines, the higher-unit-value products, and that  
23 contributed to that decline. It's just simply a  
24 product-mix issue.

25 The problem is I don't know how to evaluate

1 that precisely. I just don't know. We can just go on  
2 the basis of what we can learn qualitatively as  
3 opposed to quantitatively. So there are real issues  
4 with the average-unit-value data, and I think that the  
5 price analysis, price comparison, data suffer from  
6 that problem as well.

7 So I don't have a good answer. It would be  
8 extremely cumbersome and time consuming to try to get  
9 a pure price of a particular product over time. It's  
10 just inherent -- with the vast variety of types of  
11 candles, it's just very difficult to rely completely  
12 on AUVs.

13 VICE CHAIRMAN OKUN: Okay.

14 (Discussion off the record.)

15 VICE CHAIRMAN OKUN: Do you want to respond  
16 with the microphone?

17 MR. LOVE: I'm sorry. Mr. Stayin was just  
18 reiterating or reemphasizing the fact that the AUV  
19 data are better than the pricing data because the  
20 pricing data, particularly on the importers' side, was  
21 just terrible: very incomplete, included domestic  
22 shipment data in the import data, pricing data. They  
23 were just unusable. So, in that sense, the AUV data  
24 are somewhat more accurate than the pricing data.

25 VICE CHAIRMAN OKUN: I have some more

1 questions on prices, but one thing I wanted to come  
2 back to, Mr. Love, just to follow up on a question  
3 that Commissioner Pearson had about how we evaluate  
4 the current state of the industry, and I understood  
5 your response, and I, obviously, don't want to get  
6 into APO data, and my yellow light has come on.

7 But one thing that I want you to do for  
8 purposes of post-hearing is in Exhibit 15, which  
9 you've referenced several times, you have determined  
10 who to put in there based on whether you called them  
11 someone who was a direct seller or not. In looking at  
12 that, I have some questions about, in particular, one  
13 of the large producers that you chose not to put in  
14 there, and if you put that producer back in, the  
15 trends change completely. Again, I was looking at  
16 their 2004 to see what percentage of sales went to the  
17 different channels of distribution, and I couldn't  
18 understand why you've chosen to do it that way.

19 So for purposes of post-hearing, if you  
20 could go into that, and if we need to be more explicit  
21 in a post-hearing question, I can do that as well.

22 MR. LOVE: Yes. I would be glad to do that.  
23 I think I know what you're referring to. I think we  
24 put that company in as a direct seller for reasons  
25 articulated in the prehearing brief, and we had only

1 certain information available on an aggregate basis  
2 for that company, which we felt should not be included  
3 in Exhibit 15.

4 If we had more precise data on profitability  
5 for that company, we perhaps could revise Exhibit 15,  
6 but we did not, and we don't think we're going to get  
7 it.

8 VICE CHAIRMAN OKUN: Okay. Well, I have  
9 some other questions about -- trying to segment it out  
10 that way, in any event, but my red light is on, so  
11 we'll have time to explore that later.

12 Thank you, Mr. Chairman.

13 CHAIRMAN KOPLAN: Thank you.

14 Commissioner Miller?

15 COMMISSIONER MILLER: Thank you, Mr.  
16 Chairman, and welcome to the panel. It's good to see  
17 you and good to have you here, and we appreciate you  
18 helping us understand your industry better.

19 I'm going to go back again, at least to  
20 start, with some questions about the scope issues.  
21 The case actually raises a lot of interesting, kind of  
22 novel questions for us. But I want to make sure I  
23 understand -- first of all, let me just say something  
24 about what I see our role here is because Commerce  
25 determines the scope of the case. They have defined

1 the scope as petroleum wax candles, and so they do  
2 that. They decide it's petroleum wax candles. Our  
3 job is just to decide what domestically produced  
4 product is like those subject imports.

5 So I'm asking myself much the questions  
6 about U.S. producers making blended products. You  
7 said they exists, which, for purposes of your case, is  
8 a good thing because if they didn't exist, we couldn't  
9 say they were like the imports. They have to exist.  
10 We have a little bit of data. I know the chairman has  
11 asked you for more data about those producers. That's  
12 the question. You know, does our record include  
13 information about blended candle production in the  
14 United States? Do you think the data that we have,  
15 the data that we have right now, not just the  
16 footnotes, includes such production, to the extent  
17 that it does exist?

18 MR. STAYIN: I believe that it does, and  
19 questions were asked in the questionnaire about these  
20 blended candles, about their substitutability, about  
21 the impact. There are a number of questions that went  
22 to that issue in the questionnaire that went out. We  
23 will get more data from these individual companies, as  
24 requested.

25 On the scope question, that Commerce sets

1 the scope, in this particular instance, Commerce  
2 relied on the definition in the ITC's like product  
3 description, --

4 COMMISSIONER MILLER: Understood.

5 MR. STAYIN: -- which we believe was taken  
6 out of context because it was dealing with a product  
7 that was excluded and not the product that we're  
8 dealing with.

9 COMMISSIONER MILLER: And that's where I'm  
10 going next, is to ask you, when I look at the scope,  
11 as defined in the original investigation and  
12 continues, and it uses the word "petroleum wax  
13 candles," why did it use the word "petroleum"? Why  
14 didn't it just say "candles"? Was it because of the  
15 beeswax candle issue? Is that the only reason it said  
16 "petroleum wax candles"?

17 MR. STAYIN: Yes. At the time, in the  
18 United States, there were only two kinds of candles  
19 being made: petroleum wax, 100 percent; and beeswax  
20 candles. Furthermore, the only imports that were  
21 coming in were petroleum wax candles. In the report,  
22 in the determination, it says the Chinese use only  
23 semi-refined petroleum wax. So that was the only  
24 product that was coming in at that time. It was the  
25 only product being made here at that time, and --

1 COMMISSIONER MILLER: Wait a minute.

2 MR. STAYIN: Beeswax was the other.

3 COMMISSIONER MILLER: Beeswax was made, but  
4 you made a conscious decision -- as the industry, you  
5 filed the case on petroleum wax candles because even  
6 though there was beeswax production in the U.S., you  
7 didn't consider it to be competing against the  
8 petroleum wax candles. I don't know very much about  
9 the beeswax candles.

10 MR. STAYIN: It's true. They did not, and  
11 they do not, compete against petroleum wax candles;  
12 and, therefore, they were not a like product. They  
13 cost three times as much to make. They are much more  
14 expensive. They don't compete against petroleum wax  
15 candles. You don't see them in the same markets. You  
16 don't see them on the same shelves as you see these.

17 So the Commission determined that they were  
18 outside the scope. Their market -- 95 percent of  
19 their sales go to churches or religious organizations,  
20 and they don't buy petroleum wax candles. They use  
21 the beeswax candles.

22 COMMISSIONER MILLER: Okay. So the word  
23 "petroleum" was there essentially to create that  
24 division with beeswax.

25 MR. STAYIN: The distinction from beeswax,

1 yes.

2 COMMISSIONER MILLER: You've made comments a  
3 few times from the producers here about blended wax  
4 candles being more expensive to produce, but I don't  
5 really understand why, the hydrogenation process?  
6 Tell me more about the production. Help me understand  
7 the production of the candle a little bit to  
8 understand why it's more expensive to produce the  
9 blended one.

10 MR. STAYIN: Let me make one clarification  
11 for my colleagues. There are two different -- one is,  
12 how do you make a wax, the blended wax? and these  
13 people don't make that.

14 COMMISSIONER MILLER: Right.

15 MR. STAYIN: The other is, how do you  
16 produce a candle with that blended wax?

17 COMMISSIONER MILLER: I see.

18 MR. STAYIN: And that's -- I'll leave it to  
19 them to respond --

20 COMMISSIONER MILLER: Okay.

21 MR. STAYIN: -- in terms of the cost.

22 COMMISSIONER MILLER: Okay. Then maybe just  
23 sort of supplement that. When you talk about it being  
24 more expensive, is it because the wax itself that you  
25 use would cost more? You don't produce the wax. What

1 do you do? We were just saying that this would have  
2 been a fun one for a factory tour. I'm sure I would  
3 love to see candles made. Mr. Pappas?

4 MR. PAPPAS: Yes. The production of these  
5 products is very small in our company, primarily  
6 because of the high cost of the product at retail.  
7 Essentially, we process the materials on the same  
8 equipment we make our regular candles on. They tend  
9 to be a product that is poured, I think, which is  
10 described in some of the background material.

11 The significant difference is in the cost of  
12 the material, raw material, and basically what happens  
13 is that paraffin, in most cases, comes in in liquid  
14 form. Because of the small volumes, a lot of times  
15 the other products are used in a slab form and then  
16 melted down, but that's basically the progress.

17 COMMISSIONER MILLER: As petroleum becomes  
18 more expensive, is it still --

19 MR. PAPPAS: We don't know where it's going.

20 COMMISSIONER MILLER: Right.

21 MR. PAPPAS: Actually, our responses to some  
22 of the questionnaires were a little different than  
23 most because we didn't see that increase in petroleum  
24 until the last part of the period. That was actually  
25 a very interesting feature in the sense that the

1 flooding of the U.S. market by the People's Republic  
2 of China with wax during this period actually  
3 suppressed the price that we saw.

4 COMMISSIONER MILLER: When you say "wax," do  
5 you mean paraffin?

6 MR. PAPPAS: Paraffin, and that's why this  
7 is so untenable to me. Why, when you basically have  
8 such an excess supply of this material in your own  
9 country, would you use a more expensive material to  
10 make product and send it in? It just doesn't make any  
11 sense.

12 And what happened, at the end of the period,  
13 they basically withdrew from the market, and where  
14 producers of petroleum wax weren't able to pass on  
15 price increases because -- they couldn't pass them on  
16 because of the cost of the wax coming in from China,  
17 then they basically would pass on the increase in the  
18 price accrued to wax. But it's really kind of  
19 critical during this discussion to understand that  
20 there was a huge availability of paraffin wax  
21 available to the Chinese to make these products, and  
22 they chose, chose, to use a more expensive material.

23 Palm basically is made from taking palm oil,  
24 and I guess there is some discussion whether it comes  
25 from the leaves or where it comes from, but they take

1 this, and, for the most part, in an oil form, it can't  
2 meet the definition of a candle wax because a candle  
3 wax has to be solid at room temperature, and these  
4 materials can't do that. So they have to run them  
5 through a process where they add hydrogen where there  
6 is a double bond, and I don't want to get too  
7 complicated on this, but it allows it then to be solid  
8 at room temperature, and you can then mimic the  
9 characteristics of a candle wax with these materials.  
10 That's the only reason it's come into play.

11 Like I said, it's just incredible to me that  
12 there was a very huge supply of cheap petroleum wax  
13 available, and what you saw coming in was probably the  
14 most expensive thing they could use and selling it for  
15 the same price as paraffin. It just doesn't make any  
16 sense to me.

17 COMMISSIONER MILLER: But basically, what I  
18 hear you saying, then, it's the cost of the palm oil  
19 itself and what you have to do to it, the process,  
20 that makes it so expensive.

21 MR. PAPPAS: Yes. It's the materials.

22 COMMISSIONER MILLER: Okay. The red light  
23 is on, so I'll have to stop with these questions at  
24 this point. Thank you.

25 CHAIRMAN KOPLAN: Thank you, Commissioner.

1 Commissioner Hillman?

2 COMMISSIONER HILLMAN: Thank you. I, too,  
3 would like to join my colleagues in welcoming you. We  
4 very much appreciate your taking the time to be with  
5 us and helping us understand your industry and how it  
6 works.

7 Maybe if I -- just a little bit so  
8 understand it, where do you all source your paraffin  
9 wax, and where do you source -- if you're using a  
10 vegetable, where do you get it from? Do you purchase  
11 it from producers of wax that are making it for the  
12 candle industry, or how does that process work?

13 MR. PAPPAS: In our particular case, we use  
14 a U.S. domestic producer of petroleum wax. Exxon is  
15 our major producer. The vegetable materials that we  
16 use come from different processors here in the States.  
17 I believe that probably the source is not domestic.  
18 You know, we buy it in bags or slab form.

19 COMMISSIONER HILLMAN: Okay. Does anyone  
20 else have anything different?

21 MR. LaZAR: Very much like George, General  
22 Wax also purchased their paraffin wax domestically,  
23 and a very small amount of vegetable waxes may be used  
24 to enhance the product, but I'm talking, like, half  
25 percent, no more than about 3 percent, and generally

1 those raw materials would come from vendors within the  
2 United States, and possibly they might source them  
3 from Malaysia or somewhere overseas, but the vast  
4 majority of the candle raw material is from the U.S.

5 COMMISSIONER HILLMAN: Then if I can just  
6 understand the issue of beeswax. As I heard you  
7 describing it, you're saying it's a lot more  
8 expensive, but you're also saying palm oil is more  
9 expensive, and all of these others are more expensive.  
10 So why wouldn't the Chinese have gone into beeswax  
11 production? Help me understand the difference there.

12 MR. PAPPAS: If I might, I think you have to  
13 understand that beeswax and hydrogenated oils are a  
14 little bit different from one another. Beeswax is a  
15 naturally occurring material that goes through  
16 filtration and purification, if you will, to make it  
17 usable, so it's totally produced here. The big issue  
18 with the vegetable materials is the supply wasn't  
19 available. You know, when the original order came in,  
20 there just wasn't much of it around. We didn't see  
21 it. It wasn't available, and it's only recently that  
22 this material has become readily available.

23 COMMISSIONER HILLMAN: On the beeswax side,  
24 why are beeswax candles, again, so heavily in the  
25 religious church market? What is it about a beeswax

1 candle that makes it more appealing to a church than  
2 it does --

3 MR. PAPPAS: It's canon law. In other  
4 words, canon law dictated, during the time that the  
5 original order was put through, at one time it was 100  
6 percent, and probably the orthodox right, but  
7 primarily the Catholic right, actually said you have  
8 to have so much beeswax in your candles, and it was  
9 reduced to 51 percent.

10 Randy might expand on this. The main reason  
11 there were differentiations made, at the time, the  
12 industries were so different between candles and  
13 church candles, you know, the church business was more  
14 profitable, and basically that's --

15 COMMISSIONER HILLMAN: Mr. LaZar?

16 MR. LaZAR: To try to answer your question,  
17 this is history that I've been taught about the  
18 beeswax. Bees are the ones that gather the wax, and  
19 the church values the bees because they found the bee  
20 very pure. At first, the only understood them to be  
21 all male bees that gathered the wax, so they were  
22 considered virgins at that point, and the church  
23 wanted to kind of look up to the fact of how pure and  
24 natural the bees were and that man or humans should  
25 follow like. So burning a beeswax candle is a symbol

1 to try to follow in the right direction.

2 COMMISSIONER HILLMAN: So it has nothing to  
3 do with how the candle burns, I mean, that beeswax  
4 burns better or cleaner or less smoky. It has nothing  
5 to do with the candle; it's a religion, historical  
6 issue.

7 MR. LaZAR: A side benefit. It just  
8 happened to be as well that beeswax candles, produced  
9 properly, do burn very cleanly and are a very good  
10 candle as well.

11 COMMISSIONER HILLMAN: Okay. All right. I  
12 appreciate that. It's always interesting to take on  
13 new industries and new cases, and you learn something  
14 new.

15 Let me go from the history and religion to  
16 the mundane of pricing. I'm trying to understand a  
17 little bit about this issue of just how should we look  
18 at the pricing data? I noticed, Mr. Higgins, in your  
19 testimony, you described prices in pounds. Other  
20 places, we're looking at prices literally according to  
21 the particular kind of candle. So maybe it would help  
22 me to understand just how you go about pricing your  
23 product.

24 Does the industry think of selling candles  
25 by the pound, in terms of how much wax, or are you

1 really much more looking at it as it's X amount of  
2 money for this size, you know, 10 inch, six inch,  
3 whatever, this diameter? How do you all set your  
4 prices, and when prices change, do they change across  
5 the broad range of everything? How do you go about  
6 establishing prices?

7 MR. HIGGINS: It used to be whatever the  
8 market will bear, but today it's whatever the Chinese  
9 are selling it for.

10 COMMISSIONER HILLMAN: When you say  
11 "whatever the market will bear," is the market pricing  
12 literally every single individual variation of a  
13 candle differently?

14 MR. HIGGINS: Yes, yes.

15 COMMISSIONER HILLMAN: I mean, you say a 10-  
16 inch tape is worth X, and eight inches wide and such-  
17 and-such round as this. How does the market determine  
18 a price?

19 MR. HIGGINS: It's, again, wherever it's  
20 sold and whatever they can get for the item.

21 COMMISSIONER HILLMAN: Individually, by  
22 individual shape and size.

23 MR. HIGGINS: Yes.

24 COMMISSIONER HILLMAN: A different price for  
25 every shape and every size.

1 MR. HIGGINS: Right. It isn't based on a  
2 pound or anything like that.

3 COMMISSIONER HILLMAN: Okay. It doesn't  
4 matter what the color is, et cetera. Every single one  
5 of those things changes the price.

6 MR. LOVE: If I could say, everything does  
7 affect and change the price. Scented versus unscented  
8 will have a price differential attached to it.

9 COMMISSIONER HILLMAN: Red is a different  
10 price than blue?

11 MR. LOVE: Well, I think colored versus  
12 uncolored would be somewhat of a differential.

13 COMMISSIONER HILLMAN: Mr. Goddard?

14 MR. GODDARD: Yes. In our experience at  
15 HFH, the primary drivers are the cost, not necessarily  
16 the price to the consumer, but the cost, are the  
17 fragrances used, -- the fragrances can be very  
18 expensive per pound -- and then second to that is the  
19 wax because it's obviously the bulk of the candle in  
20 percentage. Dyes that produce coloring are typically  
21 a very small percentage of the cost of the product.  
22 So what you'll typically see on the store shelves is  
23 differences in candles that are the same size will be  
24 the result of their fragrance difference and fragrance  
25 load. Some candles carry more fragrance for a better

1 throw, things like that.

2 COMMISSIONER HILLMAN: And is there a  
3 typical differential in terms of the sizes? Again, I  
4 haven't gone in the market. I'll take a look at  
5 these, but is there a general sense that a six-inch  
6 candle is X, and if it's X, then the eight-inch candle  
7 is so much more, and then the 10-inch is so much more?  
8 Is there -- it just depends?

9 MR. LaZAR: Unfortunately, in our business,  
10 we don't have a lot of branding, so we look at this as  
11 more of a commodity, and the three-by-six is a very  
12 good example. There is a benchmark price, so to  
13 speak, and the buyers that we may face have very much  
14 in mind of what they want to pay for it, and the  
15 question is, depending on what they expect out of the  
16 candle, if we can achieve and meet those prices.

17 So it's heavily influenced by the market,  
18 and, again, in the mass market, price being such a  
19 huge factor in a purchase decision, it does come down  
20 to price, and, again, buyers will pretty much have in  
21 mind what they are willing to pay for a candle.

22 COMMISSIONER HILLMAN: Now, would a mass  
23 merchandiser who wants to stock blue candles like that  
24 in whatever those are, four-, six-, eight-, 10-inch  
25 size, are they going to have to source all of those

1 from the same candle producer in order to have them  
2 come out the same color, the same all of that, or  
3 could they literally source the 10-inch from you and  
4 the two-inch from somebody else?

5 MR. LaZAR: They can and they have.

6 COMMISSIONER HILLMAN: They can and they  
7 have.

8 MR. LaZAR: Yes.

9 COMMISSIONER HILLMAN: So if they just tell  
10 you they want it to look exactly like this, they can  
11 go anywhere they want.

12 MR. LaZAR: They can, yes.

13 COMMISSIONER HILLMAN: Do they, as a  
14 practical matter, or is it easier for them, again, for  
15 a given product line, to get all of it from a single  
16 source, or literally it depends. If you've got the  
17 cheaper price on the eight-inch, but he's got the  
18 cheaper price on the four, and somebody else on the  
19 two, they will source from all three sources just for  
20 the price.

21 MR. LaZAR: It's probably more likely to  
22 their advantage to try to source from one person  
23 versus trying to split it among the three, depending  
24 on the size of the merchandizer that we're talking  
25 about. But history usually shows that they will

1 purchase it from one particular person for an extended  
2 period of time, and they may switch to a different  
3 time, but they have, and they can, purchased from  
4 multiple companies.

5 COMMISSIONER HILLMAN: Mr. Goddard, did you  
6 want to add something on that?

7 MR. GODDARD: Yes. Obviously, it depends on  
8 the procurement strategy of the merchandizer in  
9 question, but, in our experience, we have provided the  
10 same candle with the same fragrance at the same color  
11 as a competitor to the same merchandizer. So quite  
12 often it is a procurement strategy on the part of the  
13 merchandizer.

14 MR. HIGGINS: I guess that was my point to  
15 price. The retailer determines the selling price, and  
16 we decide if we can sell it for that or not or want  
17 to. Some of these products, we sell at cost or even  
18 below in some cases, and some we make some margin on.  
19 So the retailer really determines the price, but we  
20 have to determine if we can afford to make it for  
21 them.

22 COMMISSIONER HILLMAN: Okay. I have some  
23 follow-ups, but the red light is on. Thank you all  
24 very much for those answers.

25 MR. STAYIN: If I may just add another

1 comment, your comment on those four blue candles.  
2 Three of them are made in China, and one was made in  
3 Vietnam, --

4 COMMISSIONER HILLMAN: Thank you.

5 MR. STAYIN: -- but it's sold just like  
6 that, like they are all from the same.

7 CHAIRMAN KOPLAN: Thank you, Commissioner.  
8 Commissioner Lane?

9 COMMISSIONER LANE: Thank you.  
10 I want to go back to something that Mr.  
11 LaZar said in his initial remarks. You talked about  
12 you were selling candles to the tune of \$1 million to  
13 a certain customer, and then, at one point in 2005,  
14 that amount dropped to \$100,000. Did that customer  
15 buy candles that were blended candles instead of the  
16 petroleum-based candle that you were selling?

17 MR. LaZAR: I'm not 100-percent sure of the  
18 whole product line that they purchased from the  
19 Chinese that were blended or not, but they were some,  
20 and the loss in sales was based on price.

21 COMMISSIONER LANE: But you don't know  
22 whether or not it was a blend outside the definition  
23 of what we're looking at for petroleum-based candles.

24 MR. LaZAR: It's a little difficult to  
25 answer because for the five-year period, we did see

1 some on their shelves that resembled and were very  
2 much a replica of what we've sold them in years past,  
3 and sometimes you could break them apart, and you  
4 could see that they were blended, and sometimes they  
5 weren't. So over the course of the time, we did start  
6 to see blended candles that were very much like the  
7 ones we once sold there.

8 COMMISSIONER LANE: Okay. Now, I have a  
9 question on the exhibit here in front of me. As I  
10 understand it, the white, tall candles and the peach-  
11 colored candles, one is palm oil, and one is  
12 petroleum. Now, were they sold for the same price  
13 when you bought them at the store?

14 MR. STAYIN: Yes. I'm the one that was  
15 responsible for that. They are. One is 52-percent  
16 palm, and the rest is petroleum, the other is all  
17 petroleum, and the price is exactly the same. In  
18 front, there is a price slip, and you'll see taper,  
19 taper, same price. The same thing is true for the  
20 large pillar and the smaller pillars.

21 COMMISSIONER LANE: Okay. Thank you.

22 Mr. Love, in response to Vice Chairman Okun  
23 regarding average unit value, you suggested that  
24 average unit value is affected by product mix, but  
25 then you continued that pricing data may have suffered

1 from changes in product mix. You may have changed  
2 that statement with subsequent observations about  
3 pricing data, but let me ask you directly, did you  
4 intend to say that the very specific products  
5 described in the pricing data were not specific enough  
6 or that responses were inaccurate with regard to the  
7 specific products?

8 MR. LOVE: My general observation is the  
9 latter, that the data provided, particularly on import  
10 pricing, was either nonexistent or flawed in the  
11 respect that if you looked at the questionnaire, the  
12 data underlying those pricing data, it included not  
13 just sales of subject imports; it included sales of  
14 nonsubject imports and sales of imports from countries  
15 other than China and included domestic shipments, and  
16 that is simply unusable for purposes of price  
17 comparison.

18 COMMISSIONER LANE: Okay. Thank you.

19 Now, Mr. LaZar, I don't want to belabor the  
20 quality point, and Mr. Pappas has already told us how  
21 complex candle chemical is, but in response to an  
22 earlier question, you used the term "enhanced" in  
23 discussing adding vegetable wax to candles. What did  
24 you mean by that?

25 MR. PAPPAS: There's different types of

1 vegetable waxes available, and the one that I was  
2 referring to could help with a specific look, and it  
3 can also make the candle harder. For a free-standing  
4 candle, there is an advantage to making the candle  
5 harder, that it will hold up in heat conditions,  
6 especially in shipping, but only a very small percent  
7 because it does affect the burn. So that was the  
8 reason why I mentioned that.

9 COMMISSIONER LANE: Does vegetable wax  
10 improve the burning quality of a candle?

11 MR. PAPPAS: Generally speaking, no. It  
12 will harden the candle, but as far as burning it, it  
13 takes more energy, and it may cause burning issues.

14 MR. HIGGINS: And that's as an additive.  
15 They enhance the candle as an additive, a small  
16 amount.

17 COMMISSIONER LANE: Okay. Now, Mr. Stayin,  
18 what do you expect us to do with regard to the  
19 producers that sell to these specialized markets, I  
20 guess what's referred to as "Tupperware-type parties"?

21 MR. STAYIN: They are either Tupperware  
22 parties, or they are selling to their own retail  
23 outlets.

24 COMMISSIONER LANE: Yes. What do you expect  
25 us to do with those producers and the data that we

1 have received from them?

2 MR. STAYIN: We believe that you should look  
3 at two separate sets of data: one, the rest of the  
4 industry, which accounts for 75 to 80 percent of the  
5 U.S. industry, and look at that data to see how the  
6 industry is really overall affected, and then you cut  
7 that out so you can see the real impact on the overall  
8 industry. The rest of that data is there, and it  
9 talks about this one sector.

10 But if you really want to see the impact on  
11 80 percent of the industry, you've got to carve that  
12 amount out. It's a small number of companies, and the  
13 volume isn't even that great. It's the pricing that  
14 they are able to do because they don't have  
15 competition from these imports.

16 COMMISSIONER LANE: Is there a legal basis  
17 for segmenting out that particular part of the  
18 industry?

19 MR. STAYIN: It's a condition of  
20 competition, and, I think, with that in mind, it would  
21 be imperative that you do make that distinction.

22 MR. LOVE: Can I make a comment? I think  
23 that, of course, you're going to have to look at the  
24 industry as a whole when you're evaluating the  
25 economic trends and what the likely impact would be of

1 revocation, and if you look at the industry as a  
2 whole, just as you have it in the staff report, that's  
3 fine with us because we think that there is no  
4 question that upon revocation there will be a  
5 recurrence of material injury on an overall basis.  
6 There is no doubt about that.

7           The reason that we tried to bring up this  
8 distinction between direct sellers and the rest of the  
9 industry is because it exists. It's an important  
10 condition of competition. It's operating in the  
11 market, and we have seen during the review period that  
12 despite the order, there has been a significant  
13 increase in total imports from China, and we think,  
14 you know, perfectly substitutable with subject  
15 imports, and that has, in fact, had an effect during  
16 the review period.

17           Where is that effect occurring? It's  
18 occurring in the traditional, high-volume sales  
19 outlets that account for 80 percent of the production  
20 and shipments of the industry. So we think it's  
21 important that you be able to see that the increasing  
22 imports and the low prices of imports have had an  
23 effect during the review period. That's just an  
24 important fact to know. It's separate and apart from  
25 your looking at the overall industry and making an

1 assessment as to whether material injury is likely to  
2 occur upon revocation.

3 COMMISSIONER LANE: Okay. Thank you.

4 MR. LOVE: Yes, ma'am.

5 COMMISSIONER LANE: Are the Chinese candles  
6 sold in other countries mostly palm wax or mostly  
7 petroleum wax candles?

8 MR. HIGGINS: Could I hear that again?

9 COMMISSIONER LANE: Are the Chinese candles  
10 that are sold in other countries mostly palm wax or  
11 mostly petroleum wax candles?

12 MR. HIGGINS: I think that because of the  
13 petroleum industry they have and because it's heavy in  
14 paraffin, that it's highly likely that the Chinese are  
15 selling only petroleum wax to the other markets. It  
16 wouldn't make any sense to buy a more expensive wax to  
17 sell to other markets when they could sell their  
18 petroleum wax, and they get no advantage by adding  
19 these palm waxes to these other markets.

20 So I believe that 100 percent of the other  
21 markets is petroleum wax. The only reason that they  
22 are selling palm wax blends in this market is to get  
23 around the duty, to get around the order. Like I  
24 said, it didn't exist before, and now it's come in  
25 only in the United States to get around the order in

1 the United States. They won't be selling that to  
2 other countries in the world because they don't need  
3 to.

4 COMMISSIONER LANE: Okay. I have one more  
5 question, and I'll try to get it in. How do Chinese  
6 palm or other vegetable wax and U.S. petroleum wax  
7 candles compare in terms of quality?

8 Mr. Chairman, can I have an answer?

9 CHAIRMAN KOPLAN: Absolutely. I would like  
10 to hear the answer to that myself.

11 MR. STAYIN: Does anybody want to answer  
12 that other than me?

13 MR. HIGGINS: You're asking how paraffin wax  
14 candles versus vegetable wax candles compare in  
15 quality?

16 COMMISSIONER LANE: Yes. How the Chinese  
17 vegetable wax candles compare to the U.S. petroleum  
18 wax candles.

19 MR. HIGGINS: In my own experience, I would  
20 have to say that they are very comparable in quality,  
21 but they are more difficult to burn. The vegetable  
22 wax-blended candles make it more difficult to burn,  
23 and the aesthetics and burn quality of the candle, in  
24 my opinion, are not as good, but they are very  
25 comparable, appearance-wise.

1 COMMISSIONER LANE: Okay. Thank you.

2 Thank you, Mr. Chairman.

3 CHAIRMAN KOPLAN: Thank you.

4 Commissioner Pearson?

5 COMMISSIONER PEARSON: Thank you, Mr.

6 Chairman.

7 Since we last spoke, I had a chance to take  
8 a brief look at Exhibit 15 from your prehearing report  
9 and prehearing brief, and I understand now the point  
10 that you were making. Just going back to what  
11 Commissioner Lane was asking about, with our  
12 obligation to look at the industry as a whole versus  
13 your guidance that we look at it as a condition of  
14 competition, if you've got further thoughts on that, I  
15 would be glad to hear them.

16 MR. LOVE: We would be happy to address that  
17 for you.

18 COMMISSIONER PEARSON: Let me ask about the  
19 cost differences between palm wax and soy wax versus  
20 petroleum wax. I'm not familiar with the petroleum  
21 wax business, but I've had some previous experience  
22 with palm oil and soy oil. Palm is generally the  
23 lowest-priced vegetable oil in the world market. It's  
24 produced very efficiently and at low cost in Malaysia  
25 and Indonesia. China is either the world's first or

1 second-largest importer of palm oil from those two  
2 countries, depending on what India happens to be  
3 doing, so they have a lot of it in China for use.

4 The process of hydrogenation of vegetable  
5 oils is fairly straightforward and done all of the  
6 time. It is the basic process used to take vegetable  
7 oil and turn it into margin, and so that's not  
8 something that's unique or something that would be  
9 done on a small-scale basis; rather, it's done on a  
10 very large scale and at an efficient cost level.

11 With palm oil, you also have the effect that  
12 at cool temperatures, like perhaps below 70 degrees  
13 Fahrenheit, the consumer grades of vegetable oil will  
14 turn solid. So this whole issue of is it a solid or a  
15 liquid is going to depend a little bit on the specific  
16 temperature, but that's going further than we need to  
17 go.

18 The real question is, can you provide any  
19 data for the record on the cost of palm wax, soy wax  
20 versus petroleum wax because it's just not obvious to  
21 me, based on what I know from outside this hearing,  
22 that palm wax should be more expensive? Given the  
23 current cost of petroleum, close to \$50 a barrel of  
24 oil, it wouldn't surprise me at all that petroleum wax  
25 would be quite a bit more expensive than palm wax when

1 bought in quantity.

2 So, Mr. Goddard, could you please comment on  
3 this, if you could?

4 MR. GODDARD: I can provide one data point  
5 that may be helpful. Right now, at HFH, we purchase a  
6 range of paraffinic waxes that are candle grade that  
7 cost somewhere around 30 to 40 cents a pound. We  
8 manufacture a special candle for a particular customer  
9 that is predominantly a vegetable, a palm wax, and  
10 that wax costs us somewhere around 70 cents a pound.  
11 So the price difference is dramatic for us, and in  
12 this particular application, the market supports that  
13 difference in the price to the customer.

14 COMMISSIONER PEARSON: Mr. LaZar?

15 MR. LaZAR: LaZar. Yes. I would like to  
16 comment on that. I used to do product sourcing, and  
17 still do, from China, and the quotes that I get are  
18 broken down into two forms. One is 100-percent  
19 paraffin, and one is with the triple blend, which is  
20 the palm wax that you're referring to. And in each  
21 and every case, the one that has the palm wax blend  
22 costs more, but it's the choice of, of course, the  
23 buyer which of the two they would want to bring in,  
24 and, obviously, if you brought them in, one is dutied,  
25 and one is duty free, duty free being the palm blend,

1 it will work out to be cheaper once it arrives into  
2 the United States. But the up-front cost of  
3 manufacturing it, it does cost more.

4 COMMISSIONER PEARSON: Okay. Good. Well,  
5 thank you. That's helpful and perhaps a little bit  
6 more definite than anything that I heard earlier  
7 today.

8 Did you have something?

9 MR. LaZAR: Yes. I would like to add also  
10 that we have developed information -- I don't know if  
11 it's in the record here -- that a barrel of palm oil  
12 costs a lot more than a barrel of oil, and the amount  
13 of paraffin wax that comes out of a barrel of oil, of  
14 course, is relatively small, and you wouldn't  
15 necessarily find a perfect correlation between the  
16 price of paraffin wax and the price of a barrel of oil  
17 in any case.

18 The markets move differently, for a variety  
19 of reasons that we don't need to go into, but our  
20 understanding is, consistently, the palm wax that's  
21 usable for a candle is a particular fraction from the  
22 hydrogenation process and that it's just much more  
23 expensive and has been than the paraffin wax.

24 We can provide some backup data on that, and  
25 we will in the post-hearing submission.

1           MR. STAYIN: And I think that the staff  
2 report supports the fact that palm wax is more  
3 expensive, has been more expensive, than petroleum  
4 wax. Now, as the price of petroleum goes up, then we  
5 may see a change in that, but I think that we've had  
6 testimony today about how low the price of petroleum  
7 wax was in the U.S. market throughout the period of  
8 review, and I think that right now you're probably  
9 seeing that price coming up, but that's now as opposed  
10 to the rest of the period of review.

11           COMMISSIONER PEARSON: Okay. Thank you. I  
12 appreciate those comments.

13           Let me shift, if I could, to some new data  
14 that we have on the pricing products that our staff  
15 provided to us. I don't know, Mr. Love, whether  
16 you've seen it, but it takes a look at whether  
17 individual U.S. firms have had price increases or  
18 decreases in the several pricing products during this  
19 period of review.

20           Frankly, these numbers are all over the map.  
21 For Product 1, we have a preponderance of producers  
22 having a price increase over the POI, one producer  
23 having a decrease. For Product 2, we get two  
24 producers showing an increase in price and a similar  
25 number showing a decrease.

1           Without going through all of it, there is  
2 nothing that appears to me like any type of clear and  
3 consistent pattern in terms of what happened with the  
4 individual pricing products. Perhaps better for the  
5 post-hearing than now, although I'm happy to hear any  
6 comments, if you could help me interpret what those  
7 pricing data are supposed to tell me, that would be  
8 great because I remain mystified at this moment.

9           MR. LOVE: I will confess to share a little  
10 bit of your mystery myself as well. There are many  
11 factors that go into this. It has to do with who the  
12 producer is that happened to provide the pricing data,  
13 who they were selling it to, their differentials,  
14 depending on even within a channel of distribution,  
15 which you would refer to as, say, a department store  
16 gift, card, specialty, craft chain, even within that  
17 there are different pricing pressures that would  
18 determine a different trend perhaps for a particular  
19 customer for a particular product to a particular  
20 customer. And we would just have to take a very close  
21 look at it, frankly, and we'll try to do so.

22           COMMISSIONER PEARSON: Okay. Thank you.

23           Mr. Stayin?

24           MR. STAYIN: I think the customer is very  
25 important. If you're selling to a mass merchandizer

1 -- Wal-Mart, K-Mart, Target -- with those huge orders  
2 that they have and with their insistence that they  
3 compare their price to the Chinese price, -- "Can you  
4 meet this price? This is what I get from China. Can  
5 you meet this price?" -- they look at their costs, and  
6 then they have to decide whether they are going to  
7 sell it at cost or below cost or whether their  
8 particular cost structure enables them to make some  
9 little bit of profit.

10 This gentleman, who sells primarily to the  
11 mass merchandisers and is the largest -- Candle-Lite  
12 is the largest producer of candles in the United  
13 States -- has testified that his prices have gone down  
14 how much, Bob?

15 MR. HIGGINS: Twenty-one percent.

16 MR. STAYIN: Over the period of review.  
17 Now, this guy is selling more candles than anybody  
18 else in this room and is the majority -- one of the  
19 largest -- is the largest seller -- he is telling you  
20 21 percent. That's the experience of most of these  
21 people.

22 You get a fellow who has got a small volume  
23 who is selling to a very narrow segment, you might see  
24 these prices, and, of course, if you're talking about  
25 the direct sellers, there is another thing that skews

1 the prices.

2 COMMISSIONER PEARSON: Okay. Mr. Higgins,  
3 you had something more?

4 MR. HIGGINS: No, I'm sorry. I was at a  
5 disadvantage. I didn't hear the question. I was out.  
6 I just responded to what he asked me.

7 COMMISSIONER PEARSON: That's fine.

8 Mr. Chairman, my light is changing, so I'll  
9 pass.

10 CHAIRMAN KOPLAN: Thank you, Commissioner.

11 I just want to clarify. Mr. Stayin, when I  
12 asked that question in my first round, and  
13 Commissioner Miller followed up to that, regarding  
14 footnote 21 on page 113 of the staff report that  
15 identified NCA members who produce some candles as  
16 blends, I wanted to make clear to you that what I'm  
17 looking for in answer to that question, and I think it  
18 will be clear when you look at the transcript, is that  
19 I'm looking for data on domestic blended versus  
20 domestic petroleum wax candles. That's what I'm  
21 interested in getting from you.

22 It appeared to me that the data in your  
23 brief refer to imports, but for purposes of that  
24 question, that's what I'm looking for, the data on  
25 domestic blended versus domestic petroleum wax

1 candles.

2 MR. STAYIN: As you know, in that data,  
3 there is a very small number of companies that we know  
4 that make it, and we will go to them and get this data  
5 for you.

6 CHAIRMAN KOPLAN: I also am just curious. I  
7 also note that, in terms of the HTS, all candles are  
8 in a basket category, --

9 MR. STAYIN: That's correct.

10 CHAIRMAN KOPLAN: -- and that's in Chapter 1  
11 at page 10 of our staff report. You have made  
12 references, both in your brief and in your testimony,  
13 that Customs has been doing a fine job of identifying  
14 the subject product coming into the country, even more  
15 so. How are they doing that when we're talking about  
16 a basket category such as this?

17 MR. STAYIN: They are looking at entries.  
18 They are looking at data. They are looking at trends.

19 CHAIRMAN KOPLAN: They are asking more  
20 questions. Is that it?

21 MR. STAYIN: Absolutely, asking more  
22 questions, and what they have done is, in certain  
23 cases, have done blitzes where they would just go in  
24 and open every carton that's in a shipment over a  
25 period of a month, for example, in a particular port

1 to see whether the claim of it being in scope as  
2 opposed to out of scope is correct, and they have  
3 found and have, in fact, gone after the companies as a  
4 result of these blitzes that they have found to be  
5 making fraudulent entries in terms of whether it's in  
6 scope or out of scope.

7 CHAIRMAN KOPLAN: Mr. Love?

8 MR. LOVE: Yes. I would like to add, one of  
9 the major activities back in the year 2000 when we  
10 brought this circumvention problem to the Customs'  
11 attention was to develop seminars for all of the port  
12 people to try to understand this very complex issue,  
13 subject versus nonsubject, with samples and several  
14 days of training to figure out what's in and what's  
15 out, and at the Department of Commerce this is such a  
16 vexatious issue, they have posted on their Web site a  
17 specific link laying out all of the scope rulings on  
18 candles so that there will be no mistake for any  
19 importer as to what's in and what's out. They have  
20 never done this before, and it's a kind of unique  
21 feature of the Commerce Web site. They, in  
22 conjunction with Customs, have really tried to sort  
23 this problem out.

24 CHAIRMAN KOPLAN: Thank you.

25 MR. STAYIN: I might add to that that at

1 that time these blended candles weren't coming in, so  
2 we were dealing with the other out-of-scope candle  
3 issues.

4 CHAIRMAN KOPLAN: Okay. Thank you. Thank  
5 you both for that.

6 Mr. Stayin, at pages 44 and 45 of your  
7 prehearing brief, you argue that while total imports  
8 of candles from all sources have declined, imports of  
9 candles from China have increased. From the data  
10 presented in the staff report at Table 4-2, which you  
11 referred to, Mr. Love, as your Exhibit 3, and I would  
12 say to you, although you don't have this yet, that the  
13 trend continues in the revised table that you'll be  
14 getting, these appear to be primarily nonsubject  
15 imports. These nonsubject imports from China have  
16 displaced other nonsubject imports from other sources.  
17 They have not apparently displaced U.S. producers'  
18 domestic shipments that have gained market share since  
19 '99, and I make reference to the staff report at  
20 Tables 1-1 and C-1.

21 Are the blended wax candle imports from  
22 China more substitutable for other nonsubject imports  
23 than for domestic products?

24 MR. STAYIN: Say the last part again.

25 CHAIRMAN KOPLAN: Are the blended wax candle

1 imports from China more substitutable for other  
2 nonsubject imports than for domestic products?

3 MR. STAYIN: No, because the other  
4 nonsubject imports are unique, novelty-type candles:  
5 a Santa Claus, a figurine. These are candles that are  
6 in numerals, birthday cake candles, numerals that you  
7 can put out.

8 The out-of-scope candles were not these  
9 types of candles in front of you. These candles that  
10 are coming in with palm mix, the blended candles, are  
11 coming in as pillars or tapers or votives, and that's  
12 different.

13 The other thing I might say --

14 CHAIRMAN KOPLAN: Can you document this for  
15 me in any way in the post-hearing? I understand your  
16 argument, but is there any documentation you can  
17 provide?

18 MR. STAYIN: The scope reviews are all  
19 attached to the staff report, and it indicates every  
20 one of the candles that have been included and those  
21 that have been excluded. Just for an example, if you  
22 take --

23 CHAIRMAN KOPLAN: Let me ask you this. Are  
24 they better or worse substitutes for domestic products  
25 that subject imported petroleum wax candles? Are they

1 better? Are the blended wax candle imports from China  
2 better or worse substitutes for domestic products than  
3 subject imported petroleum wax candles?

4 MR. LOVE: I believe the answer is they are  
5 no more or less substitutable, if I understand your  
6 question.

7 CHAIRMAN KOPLAN: Yes. That's the question.

8 MR. LOVE: Okay. I think the general  
9 assessment is that they are no more or less  
10 substitutable than subject imports from China.

11 CHAIRMAN KOPLAN: Okay. Let me stay with  
12 you, if I could, Mr. Love. Let me stay with you.

13 The staff estimates elasticities in the  
14 range of four to eight regarding substitutability  
15 between domestic petroleum wax candles and subject  
16 petroleum wax candles imported from China. Do you  
17 agree with staff? That's at Chapter 2 at pages 27 and  
18 28 of the staff report.

19 MR. LOVE: We would agree with the staff,  
20 yes, at the higher end particularly.

21 CHAIRMAN KOPLAN: Okay. I appreciate that.

22 Mr. Stayin, the NCA prehearing brief  
23 compares the financial performance of the domestic  
24 firms you characterize as direct sellers to other  
25 domestic producers and then continues, at page 39, and

1 I quote: "With integrated control for production  
2 through distribution through sale to the final end use  
3 customer, there is no point at which import supply can  
4 compete for sales to the retail end of these  
5 operations. Thus, price pressure from imports from  
6 China has much less influence on the profitability of  
7 these few candle producers."

8 Are you effectively arguing that the  
9 Commission exclude direct sellers from its definition  
10 of the domestic industry?

11 MR. STAYIN: No, we are not because we have  
12 said they are indirectly affected in the marketplace  
13 by virtue of the fact that a Wal-Mart or a Target will  
14 price their products as low as possible in order to  
15 sell as many candles as possible.

16 So, in the arena of consumers, when they go  
17 to buy, there will be a bit of this effect in terms  
18 of, well, I can go buy a candle at Wal-Mart just like  
19 that, and so they will get that kind of a push-back  
20 from consumers. What you don't have is that they  
21 don't have the choice in terms of the direct seller,  
22 the person who is selling to the consumer, doesn't  
23 have a choice of where he is getting his candles. He  
24 gets it from the producer that owns him or her, their  
25 store, or who they are working for directly, so they

1 are only going to sell those. But in their ability to  
2 be successful in selling in the marketplace, they do  
3 have some effect from Wal-Mart-type operations.

4 CHAIRMAN KOPLAN: Does the reported  
5 existence of a market segment in which subject imports  
6 do not compete make the domestic industry less  
7 vulnerable to injury from subject imports?

8 MR. STAYIN: Absolutely not. You're talking  
9 about a very small segment. The overall domestic  
10 industry is being severely affected already.

11 CHAIRMAN KOPLAN: Okay. I appreciate that.  
12 I see my yellow light is on, so I'll turn to  
13 Vice Chairman Okun.

14 VICE CHAIRMAN OKUN: Thank you, and thank  
15 you again for all of the information we've received  
16 thus far.

17 Let me just follow up briefly again on how  
18 we evaluate the industry, and I think a number of my  
19 colleagues have asked the question for post-hearing  
20 with regard to how you would have us conduct the  
21 analysis, both with regard to the industry as a whole  
22 and not the segment of the industry where you see the  
23 most competition in what's happening there.

24 I just want to be clear, Mr. Love, on the  
25 point I made earlier about when I looked at your

1 analysis because you had excluded a domestic producer  
2 because you argued that its primary focus is on sales  
3 directly to end use customers for its own retail  
4 establishment. And, again, the figures I looked at,  
5 and, again, I could be wrong about this, but, to me,  
6 it looked like less than 50 percent of its sales were  
7 to that channel. To me, again, the primary focus, I  
8 think, would be higher than that. So, to me, it  
9 seemed like, at least for that, there had to be an  
10 apportionment of that particular company's -- when I  
11 did that, it changed all of the trends that you're  
12 talking about.

13 So, again, to the extent that you're making  
14 the argument that we need to look at the information  
15 as a condition of competition, I think that you need  
16 to make clear for me how you decide to break out the  
17 data and whether there is a more proportional way to  
18 do that, if one were to choose to look at it that way.  
19 So that can all be covered post-hearing.

20 I want to make sure, Mr. Stayin, that I  
21 wasn't confused in listening to your response to the  
22 chairman a minute ago about nonsubject and subjects.  
23 When you were talking about whether they were  
24 substitutable -- I think the chairman had asked  
25 whether the Chinese blended product was taking market

1 share from nonsubjects, and you started talking about  
2 things that were not in the order, the novelty  
3 candles. To me, I think the issue there is the  
4 nonsubjects that are not Chinese. In other words,  
5 there are nonsubject imports that are not nonsubject  
6 Chinese.

7 MR. STAYIN: I'm sorry. I misunderstood.  
8 You meant nonsubject countries --

9 CHAIRMAN KOPLAN: It's my fault. She is  
10 right.

11 VICE CHAIRMAN OKUN: Okay. So if you could  
12 just talk a little bit about the other nonsubjects  
13 that are not nonsubject Chinese.

14 MR. STAYIN: The reality is that, yes, the  
15 Chinese have been taking away from imports from other  
16 countries a significant amount.

17 Mark, do you want to comment on that?

18 MR. LOVE: Yes. I think, during the period  
19 when demand was very strong in the late nineties, you  
20 saw a big increase in nonsubject imports other than  
21 from China, okay, and that was a function largely of  
22 the incredible growth in demand over that period. It  
23 was a rising tide lifting all boats.

24 I think that's fair to say, and these  
25 companies generally are trading fairly, with the

1 exception of Hong Kong, of course. Two of the biggest  
2 suppliers are Mexico and Canada, so it's almost like a  
3 NAFTA issue. They are kind of integrated into the  
4 U.S. market, and it has occurred during the last few  
5 years as demand has stagnated badly, and China has  
6 come in. It has definitely affected imports from  
7 Canada, imports from Mexico, and other countries that  
8 just can't compete with China.

9           The only way that the domestic producers  
10 have kept their roughly 50-percent market share -- I  
11 think that's public -- has been basically to drop  
12 their prices a lot, and you see the price drops in the  
13 data that are available. Maintenance of that market  
14 share, I don't think, is going to last unless  
15 something is done about the circumvention, and if you  
16 revoke the order, that market share is going to drop  
17 like a stone within a year or two.

18           VICE CHAIRMAN OKUN: Okay. Just help me  
19 out. In terms of the nonsubject imports that were in  
20 here, then, if we had nonsubject candles here, and we  
21 were looking at them, from Canada or Mexico, would  
22 they be petroleum-based candles, --

23           MR. LOVE: Yes.

24           VICE CHAIRMAN OKUN: -- or would I see any  
25 of this blending?

1 MR. LOVE: No, no.

2 VICE CHAIRMAN OKUN: The only place I would  
3 see blending is if made in China.

4 MR. LOVE: Absolutely, absolutely.

5 MR. STAYIN: The only source of blended  
6 candles at this time, in the entire time that we're  
7 aware of --

8 VICE CHAIRMAN OKUN: All right. I'm  
9 fascinated by this Mexico thing. The Chinese, did  
10 they sell blended product into Mexico that you know  
11 of? Do you know?

12 MR. LOVE: As far as I'm aware, they don't  
13 sell anything into Mexico.

14 VICE CHAIRMAN OKUN: Nothing. Really?

15 MR. LOVE: Well, I could be incorrect on  
16 that, but I'm not aware that --

17 VICE CHAIRMAN OKUN: You think that they are  
18 only selling blended product in the United States. I  
19 think it's Mr. LaZar. You seemed to have some  
20 familiarity with what's coming in.

21 MR. LaZAR: The store checks that I have  
22 done in Mexico, including Wal-Mart stores and then  
23 some of their craft stores, I really haven't seen much  
24 -- I haven't seen Chinese imported candles in there,  
25 so I can't comment if they have been blended from

1 there or not. Mexico does have a lot of their own  
2 production, and I have seen traces of U.S. production  
3 in Mexico.

4 VICE CHAIRMAN OKUN: Okay. And then the  
5 other thing that I needed some clarification on, and  
6 this is going back a while now, Mr. Stayin, when we're  
7 talking about Table 4-2, which is your Exhibit 3,  
8 which, as the chairman has noted, has been revised,  
9 but for my question doesn't matter whether it's  
10 revised or not, which is when we were talking about  
11 what would happen if the order is lifted, when you  
12 were talking about the percentages and what you think  
13 is actually subject product versus nonsubject, subject  
14 product under the current definition, are you talking  
15 about you would then be calling subject product  
16 subject product that included these blended candles?

17 MR. STAYIN: I was talking about the  
18 nonsubject, subject being the petroleum wax candles  
19 and nonsubject being the ones that are over 50 percent  
20 palm.

21 My point was that if you lift the order, the  
22 Chinese will have no reason at all to continue to sell  
23 petroleum wax candles in this market because it's more  
24 expensive to produce it than to use their own  
25 petroleum wax and ship 100 percent what are not

1 subject candles to the market.

2 So I think if you drop the order, palm  
3 blends would disappear, and the only thing you would  
4 find in the United States would be the efforts of the  
5 soy industry to try to bring fruition more sales of  
6 soy wax candles, which has not been great. It hasn't  
7 taken hold yet. It is being done, but it's not a big  
8 part of the purchasing and the sale.

9 VICE CHAIRMAN OKUN: Did you want to add  
10 something, Mr. Higgins?

11 MR. HIGGINS: Yes. I wanted to add that  
12 even though the materials cost more for the blended  
13 candles, the Chinese offer them cheaper than the  
14 paraffin wax candles.

15 VICE CHAIRMAN OKUN: Okay. All right.  
16 Well, let me ask some forward-looking questions, which  
17 usually we spend a lot more time on, but because of  
18 the presence in the market already, I would have to  
19 spend time on other things, I guess.

20 Forward-looking, what's demand look like,  
21 from the industry folks? What do you see going on in  
22 demand for your product when you're looking at your  
23 market analysis, and how long out do you look?

24 MR. HIGGINS: We generally look out about  
25 two years. This year's forecast is forecasting about

1 the same as last year, and next year is forecasting  
2 down in sales.

3 VICE CHAIRMAN OKUN: And the reason you have  
4 a downward forecast in the next year is based on?

5 MR. HIGGINS: We just have no optimism we're  
6 going to get the same orders we got this year at all  
7 because they just keep getting more and more Chinese  
8 products in the mass --

9 VICE CHAIRMAN OKUN: So even with an order  
10 in place, the market forecast with this order in  
11 place, you say you forecast going down. Is that  
12 accurate?

13 MR. HIGGINS: Yes, particularly because they  
14 have been able to get around the order.

15 VICE CHAIRMAN OKUN: Okay. I just wanted to  
16 make sure I understood that.

17 Mr. Pappas?

18 MR. PAPPAS: Generally speaking, we've had a  
19 decline in sales, but we've been able pretty much to  
20 try to level that out, and that's what we've been able  
21 to do.

22 I think, going back a little bit to  
23 Commissioner Pearson's question, the industry  
24 struggled in the beginning, and I think a lot of us  
25 really weren't sure what was going on, so we were

1 trying to meet price points and, I think, put out  
2 lower pricing just to try to hold onto the business  
3 but have begun to realize that we can't do that. We  
4 can't continue, not for this length of time. We're  
5 going to have to basically have our prices go up, or  
6 we're not going to be in business.

7 So I guess we're looking at a decline  
8 primarily because we think there is going to be some  
9 resistance to the fact that we're going to have to  
10 raise prices, regardless of what's going on here.

11 VICE CHAIRMAN OKUN: Okay. Mr. LaZar?

12 MR. LaZAR: Yes. I would like to comment a  
13 little bit, and I may give away a little bit of  
14 information here. But we have shown a little bit of  
15 increase in business, General Wax and Candle Company,  
16 with our stick business. What I'm talking about is  
17 our tapers, our thinner candles. We believe it's a  
18 result of the increased duties that were placed on the  
19 Chinese candles a year ago, and these candles have not  
20 been in the marketplace with palm blend. It just  
21 doesn't seem to be able to be made at a quality that's  
22 acceptable even to the buyers.

23 And as far as continued growth in the candle  
24 industry, we believe that the mass merchandisers have  
25 pretty much maximized their shelf space. So as we

1 continue to fight with the Chinese for that shelf  
2 space, we don't see a lot of increased opportunities.  
3 However, there will be what we believe is a small  
4 growth as the population growth increases.

5 VICE CHAIRMAN OKUN: Thank you.

6 Mr. Chairman, could I ask Mr. Goddard to  
7 just comment on that, just for completeness of the  
8 record?

9 CHAIRMAN KOPLAN: Certainly.

10 VICE CHAIRMAN OKUN: Thank you. Mr.  
11 Goddard?

12 MR. GODDARD: I think it would be preferable  
13 for HFH to provide that information as an answer in  
14 the post-hearing brief.

15 VICE CHAIRMAN OKUN: That's fine, and if  
16 there is any additional information that you all have  
17 that you consider business proprietary in how you do  
18 your forecasts out, I would appreciate seeing that as  
19 well.

20 Thank you, Mr. Chairman.

21 CHAIRMAN KOPLAN: Thank you.

22 Commissioner Miller?

23 COMMISSIONER MILLER: Thank you, Mr.  
24 Chairman.

25 Let me stay, if I could, sort of on a

1 similar line of questioning because I do also feel a  
2 bit like I've spent a lot of time understanding the  
3 scope and the like product issues, and there are still  
4 some basics about the marketing of candles and what's  
5 going on now and in the future that I still want to  
6 explore a little bit more.

7 In particular, some of my question is  
8 prompted by the chart that we have in our staff report  
9 regarding the channels of distribution and the  
10 different sales outlets. You've talked about the mass  
11 merchandisers and what's happened with your accounts  
12 at the mass merchandisers.

13 We have one line that talks about own retail  
14 outlets/private labels. Okay? And actually, on the  
15 importing side, that apparently seems to have picked  
16 up a lot of the mass merchandisers. I wouldn't think  
17 of them as an own retail outlet because it's not a  
18 candle store. Right. But we know the mass  
19 merchandisers do a fair amount of direct importing, so  
20 it's coming up there.

21 But, otherwise, is there more of a trend to  
22 candle companies having their own retail outlets? And  
23 you also talk about the private labels, and I want to  
24 understand who the private labels are. When I walk  
25 into the malls, I see Illuminations. I know there are

1 other candle stores around the malls that you all  
2 know. You guys who are in the marketing, in  
3 particular, really know what's going on.

4           Maybe I should go to Mr. LaZar and let him  
5 talk a little. You're the marketing guy back there.  
6 Tell me just a little bit about these different  
7 candles and how they are competing with each other,  
8 and why do I go to Illuminations rather than Target or  
9 Wal-Mart, or do I?

10           MR. LaZAR: Well, you would know. If you go  
11 to Illuminations, and maybe they have a product there  
12 that you're more loyal to, or you find that there  
13 might be a certain scent or shape there that you find  
14 appealing that you can't find elsewhere, I'm not  
15 really sure -- you would know that.

16           COMMISSIONER MILLER: I'm saying "I," but  
17 your general customer out there, you know. I'm just  
18 trying to understand how these different outlets  
19 compete against each other and if some are growing and  
20 some are losing, putting together some of the  
21 different statements I've heard today.

22           MR. LaZAR: Okay. Well, again, the industry  
23 hasn't really broken out and branded products very  
24 well. Some of the ideas that your Wal-Marts and some  
25 other super-sized stores are trying to throw on their

1 private label to bring some brand recognition that  
2 would be directed to their stores only to try to get  
3 repeat customers to become familiar with their product  
4 and to become a member of their product -- I'm trying  
5 to answer your question. I'm not sure exactly which  
6 direction you're looking for me to go in.

7 COMMISSIONER MILLER: You know, to the  
8 extent that we have the own retail outlets, the candle  
9 companies, who all is doing that? I mean, you guys  
10 know who they are.

11 MR. LaZAR: Yes. Some of the ways to get a  
12 brand recognized is you can do it through self-  
13 branding, and that's opening up your own stores.

14 COMMISSIONER MILLER: Have any of the  
15 companies here?

16 MR. LaZAR: Well, one of the more popular  
17 ones I was going to mention that you might be familiar  
18 with is Yankee, which has many stores across the  
19 country, --

20 COMMISSIONER MILLER: Right, right.

21 MR. LaZAR: -- and that's self-branding.

22 Other ways is advertising. I've seen S.C.  
23 Johnson advertise on TV candles and other fragrance-  
24 delivery systems that also would go hand in hand with  
25 candles. And then there is innovation, trying to

1 build a product that no one else has, and, again, in  
2 the candle business, it's very hard to differentiate.  
3 So the self-branding is probably the most common of  
4 trying to get people to recognize your product.

5 COMMISSIONER MILLER: Okay. Do you see that  
6 as a growing area, a successful, growing area, or not  
7 really; they are subject to the same pressures as the  
8 mass merchandisers?

9 MR. LaZAR: Recently, I have seen it as a  
10 growing area, and I think a lot of it has to do with  
11 that candles really took off in the nineties. People  
12 found that they can bring home a scent. A scent was a  
13 great reminder of some pleasant memories. We called  
14 it "aromatherapy," and that really took off heavily in  
15 the nineties, and candles became very popular, so it  
16 gave a lot of opportunities for candle manufacturers  
17 to go ahead and sell their own product through their  
18 own stores.

19 But I guess what I'm seeing now is that  
20 we're capping out, and that there's just so many  
21 people buying candles that more and more people are  
22 trying to produce and to come into what they think is  
23 a lucrative market, but as more people entered into  
24 the market, the margins have become smaller, and it's  
25 getting more difficult.

1                   COMMISSIONER MILLER: Okay. Mr. Higgins,  
2 you look like you wanted to --

3                   MR. HIGGINS: Yes. Candle-Lite, also in the  
4 nineties, started expanding and opening retail stores,  
5 and we found we couldn't make it profitable or worth  
6 our while, and we started shutting them all back down,  
7 and we're down to just one or two now.

8                   COMMISSIONER MILLER: Okay. So it didn't  
9 work for your company. Well, wait a minute. You said  
10 it didn't work for Candle-Lite.

11                  MR. HIGGINS: That's right.

12                  COMMISSIONER MILLER: Okay. Anybody else?

13                  MR. GODDARD: I can add one more data point  
14 there. HFH was founded as a direct-retail seller, and  
15 it slowly migrated away from that, and last year we  
16 sold the last of our dedicated retail outlets. We  
17 have one store now which is a warehouse outlet  
18 attached to the factory itself.

19                  So our trend has been away from a branded,  
20 direct-retail-outlet type of sale to a private label  
21 for large merchandisers. We sell to people like Bed,  
22 Bath & Beyond and Pier 1 and those types, and they  
23 have their own private labeling that we provide for  
24 them.

25                  COMMISSIONER MILLER: Okay.

1           Mr. Pappas, do you want to add anything to  
2 the answer?

3           MR. PAPPAS: As a company, other than a  
4 company store, we've never had direct retail outlets.  
5 I tend to agree with Chris, it's something that came  
6 in, was very popular, and then went away. Our main  
7 focus basically is through our own branded products in  
8 the specialty gift trade, but, here again, we're  
9 relying on our customer, and we have a very loyal  
10 following, but they are a casualty of the same thing  
11 we're talking about.

12           We want to talk about the industry, but you  
13 have an entire gift industry that's being hit with  
14 these same issues in the sense that they are in the  
15 same mall with Target or Wal-Mart or whoever and  
16 trying to differentiate their product but basically  
17 have to deal with the fact that you have lower-priced  
18 products and, in some cases, products that are being  
19 dumped in the store next to you.

20           So we see it more as a fact that it's  
21 affecting our customer as well as affecting us.

22           COMMISSIONER MILLER: Okay. One question  
23 that struck me as I was listening at one point  
24 earlier, what are the labeling requirements, the  
25 domestic labeling requirements, for candles? Are they

1 all -- this goes back to the blended issue and,  
2 Mr. Love, when you were talking, what is the sort of  
3 FTC kind of labeling requirement for candles in terms  
4 of their composition?

5 MR. STAYIN: I don't think the FTC has a  
6 labeling requirement other than you can't claim that  
7 they're made in the U.S.A., it's that type of a  
8 question, but they don't have a requirement as to what  
9 specifically needs to be put on those candles. States  
10 sometimes have labeling requirements, but you'll find  
11 most candles don't tell you what's inside the candle.

12 COMMISSIONER MILLER: Okay. So --

13 MR. STAYIN: But there's weights and  
14 measures.

15 MR. HIGGINS: The only requirement I'm aware  
16 of is the weights and measures, which put the amount  
17 on the product.

18 COMMISSIONER MILLER: Right. Okay. So the  
19 fact that the one label you read, Mr. Love, said  
20 paraffin was just -- it was just the decision of the  
21 company to label it as paraffin? They are not  
22 typically labeled in terms of what kind of wax it is?

23 MR. LOVE: That is absolutely correct. Yes.  
24 This is purely the discretion of Target or whoever  
25 made those candles for Target as they had specified.

1 And there is no requirement that they have to say  
2 52 percent palm wax on the bottom label either.  
3 That's done for other purposes.

4 COMMISSIONER MILLER: So, Mr. Stayin, when  
5 you said earlier in response, I think, to some  
6 questions from the chairman that you weren't aware of  
7 how much of a problem it was until we were in the  
8 midst of this proceeding. I mean, are you saying in  
9 part on the shelf, you, the companies, weren't aware  
10 that the wax -- you can't tell from looking at it on a  
11 store shelf what kind of wax it's made of?

12 MR. LAZAR: Just to comment on that real  
13 quickly, the majority of those pillars that do have  
14 palm in them would be cored inside and the paraffin is  
15 on the outside. So you can't tell unless you really  
16 break that candle apart.

17 COMMISSIONER MILLER: Okay. So if you break  
18 it apart, you can tell? I mean, I couldn't tell,  
19 probably.

20 MR. LAZAR: Yes. I believe I could tell  
21 most of the time, if you broke it in half.

22 MR. PAPPAS: And this is a major problem for  
23 Customs because we're talking about things here that  
24 can only be done through an analysis of the material.

25 COMMISSIONER MILLER: Tests?

1 MR. PAPPAS: Yes.

2 COMMISSIONER MILLER: Okay.

3 MR. PAPPAS: So it's very easy -- you know,  
4 it's not an obvious thing. It's something you have to  
5 go look for if you're going to find it.

6 COMMISSIONER MILLER: Okay.

7 MR. STAYIN: It's really difficult to find a  
8 palm wax candle in many stores and yet we know that  
9 they're importing huge volumes of it, but it's not  
10 identified on the label. You don't have to do it.

11 COMMISSIONER MILLER: Well, you can't tell.  
12 Okay. All right.

13 I appreciate your answers. Thank you.

14 CHAIRMAN KOPLAN: Thank you, Commissioner.  
15 Commissioner Hillman?

16 COMMISSIONER HILLMAN: Thank you.

17 If I can go back a little bit to the issue  
18 of demand and what's happening in terms of consumption  
19 in the U.S. market, in response to Vice Chairman  
20 Okun's questions, a number of you commented on what  
21 you thought demand for your products, from your  
22 companies, would be. But we were starting to get a  
23 little bit to the issue of just overall in this  
24 country.

25 Do you all have a sense of forecasts out

1       there for consumption of candles? I mean, you said  
2       that the aromatherapy movement or whatever we're going  
3       to call it in the '90s significantly increased overall  
4       consumption for candles. Is it going to come back  
5       down? Is it going to stay flat? Where do you see  
6       overall consumption going and what drives it?

7               MR. STAYIN: Mike, do you want to just start  
8       with this?

9               MR. LOVE: I'll start with my understanding  
10      and that is that --

11              COMMISSIONER HILLMAN: Are there industry  
12      forecasts out there?

13              MR. LOVE: No. Not that we're aware of.  
14      Individual companies do their own to a certain extent,  
15      but largely related to their own performance as  
16      opposed to the overall demand. We know that apparent  
17      consumption has been pretty flat over the last six  
18      years. This simply reflects the end of that large  
19      very rapid growth period that has been discussed  
20      earlier. I think now the overall demand is really  
21      going to be a function of economic conditions. It's  
22      going to track pretty much GDP growth or decline and  
23      possibly reflect a little bit of population increase.  
24      It's going to be a very stable trend related to  
25      economic cycles. You saw that very clearly in the

1 decline in apparent consumption in 2001. That was  
2 clearly recession-related. And you have a fairly good  
3 increase in demand in '04, which you see in the data,  
4 which I think reflects the economic recovery and so  
5 beyond that, I wouldn't go beyond that. I don't see  
6 any demand shifting factor other than that,  
7 personally, but that's just my view.

8 COMMISSIONER HILLMAN: Go ahead.

9 MR. LAZAR: I was just going to comment that  
10 the size of the General Wax & Candle Company is very  
11 small in comparison to some of these other guys and  
12 that we're not even a percent of the market, so  
13 honestly, opportunity may be greater for us in some  
14 areas, but as far as forecasting, I really think we  
15 did peak out, like I said, with the aromatherapy and  
16 that the overall look in the near future is going to  
17 be very, very little, if any, growth. And it will be,  
18 again, I think, more to do with population growth.

19 COMMISSIONER HILLMAN: Okay. Nothing in  
20 terms of a trend or a technology that is going to  
21 change any of this?

22 MR. STAYIN: The activity here in Washington  
23 may make a change in things. Obviously, if the order  
24 were revoked, obviously, that would have a tremendous  
25 effect on demand for U.S. candles. Also, if the

1 Department of Commerce in its determination finds that  
2 these palm wax candles are later developed products,  
3 it will take those candles out of the market and you  
4 will have 108 percent duty being applied to all  
5 imports of candles from China other than these  
6 novelties. So the increase in demand for U.S. candles  
7 could substantially increase over the next couple of  
8 years if certain things occur.

9 COMMISSIONER HILLMAN: But if we look at  
10 demand overall, I guess I'm trying to understand --  
11 I've heard the answers that you all think there's not  
12 a sort of trend out there that's going to push demand  
13 way up, but if prices go up, is this the kind of  
14 discretionary item where your average consumer says,  
15 gee, I'm not going to burn candles tonight for dinner  
16 because they actually cost enough that I'm only going  
17 to save them for whatever special occasion there may  
18 be? I mean, at what point does the fact that you can  
19 get currently very cheap candles drive more people to  
20 burn candles more often than they might were they more  
21 expensive per item? How much of the increase in  
22 consumption is the availability of very low priced  
23 candles, where people are burning them where they  
24 didn't use to?

25 MR. HIGGINS: I've been in the candle

1 industry since 1978 and my experience is that the  
2 candle industry has been fairly recession proof where  
3 it really didn't matter, the price of the product. As  
4 inflation went up or cost of living went up, more  
5 people tended to entertain at home and buy more  
6 candles, so we've never really been affected that much  
7 by the price of the product.

8 COMMISSIONER HILLMAN: That's very helpful.  
9 That's very helpful.

10 Mr. Pappas?

11 MR. PAPPAS: We've seen actually the  
12 barometer for us is the cost of gasoline and energy.  
13 Most people who buy our products are basically between  
14 25 and 55, female, and basically shop with  
15 discretionary income, basically what's left over after  
16 they buy their groceries and whatever. And we've  
17 found that to some degree that when energy goes up,  
18 especially gasoline, it reduces disposable income. We  
19 actually -- when gasoline came down a little bit  
20 recently, our sales went up and there's no question  
21 that energy has an effect on it.

22 COMMISSIONER HILLMAN: Okay. If I can then  
23 turn back to some of the financial data, you're  
24 arguing -- I understand very well the issue that  
25 you're arguing in terms of how to look at the data

1 that we have in terms of taking out the companies that  
2 are to some degree engaged in direct selling. If we  
3 should not do that, if our view is that that's really  
4 not the appropriate way to look at the data and that  
5 we should look at the data as it's given to us, the  
6 industry as a whole, do you still believe that the  
7 data shows us a vulnerable industry?

8           Again, I'm trying to understand where you  
9 get to your contention that the industry is  
10 vulnerable, if I look at -- again, production is up,  
11 very slightly, but nonetheless up. If I look at  
12 operating incomes in the teens and high teens, to some  
13 degree, and increasing over this period of  
14 investigation. Again, I go through the traditional  
15 factors that we would look at in terms of making a  
16 determination. If I don't do what you've suggested,  
17 do you still think the industry is vulnerable and why?

18           MR. LOVE: Yes, certainly. The answer is  
19 yes, of course. I think whether you look at the  
20 industry as a whole, all data as a whole, or in the  
21 subset that we've been focusing on, I think the  
22 quantity effects are still going to be the same. We  
23 believe our estimates of the growth and imports after  
24 revocation, all of which would be subject import  
25 growth, are conservative. We're talking 100 million

1 in the first year, which is a huge portion of current  
2 domestic production and shipments and that's at risk.  
3 And we know that prices have declined over the period,  
4 so there's been price depression, if you will, so that  
5 indicates some vulnerability to the existing increases  
6 in imports.

7 I think with respect to the operating  
8 profitability, I think that the price declines that  
9 you have seen over the period and price declines that  
10 would occur after revocation could easily wipe out  
11 most of that profitability.

12 But, again, I don't think you can really  
13 fairly address the issue without acknowledging the 80  
14 percent of the U.S. industry and market where there is  
15 in fact a serious problem right now.

16 COMMISSIONER HILLMAN: I understand that.  
17 I'm just -- again, I'm looking at these numbers and  
18 saying, okay, profits are going up and they're  
19 healthy, very healthy. Again, production is not going  
20 down overall for the industry. Again, a lot of the  
21 other factors that we would look at and to me they  
22 would not suggest necessarily a vulnerability.

23 Yes, you've seen the price declines that  
24 you've talked about and yet the industry's profits go  
25 up, so how is it that I'm supposed to assume that the

1 next set of imports is going to somehow significantly  
2 change the financial picture from what we're looking  
3 at today?

4 You already have a healthy volume of  
5 imports, you already have whatever effects of price  
6 suppression as you're describing it, they're already  
7 here in the data, and yet I see an industry that's  
8 pretty profitable and producing at a pretty high  
9 level. So why is tomorrow going to be so dramatically  
10 different?

11 And maybe because a lot of the data is --  
12 some of the data at last is confidential, if there is  
13 something further you want to say on this, but,  
14 again --

15 MR. LOVE: If I could just authority one  
16 more thing that's non-APO.

17 COMMISSIONER HILLMAN: Yes.

18 MR. LOVE: It's kind of a triage effect  
19 here. There are some people right now on the front  
20 line that are getting very hurt, okay? And you move  
21 from that extreme through to the direct sellers that  
22 we were talking about, they will be the last to go,  
23 but I think the indirect competition that Mr. Stayin  
24 was referring to will eventually affect them. It  
25 might not be in the first year after revocation, but

1 they are definitely vulnerable and they have told us  
2 that they are vulnerable, that they are worried about  
3 that indirect competition. And that's what I base it  
4 on.

5 COMMISSIONER HILLMAN: Okay. Then the last  
6 question I have is more of a data question.

7 Mr. Love, you stated in your testimony that  
8 the importer questionnaire data that we do not have,  
9 whatever 40 percent that we don't have data on, is  
10 going to be much more heavily skewed with respect to  
11 subject product.

12 Again, if there's anything you can say in  
13 the post-hearing brief about why do you think that's  
14 the case and try to help us sort through what do we  
15 make of the data that we do have. In other words, I'm  
16 trying to understand how much of the non-subject  
17 Chinese product is novelty product that we would all  
18 agree ought to be non-subject product versus how much  
19 of it is the blended product over which we've had all  
20 of this discussion today. Anything that you can help  
21 me understand what portion of what we're deeming  
22 non-subject is what we would all agree is non-subject  
23 as opposed to the blended product and then, again,  
24 where do you have evidence for your assertion that a  
25 higher percentage of what we don't have would be

1 subject imports.

2 MR. LOVE: I understand entirely and we'll  
3 address that. Can I make one point? One example  
4 would be, for example, in 2001, we know that the  
5 actual amount of duties that were assessed on candles,  
6 the value of entries from China that actually got a  
7 duty assessed on it was about 58 million, okay? This  
8 we know. And that's probably low because there were  
9 circumventions still going on. That translates into  
10 58 million pounds of subject imports in 2001.

11 If you look at the staff data, they're not  
12 the revised that Mr. Koplan referred to, but in 2001,  
13 Exhibit 3 shows 19 million pounds from China of  
14 subject. So we know that it had to be at least 58  
15 million and it's probably more if people were honest  
16 about it and these numbers show 19 million. That's  
17 the order of magnitude of understatement that concerns  
18 me.

19 COMMISSIONER HILLMAN: Okay. I appreciate  
20 those responses. Thank you very much.

21 CHAIRMAN KOPLAN: Thank you.

22 Commissioner Lane?

23 COMMISSIONER LANE: My first question,  
24 I think, is probably for Mr. Higgins or for maybe  
25 Mr. LaZar.

1           If the order is lifted, one of you said that  
2           China then would go back to producing only  
3           petroleum-based candles. How soon could they do that  
4           and is there any problem with their current equipment  
5           converting it to only petroleum-based candles?

6           MR. HIGGINS: They could go very quickly  
7           because there's a large supply of petroleum wax over  
8           there. They obviously would do it because that raw  
9           material is cheaper than the vegetable oil or the palm  
10          oil and there is no difference in the equipment. They  
11          could just convert tomorrow, would be no problem  
12          whatsoever.

13          COMMISSIONER LANE: Okay. Thank you.

14          MR. LAZAR: Just to add to his comment, I've  
15          been to China, I've been to about 20 different candle  
16          factories in China and they can switch on the fly.  
17          There isn't a difference in equipment, as Mr. Higgins  
18          pointed out, and it would just be a matter of how  
19          quickly the can get that wax and I would predict  
20          within a week.

21          COMMISSIONER LANE: Okay. Thank you.

22          Now, this is for Mr. Stayin or Mr. Love. In  
23          looking at what is likely to happen if the order is  
24          revoked, I understand your answer about the Chinese  
25          simply moving to 100 percent petroleum wax candles.

1       However, I'm not sure that that is the point.

2                   Looking at your Exhibit 3, we see 78 percent  
3       of the volume and 75 percent of value of Chinese  
4       imports that are non-subject in 2004.  Doesn't that  
5       mean that revocation would affect only 25 percent of  
6       the Chinese imports based on 2004 import mix?  And  
7       doesn't that mean that the impact of revocation is  
8       likely to be diminished from what it might have been a  
9       few years ago?

10                  MR. STAYIN:  Mark, do you want to start with  
11       that?

12                  MR. LOVE:  As I mentioned during my  
13       testimony, the first effect of revocation would be the  
14       shift of all those blended candles back into subject  
15       imports, so if you forgot this whole discussion and  
16       just looked at subject imports, in my view, there's no  
17       question that they're going to explode and they're  
18       going to do so many times over.  And part of that  
19       would be that the subject imports as they exist now  
20       will be augmented by all the palm wax candles that are  
21       coming in now and the subject imports will just  
22       skyrocket.  But that's the substitution effect that I  
23       referred to and you could argue, well, okay, so that's  
24       not going to change the overall volume of imports,  
25       really, if that's the only thing that happened, and

1 the would affect your analysis, of course.

2 Two things. One is that the petroleum wax  
3 candles are cheaper and there would be a price  
4 depression effect just by the substitution alone, but  
5 it's clear to us that there will be an additional  
6 significant growth in subject imports totally  
7 unrelated to the substitution. China is increasing  
8 its production dramatically. It's increasing its  
9 exports to the world by 140 million pounds each year.  
10 A lot of that is going to come here if the order is  
11 revoked as well as the fact that there are candles now  
12 being shipped to the rest of the world, paraffin wax  
13 candles, that would be shifted back over here.

14 Even if we assumed, I should say, that of  
15 total imports only 22 percent are now subject, which  
16 I don't agree, it's more than that, I'm sure, still,  
17 even at that, with 108 percent duty, you're talking  
18 about an average duty on total imports from China in  
19 excess of 20 percent. That's a lot. I mean, if you  
20 look at the margins that a lot of these people are  
21 working under, a 20 percent margin means the  
22 difference between a small operating profit and a big  
23 loss.

24 So I see all the way around, I see  
25 significant effects; effects that you, the commission,

1 would consider significant.

2 COMMISSIONER LANE: Okay. Thank you.

3 Now, Mr. LaZar, I'm not sure I understand  
4 the blending concept based on something you said.  
5 I assume that generally a blend would be homogenous,  
6 but you mentioned the palm wax core, so would you  
7 explain to me? And does that mean that with a palm  
8 wax core, what is burning? Is it initially the palm  
9 wax and not the petroleum wax?

10 MR. LAZAR: It's the other way around. If  
11 you were to light those candles, the consumption would  
12 be from the paraffin first as the palm is cored inside  
13 and the flame may not reach it for several hours. So  
14 you won't even notice or see any difference, but once  
15 it reaches the palm -- am I confusing you some?

16 COMMISSIONER LANE: Well, the core is  
17 horizontal instead of vertical?

18 MR. LAZAR: The shell of the candle will be  
19 paraffin. Inside that shell you will find the palm.  
20 Does that make sense?

21 COMMISSIONER LANE: No. Because the wick is  
22 in the middle and so doesn't it burn down?

23 MR. LAZAR: That's right, but the top part  
24 of the shell is paraffin. It's the first fuel that  
25 the flame will consume.

1 COMMISSIONER LANE: Okay. Okay. Thank you.

2 All right. Now, another question. How many  
3 firms have entered the domestic candle manufacturing  
4 industry since the issuance of the antidumping order?  
5 And how many, if any, have entered the business since  
6 2001?

7 MR. STAYIN: I'm sorry, I was talking to Mr.  
8 Higgins when you started your question. Would you  
9 please repeat that?

10 COMMISSIONER LANE: How many firms have  
11 entered the domestic candle manufacturing industry  
12 since the issuance of the antidumping order and how  
13 many, if any, have entered the business since 2001?

14 MR. STAYIN: I would have to go back to the  
15 staff report. Off the top of my head, I don't recall,  
16 but I did report the numbers that we know entered and  
17 those that left and it's about -- there are some very  
18 small ones that entered and several that have left the  
19 market during this period of review. So there has  
20 been exiting and there has been some entering, but  
21 I've given specific information on that to staff and  
22 it is in a confidential part of the staff report.

23 COMMISSIONER LANE: Okay. Thank you.

24 Now, one more question and this is really a  
25 strange question, but it sort of struck me when I read

1 the report that it talked about soy-based candles  
2 being edible. Is that true? And why would anybody  
3 want to eat a candle?

4 MR. PAPPAS: We've heard that also. It's  
5 not one of our marketing claims. I think there was  
6 one attachment, I think, to the pre-hearing brief that  
7 was a project, I think the Indiana Soybean Board, some  
8 of their people tried to look at an edible birthday  
9 cake candle and I think that's kind of where all this  
10 got started. We highly don't recommend that you eat  
11 candles. No.

12 COMMISSIONER LANE: Thank you.

13 Mr. Higgins, did you want to add something  
14 to that?

15 MR. HIGGINS: I was going to say they tried  
16 to market this as a natural product or a natural  
17 candle and it's edible, not that they recommend that  
18 you eat it, but it is edible. But paraffin wax is  
19 also, if you want to put it that way. You can eat  
20 paraffin. They make candy lips and things out of  
21 paraffin wax, so it's edible as well.

22 COMMISSIONER LANE: Okay. Thank you.

23 MR. HIGGINS: Not any more natural.

24 COMMISSIONER LANE: Mr. LaZar?

25 MR. LAZAR: I just want to comment that the

1 vast majority of candles have fragrance in them and it  
2 would be very unwise to eat a candle with fragrance.

3 COMMISSIONER LANE: Thank you.

4 Mr. Chairman, I don't have any other  
5 questions.

6 CHAIRMAN KOPLAN: It's not like the movie  
7 "Some Like It Hot," I take it.

8 Commissioner Pearson?

9 COMMISSIONER PEARSON: I would just note  
10 following up on the issue raised by Commissioner Lane  
11 that there are crayons now that also have a soy-base  
12 brand, it's in large part because kids like to chew on  
13 them, even if adults don't. I assume that that same  
14 concept may apply to candles, although I've not  
15 observed it in my household.

16 MR. PAPPAS: Commissioner Pearson, if  
17 I could add, paraffin wax is also edible. Most of the  
18 products that we use are FDA-approved and it's a very  
19 common ingredient in chewing gum. It's a common  
20 ingredient in chocolate as an extender, so, yes, it's  
21 not without reason, but some of these things can be  
22 eaten.

23 COMMISSIONER PEARSON: I can assure you I've  
24 not lost any sleep worrying about the digestibility of  
25 candles or anything like that.

1           I had a question tying into some of the  
2 earlier ones. You seem to be arguing that the  
3 domestic industry has been affected both by subject  
4 imports and by Chinese imports that are outside the  
5 scope as established by Commerce, but the record  
6 suggests that most of the imports now are those  
7 outside the scope. So are you arguing that as a  
8 matter of law the commission can consider the effects  
9 of all imports upon revocation, out of scope as well  
10 as subjection? And, if yes, can you explain the  
11 statutory basis for that argument?

12           MR. STAYIN: Our position is that what the  
13 commission needs to look at is what is going to happen  
14 to the U.S. industry if revocation occurs, is material  
15 injury like to recur? What we're saying to you now is  
16 that we already have some injury, but the order is  
17 working well enough to keep these people in business  
18 and to keep them in the marketplace. If the order is  
19 revoked, then what will happen? And what we're saying  
20 is that you will have a huge influx of subject candles  
21 because they're not going to be sending non-subject  
22 candles into the market. It's too expensive for them  
23 to make non-subject candles. They make more money on  
24 subject candles. So what you're going to see is a  
25 huge influx of paraffin wax candles should the order

1 be revoked.

2 We know they can do it, we saw the  
3 experience in 1997 when they had 45 million pounds in  
4 the market, they dropped their prices by one-third and  
5 it went up to 152 million pounds in two years. They  
6 have that capability. They have a huge volume they're  
7 selling overseas. They make more money on their  
8 candles in the U.S. market than they do in overseas  
9 markets, so they're going to ship those candles to  
10 here and bring them in.

11 So the non-subject is not really an issue  
12 because you're not going to have those non-subject  
13 candles in this market when this order is revoked.  
14 They will immediately revert back to paraffin.

15 You've heard the testimony, they can do it in  
16 a week using the same equipment, the same employees,  
17 the same facilities, all it is is a cheaper wax if  
18 you're using paraffin.

19 COMMISSIONER PEARSON: So your argument is  
20 that we should just use our traditional analysis for  
21 revocation of the order on subject product. Under the  
22 conditions of competition that you've described, you  
23 see basically all of the non-subject Chinese product  
24 shifting to subject.

25 MR. STAYIN: Just think of the picture.

1 Last year, the Commerce Department found that the  
2 Chinese producers are selling their products in this  
3 market at a margin of 108 percent. Now, if they don't  
4 have to pay a dumping duty of 108 percent, imagine  
5 what they're going to be able to sell their subject  
6 candles for when that duty is taken off. And the  
7 capability they have in terms of the huge volume of  
8 paraffin wax that is in that country that they can  
9 use, the huge volume of candles they're already  
10 selling elsewhere, you're going to see an avalanche  
11 into this market and there's no way it's going to be  
12 stopped. It will devastate the entire industry. And  
13 that's what we're trying to focus on, what will happen  
14 if it's revoked and it's quite clear what will happen  
15 and we're really hoping, obviously, that the  
16 commission will agree with us, that the order must be  
17 kept in effect.

18 We have great prospects for this order.  
19 Once this 108 starts hitting and we do believe we'll  
20 be successful in the later developed product argument,  
21 then this industry has some real hope down the road,  
22 but we have to have the order first and foremost to  
23 stay in business.

24 COMMISSIONER PEARSON: Did you have  
25 something to add, Mr. Higgins?

1                   MR. HIGGINS: I was going to add to it,  
2                   which may not concern you as much, but we also need to  
3                   get the non-subject candles in this order, which is  
4                   these blended candles or it's going to devastate us,  
5                   too.

6                   COMMISSIONER PEARSON: Okay. Shifting  
7                   gears, in this case, there are significant funds  
8                   flowing to the domestic industry that have come from  
9                   the Continued Dumping and Subsidy Offset Act. I think  
10                  I'm correct if I understand that the CDSOA funds have  
11                  no affect on operating income, but rather in this case  
12                  they have a meaningful effect on net income.

13                  Mr. Love, particularly in your Exhibit 15,  
14                  as you look at the segment of the industry that that  
15                  table applies to, we see that the CDSOA funds are  
16                  really quite a substantial portion of net income.

17                  In that case, ought we to take the CDSOA  
18                  funds into account as we assess the condition of the  
19                  domestic industry?

20                  MR. LOVE: That's a good question. I think  
21                  you can acknowledge it and that it has been a factor  
22                  in helping companies, those even in this room,  
23                  continue to do product development and R&D and the  
24                  like. However, in terms of evaluating the competitive  
25                  conditions in the market, pricing, operating

1 profitability, which is what you're really looking at  
2 when you're looking at what are the effects of imports  
3 and might the effect of imports be, I think it's  
4 irrelevant in that sense. So that's how I would view  
5 that.

6 COMMISSIONER PEARSON: How about in  
7 assessing vulnerability?

8 MR. LOVE: Well, you know, I was proven  
9 wrong because I didn't think the Byrd amendment would  
10 pass in the first place and at every point in time  
11 over the last year or two it seems like it may go  
12 away. So in that sense, I think the industry is  
13 vulnerable. A small attempt at humor. I'm sorry.

14 Anyway, I don't think that that should have  
15 any bearing on whether the industry is vulnerable  
16 because frankly if a company is going to suffer from  
17 low profitability and negative profitability, that  
18 doesn't necessarily mean they're going to remain a big  
19 producer of candles even with the Byrd amendment  
20 money. So I wouldn't agree with that.

21 COMMISSIONER PEARSON: But isn't receipt of  
22 the Byrd money contingent on producing candles? I  
23 mean, a firm could not cease production of candles and  
24 still receive the Byrd money.

25 MR. LOVE: That is correct. That is

1 absolutely correct. However, it alone is not itself  
2 enough justification to keep operating at significant  
3 losses and so you would see shrinkage of a company  
4 that is experiencing losses on an operating basis as a  
5 matter of course, even with the Byrd amendment money.

6 Other folks, do you want to --

7 MR. LAZAR: Yes, Commissioner, if you would  
8 just take into consideration not all the candle  
9 companies receive the Byrd amendment. I was with a  
10 candle company formerly that did not receive it and  
11 they've had huge layoffs, a lot to do with these  
12 Chinese candles coming in that are bypassing the  
13 duties, that we didn't feel they were playing fair and  
14 as a result of their low prices there's been large  
15 layoffs in the industry.

16 MR. STAYIN: I think that the commission  
17 really needs to focus on operating profit, not on  
18 income that comes from any other source. Operating  
19 profit on the sale of candles, I think is what the  
20 focus is.

21 MR. LOVE: And I would note also that the  
22 fact of the matter is that the amount of distribution  
23 through the Byrd amendment is going down very  
24 dramatically, obviously because the share of subject  
25 imports as a percent of total is going down because of

1 the blended candle problem. So we know for a fact  
2 that coverage is much reduced now today, this year and  
3 last year, than what it was a couple of years ago, so  
4 those monies are going away as the subject imports  
5 decline as a percent of total.

6 MR. HIGGINS: As a division of a  
7 corporation, I can tell you our corporation views it  
8 as compensation for past losses, for the money they  
9 invested and maybe didn't get back what they expected  
10 in the past and going forward again. The Byrd  
11 amendment might not be around very long, much longer.  
12 And also there is still a reluctance to invest in our  
13 industry if in fact the Chinese are eventually just  
14 going to take it over with non-subject merchandise or  
15 just circumvention.

16 COMMISSIONER PEARSON: Mr. Chairman, if  
17 I could have just --

18 I'm sorry, Mr. Stayin?

19 MR. STAYIN: My understanding is that most  
20 of these companies are plowing it back in to become  
21 more productive, more efficient, to make themselves  
22 more competitive in this market and that's what  
23 they're using those monies for.

24 COMMISSIONER PEARSON: Mr. Chairman, if  
25 I could just observe that in this period of review,

1 it's the Continued Dumping and Subsidy Offset Act  
2 funds show up as a meaningful benefit to the domestic  
3 industry relating to subject imports and so that's why  
4 I'm wrestling with this, whether we ought to look at  
5 it and, if so, how, if there's any guidance in the  
6 statute in that regard.

7 Mr. Stayin, I'd be glad to read about it in  
8 the post-hearing.

9 Thank you, Mr. Chairman.

10 CHAIRMAN KOPLAN: Thank you, Commissioner.

11 You haven't responded to that request,  
12 Mr. Stayin.

13 MR. STAYIN: Oh, yes. I'm sorry. Yes. We  
14 definitely will respond. I was writing a note to  
15 myself to do that.

16 CHAIRMAN KOPLAN: I just wanted to close the  
17 loop on that.

18 MR. STAYIN: Thank you.

19 CHAIRMAN KOPLAN: I'm curious, can you tell  
20 me when Commerce will issue it's preliminary  
21 determinations regarding your anti-circumvention  
22 inquiries with regard to later developed merchandise  
23 or merchandise of minor alterations?

24 I ask that because in their Federal Register  
25 notice, they indicate that they're going to notify the

1 ITC in the event of an affirmative preliminary  
2 determination. I know we vote on July 12th, and I'm  
3 curious if you have a date or is there a scheduled  
4 date for their preliminary determination?

5 MR. STAYIN: Not to my knowledge. I'd be  
6 very surprised if they had a determination before  
7 then.

8 CHAIRMAN KOPLAN: Okay.

9 MR. STAYIN: My expectation is early fall,  
10 at the earliest.

11 CHAIRMAN KOPLAN: The only date that is in  
12 there that apparently is required is 300 days after  
13 initiation they need to go to final, which would take  
14 us into January of next year.

15 MR. STAYIN: Right.

16 CHAIRMAN KOPLAN: Okay. I was just curious  
17 on that.

18 I have one other question and this is for  
19 the industry witnesses.

20 In the first review, as reported in the  
21 commission's views at page 10, as noted in your  
22 current pre-hearing brief at pages 27 and 28, the  
23 reported growth and apparent U.S. consumption as more  
24 rapid for higher value candles and both domestic  
25 producers and importers had changed their product mix

1 over time to include more higher value candles.

2 My question is in two parts. First, has  
3 there been a continuation of the trend toward more  
4 higher value candles and, secondly, your pre-hearing  
5 brief describes direct seller companies at page 39 as,  
6 and I quote, "While they have a limited consumer group  
7 from which they draw their sales, their appeal is  
8 based on a highly branded image to a small, high end  
9 premium market."

10 Isn't this a continuation of the trend both  
11 you and the commission noted five years ago?

12 Could I hear from the industry people on  
13 that? Is that the trend now?

14 MR. PAPPAS: That's what we would all like  
15 to happen.

16 CHAIRMAN KOPLAN: It's not happening

17 MR. PAPPAS: We're attempting to do it, but  
18 the -- in our particular case, we have worked very  
19 diligently on making safer products which actually  
20 cost more. It's very hard to get them to pass through  
21 at retail because they're being compared to basically  
22 product that does not have those features in it.

23 Product safety in candles is a major issue.  
24 Currently, almost 5 percent are residential candle  
25 fires. It's something that people don't seem to worry

1 about until they have one. But these are trends,  
2 differentiation in product that should be going  
3 forward, but they can't go forward because when  
4 they're shopped against imported product, it basically  
5 tends to be -- the price is what determines what it's  
6 sold for, whether the feature goes forward or not.

7 CHAIRMAN KOPLAN: Are you saying that the  
8 quality of the imported product is less than yours  
9 because it doesn't --

10 MR. PAPPAS: I'm not saying the quality is  
11 less.

12 CHAIRMAN KOPLAN: From a safety standpoint?

13 MR. PAPPAS: I think you actually -- you  
14 could ask the Consumer Product Safety Commission.  
15 I sit on the fire safety committee. They have  
16 indicated that's an issue from time to time. But what  
17 I'm referring to is we have actually developed  
18 patented processes to self-extinguish the candle, to  
19 put features in it that just weren't available in  
20 candles before and it's very, very hard to pass these  
21 increasing costs on because consumers don't recognize  
22 the difference.

23 CHAIRMAN KOPLAN: I know that you do have  
24 that role, sitting on that committee.

25 MR. PAPPAS: Yes.

1           CHAIRMAN KOPLAN: Is there any material that  
2 comes out of that that might be helpful to us in terms  
3 of what you're talking about?

4           MR. PAPPAS: I'm not sure how to answer that  
5 question.

6           CHAIRMAN KOPLAN: Okay.

7           MR. PAPPAS: You know, you could look at --  
8 I mean, it's very easy to go to CPSC.gov and look at  
9 recalls and I think the data speaks for itself, but  
10 what we find is that it's been very difficult. One of  
11 the questions, I think, that didn't quite get answered  
12 is that there is a voluntary labeling requirement now.

13           CHAIRMAN KOPLAN: Voluntary what?

14           MR. PAPPAS: Labeling requirement for fire  
15 safety. There again, it's not required. There's some  
16 question whether it should be or not. And that we  
17 find retailers now are asking candles to meet the fire  
18 safety standards.

19           I think this has actually caused the quality  
20 of some of the imported candles to go up because they  
21 really weren't being looked at before.

22           CHAIRMAN KOPLAN: Thank you for that.

23           Does anybody else want to add to that?

24           Mr. Goddard?

25           MR. GODDARD: Yes. At HFH, we've seen a

1 steady pressure from the market to move into the  
2 differentiated premium candle area, but I'm not sure  
3 that that's a general industry trend as much as it is  
4 market forces from the imports that have removed the  
5 option for us to sell into what we would consider to  
6 be the commodity fragrance candle market, where these  
7 candles were purchased, for example. Those  
8 distribution channels are no longer available to us  
9 because of the price pressures that we see.

10 So as a domestic supplier, we are moving  
11 into the premium area and seeing that trend, but we  
12 think we're forced in that direction because of the  
13 imports. It wouldn't be that way without the Chinese  
14 candles.

15 CHAIRMAN KOPLAN: Thank you.

16 Mr. LaZar?

17 MR. LAZAR: Quality improvement, the one  
18 that we keep hearing over and over is better fragrance  
19 throw, both cold throw when it's not lit and then when  
20 it's lit, what we call more of a warm throw.

21 There is a big drive for that, but  
22 unfortunately we can't get an increased price in  
23 selling it that way. It's just pressure that make our  
24 candles smell better, but don't raise your costs, if  
25 anything, lower your cost.

1 CHAIRMAN KOPLAN: Mr. Higgins?

2 MR. HIGGINS: Yes. We sell primarily to the  
3 mass merchandising industry and because the Chinese  
4 keep coming in with unique looks and what have you and  
5 fragrance requirements and what have you, it is  
6 getting higher cost for us. They're more labor  
7 intensive but that's easy for them to overcome in  
8 China, but it's harder for us to overcome and we can't  
9 get the price increase for what product they're  
10 demanding or looking for.

11 CHAIRMAN KOPLAN: Thank you.

12 I thank each of you for your responses.  
13 That concludes my questioning.

14 I'll turn to Vice Chairman Okun.

15 VICE CHAIRMAN OKUN: Thank you. I don't  
16 have any further questions, but I will look forward to  
17 post-hearing briefs and seeing the answers the  
18 questions that have been posed throughout the  
19 afternoon. Thank you again for being here.

20 CHAIRMAN KOPLAN: Thank you.

21 Commissioner Miller?

22 COMMISSIONER MILLER: Yes, Mr. Chairman.  
23 Your questions about the Commerce Department's  
24 investigation made me just partly out of curiosity and  
25 partly out of an understanding of what the future may

1 hold --

2 Mr. Stayin, has Commerce ever made an  
3 affirmative determination under the later developed  
4 merchandise provision?

5 MR. STAYIN: Yes.

6 COMMISSIONER MILLER: They have?

7 MR. STAYIN: Yes, they have.

8 COMMISSIONER MILLER: See, I'm almost to  
9 nine years here, I don't remember Commerce coming to  
10 us in my time here asking for us to act or take a  
11 position or interpret or whatever.

12 MR. STAYIN: It may be that in those cases  
13 the basis for their decision was not something that  
14 came out of the ITC's like product analysis. This  
15 case, the importers have basically focused on one  
16 sentence in the entire determination and ignored other  
17 language in that determination such as commercial  
18 production of candles uses natural waxes, paraffins,  
19 microcrystalline, stearic acid and beeswax.  
20 Commercial production of candles. It doesn't say that  
21 it includes palm wax or soy wax or vegetable wax.

22 COMMISSIONER MILLER: Right.

23 MR. STAYIN: This is in your decision.

24 COMMISSIONER MILLER: Right.

25 MR. STAYIN: In your staff report, there's a

1 reference to the fact that these things may exist, but  
2 they're not commercially developed. And that's what  
3 the whole case --

4 COMMISSIONER MILLER: Yes. No,  
5 I understand. I was just trying to remember any  
6 situation in which -- because Commerce is required  
7 under that provision to come to us, so that's why  
8 I thought, well, maybe whatever happened was before my  
9 time or maybe I've forgotten some of the things I've  
10 done since I've been here, which I totally possible as  
11 well.

12 MR. STAYIN: Do you have the date of those  
13 later developed product decisions?

14 MS. MCGEE: A later developed product  
15 decision was issued in Smith-Corona, but that was in  
16 September 1988.

17 COMMISSIONER MILLER: I remember that one  
18 and it was definitely before my time here.

19 MR. STAYIN: Before your time.

20 COMMISSIONER MILLER: Not before my time  
21 where it was also an issue elsewhere.

22 MS. MCGEE: We could also submit to you --

23 COMMISSIONER MILLER: No, that's okay.  
24 I was just curious. Do you know of any after that?

25 MS. MCGEE: Yes. After that, there was a

1 case on battery acid from Japan and there was also a  
2 case involving -- battery acid from Japan is the most  
3 recent one on that.

4 COMMISSIONER MILLER: Maybe they went  
5 negative.

6 MS. MCGEE: And Eproms as well. Eproms  
7 from -- I believe the Eproms were from Japan as well.  
8 And we can submit those cites and those dates to you  
9 in our post-hearing brief, but I believe they were  
10 after the 1988 date.

11 COMMISSIONER MILLER: Okay. Okay. As  
12 I say, I'm just trying to recall whether in my time  
13 here we've been through any proceeding responding to  
14 Commerce on such. I appreciate it. Any information  
15 you do have just to help me either jog my memory or  
16 understand their process, I'd appreciate it.

17 Thank you.

18 CHAIRMAN KOPLAN: Thank you.

19 Commissioner Hillman?

20 COMMISSIONER HILLMAN: I have no further  
21 questions. I do want to thank the panel.

22 You've been extremely helpful. It's been a  
23 very interesting hearing and we very much appreciate  
24 all of your answers. Thank you.

25 CHAIRMAN KOPLAN: No other questions from

1 the dias?

2 (No response.)

3 CHAIRMAN KOPLAN: I would just note in  
4 response to what you said that the Commerce  
5 Department's notice of initiation, in discussing the  
6 initiation of later developed merchandise and  
7 anticircumvention does make mention of the ITC's like  
8 product definition and discusses in some detail these  
9 proceedings as well, so that's why I was curious about  
10 the preliminary results.

11 MR. STAYIN: I'm not aware of it.

12 CHAIRMAN KOPLAN: Thank you.

13 Seeing that there are no other questions  
14 from the dias, Ms. Mazur, does staff have questions of  
15 the panel before we release them?

16 MS. MAZUR: Mr. Chairman, staff has no  
17 questions.

18 CHAIRMAN KOPLAN: Thank you.

19 With that, we will terminate this part of  
20 the hearing and go to closing argument.

21 MR. STAYIN: Mr. Chairman, would you like us  
22 to leave these candles with you with the receipts for  
23 the prices? Just leave them with you?

24 CHAIRMAN KOPLAN: My colleagues are  
25 indicating they would like that.

1 MR. STAYIN: Okay. Very good.

2 CHAIRMAN KOPLAN: And I join in that. That  
3 would be appreciated, it would be helpful.

4 You have now five minutes for your closing.

5 MR. STAYIN: The Candle Association is  
6 looking to the commission for three decisions, three  
7 acknowledgements, most importantly, an affirmative  
8 decision to continue the antidumping order; secondly,  
9 to acknowledge that in the original investigation the  
10 commission did not exclude blended wax or palm wax  
11 candles; and, finally, to determine that all candles  
12 containing petroleum wax fall within the like product  
13 determination except for beeswax candles.

14 All of these are very relevant to what is  
15 going on in the marketplace now and the conditions of  
16 competition that the industry faces. The commission  
17 has dealt with these issues before, it has the  
18 authority to reconsider the like product analysis and  
19 determination it made originally depending upon  
20 circumstances such as this and so we're asking the  
21 commission to take that into account.

22 But we don't want to take our eye off the  
23 ball, which is continuation of the order. As I had  
24 mentioned earlier, the order has worked well. It has  
25 enabled the U.S. industry to be very creative. They

1 created the aromatherapy craze by virtue of finding  
2 out all these kinds of fragrances and scents that they  
3 can use to help enhance the lives of people in their  
4 homes and elsewhere.

5           They helped make that demand grow and they  
6 are now facing a shift. That shift is something that  
7 I think that the antidumping law was made to take into  
8 account and to deal with. That's the very reason that  
9 the order is in place. The industry still is handling  
10 its own, it's keeping on, it is able to stay in  
11 business because the order is in place. When you take  
12 that order out, the floor is going to drop out from  
13 underneath them and, again, we said if you look at  
14 what has happened in the past, past is prelude. You  
15 look at that two-year period of time, they dropped the  
16 price by one-third and they tripled their volume in  
17 three years, they've quadrupled their volume through  
18 2004.

19           They have that capability to bring in a huge  
20 volume of candles and they're all going to be paraffin  
21 wax candles and they're not going to have any kind of  
22 dumping duty on them and they're all going to be way  
23 below the prices that these companies are able to sell  
24 their products for. You can't stay in business if  
25 you're selling your products at less than your cost of

1 production.

2           This order is vital to the survival of this  
3 industry and I wish very much that you take into  
4 consideration all of the testimony you've heard here  
5 today and respectfully request that you decide to  
6 continue the order in effect. As the Department of  
7 Commerce has decided, obviously a 180 percent  
8 antidumping duty says something. It says something  
9 about their ability to price in the marketplace and  
10 what they've been doing and we have to keep that in  
11 mind when we talk about revoking the order.

12           Thank you again for giving us this  
13 opportunity to be before you and we look forward to  
14 responding in our post-hearing brief to the questions  
15 you have asked.

16           Thank you.

17           CHAIRMAN KOPLAN: Thank you, Mr. Stayin.

18           And thank you to each of the witnesses who  
19 contributed to our information in this hearing.  
20 I complement you on the quality of your presentation.

21           Post-hearing briefs, statements responsive  
22 to questions and requests of the commission and  
23 corrections to the transcript must be filed by June 3,  
24 2005; closing of the record and final release of data  
25 to the parties, June 24, 2005; and final comments are

1 due June 28, 2005.

2 With that, this hearing is adjourned.

3 (Whereupon, at 1:12 p.m., the proceedings in  
4 the above-captioned matter were concluded.)

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**CERTIFICATION OF TRANSCRIPTION**

**TITLE:** Petroleum Wax Candles from China  
**INVESTIGATION NO.:** 731-TA-282 (Second Review)  
**HEARING DATE:** May 25, 2005  
**LOCATION:** Washington, D.C.  
**NATURE OF HEARING:** Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

**DATE:** May 25, 2005

**SIGNED:** LaShonne Robinson  
Signature of the Contractor or the  
Authorized Contractor's Representative  
1220 L Street, N.W. - Suite 600  
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

**SIGNED:** Carlos Gamez  
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

**SIGNED:** Renee C.M Katz  
Signature of Court Reporter