

THE UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)
) Investigation Nos.:
 LAMINATED WOVEN SACKS) 701-TA-450 and
 FROM CHINA) 731-TA-1122 (Preliminary)

Thursday,
 July 19, 2007

Room No. 101
 U.S. International
 Trade Commission
 500 E Street, S.W.
 Washington, D.C.

The preliminary conference commenced, pursuant to Notice, at 9:30 a.m., at the United States International Trade Commission, ROBERT CARPENTER, Director of Investigations, presiding.

APPEARANCES:

On behalf of the International Trade Commission:

Staff:

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 DIANE MAZUR, SUPERVISORY INVESTIGATOR
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APPEARANCES: (cont'd.)

In Support of the Imposition of Antidumping and
Countervailing Duties:

On behalf of Laminated Woven Sacks Committee; Bancroft
Bag, Inc.; Coating Excellence International, LLC; Hood
Packaging Corp.; Mid-America Packaging, LLC; and
Polytex Fibers Corp.:

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MICHAEL R. NOWAK, President, Coating Excellence
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In Opposition to the Imposition of Antidumping and
Countervailing Duties:

On behalf of Shapiro Packaging, Inc.:

JAY ABEL, President, Excel Packaging Co.
DAVE SHU, Solaris Manufacturing Group
MICHAEL SHAPIRO, Shapiro Packaging, Inc.
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Washington, D.C.

On behalf of American Bag & Burlap Co.:

BARRY CORMAN, Corporate Secretary, American Bag &
Burlap Co.

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1 Are there any questions?

2 (No response.)

3 MR. CARPENTER: If not, welcome, Mr. Dorn.
4 Please proceed with your opening statement.

5 MR. DORN: Thank you. Good morning. Joe
6 Dorn for Petitioners.

7 This case is about dumped and subsidized
8 imports from China that are either retarding the
9 establishment of a new industry in the United States
10 or causing that industry material injury.

11 The scope of the investigation covers
12 laminated woven sacks that have multicolored, high
13 quality print graphics which make the bags ideal for
14 packaging consumer products displayed on the retail
15 shelf.

16 The sacks are typically made of woven
17 polypropylene fabric that is laminated to biaxially
18 oriented polypropylene film known in the industry as
19 BOPP film. In fact, all the subject imports from
20 China to date are believed to have an outer ply of
21 BOPP film.

22 If duties are imposed on that product,
23 however, the Chinese could easily use an outer ply of
24 coated free sheet paper instead. Thus, both versions
25 of the product are included within the scope.

1 Laminated woven sacks, as defined in the
2 petition, are not like other sacks. They are made
3 from different raw materials using different
4 production equipment and different production
5 techniques. They have different physical
6 characteristics which dictate their usage, channels of
7 distribution and customer perceptions.

8 In a nutshell, no other type of sack
9 combines the high tensile strength, high puncture
10 resistance, high tear resistance and low weight of
11 polypropylene fabric and the high quality print
12 graphics of BOPP film or coated free sheet paper. In
13 practice, when customers specify a laminated woven
14 sack they will not accept an alternative bag as a
15 replacement.

16 In the last few years, the five petitioning
17 companies and two other U.S. companies have attempted
18 to establish a new industry producing laminated woven
19 sacks in the United States. They have purchased the
20 necessary equipment, developed the necessary
21 technology and know-how and identified a large
22 potential market for this new domestic industry.

23 Their investments and marketing plans are
24 sound. They would be succeeding today except for one
25 overriding obstacle: They simply cannot match -- they

1 cannot even come close to matching -- the low prices
2 of the dumped and subsidized imports from China.

3 This is not a commodity product. Purchasing
4 decisions, however, are made largely on the basis of
5 price. This is because all laminated woven sacks are
6 made to customer order. The customer specifies the
7 dimensions and features of the bag and provides the
8 design of the graphics.

9 The competing suppliers quote on the
10 specifications provided by the customer. This means
11 that U.S. and Chinese bags are virtually perfect
12 substitutes. U.S. producers and Chinese producers
13 offer bags made to the same specifications, but the
14 Chinese producers undersell the U.S. product by wide
15 margins. As a result, Chinese imports have been
16 rapidly increasing and capturing the U.S. market
17 before the U.S. producers could even get established.

18 The impact of these unfairly traded imports
19 has been twofold. First, they have prevented U.S.
20 producers from making enough sales to reach a break
21 even point in terms of utilizing their production
22 capacity and reducing their per unit fixed cost. Lost
23 sales have resulted in fluctuating production output
24 and start and stop operations.

25 Second, the price underselling has prevented

1 U.S. producers from pricing their product at the level
2 required to cover their cost of production. This has
3 prevented U.S. producers from generating the profits
4 needed to stabilize their operations.

5 Of course, it's been many years since the
6 Commission has made a material retardation decision,
7 and we won't put all of our eggs in that one basket.
8 In the alternative, if the Commission were to
9 determine that an industry is already established,
10 that industry is materially injured by reason of
11 unfairly priced imports from China.

12 The volume of imports is significant. We
13 estimate that imports from China account for over 90
14 percent of imports from all countries. As shown in
15 our petition, subject imports far exceed U.S.
16 production and command a very, very high share of the
17 U.S. market.

18 Subject imports almost doubled from 2004 to
19 2006, increasing by over 75 million sacks. With the
20 financial support of the government, new producers are
21 springing up in China like dandelions.

22 In the petition, we have identified many
23 detailed examples of lost sales and lost revenues.
24 Our witnesses from three of the U.S. producers will
25 describe the injury they have suffered from the

1 increasing volume of imports that undersell their
2 virtually identical U.S. products.

3 As shown in the confidential record, the
4 adverse volume and price effects of the unfairly
5 priced imports have prevented these producers from
6 earning any return on their substantial investment to
7 date.

8 In conclusion, there is no valid reason why
9 U.S. plants and U.S. workers should be forced to
10 forfeit this new domestic industry to cheap imports
11 that are subsidized by the Chinese Government and
12 dumped by the Chinese producers.

13 We ask the Commission to reach an
14 affirmative determination on the basis of either
15 material retardation or material injury. Thank you.

16 MR. CARPENTER: Thank you, Mr. Dorn.

17 Ms. Levinson?

18 MS. LEVINSON: Good morning. My name is
19 Lizbeth Levinson, and I'm with the law firm of Garvey
20 Schubert Barer.

21 This morning you will hear from several U.S.
22 distributors and one U.S. purchaser, all of whom have
23 over 20 years' experience in the packaging industry.
24 They will all attest to the fact that there is not a
25 single member of the domestic industry with either the

1 expertise or the capacity to produce laminated woven
2 sacks in the quantity required by U.S. purchasers of
3 this product.

4 The Thais and the Chinese, not the
5 Petitioners, introduced this technology to U.S.
6 packagers and demonstrated the technical advantage of
7 laminated woven sacks which are increasingly replacing
8 paper packaging for pet food, litter and other animal
9 feed applications.

10 Laminated woven sacks have been made in
11 large volumes in numerous countries around the world
12 for many years. Our witnesses will tell you that
13 there are several types of packaging serving the U.S.
14 pet market and feed market. The dominant bag
15 continues to be paper multiwall, a product not subject
16 to this investigation, which is the main product
17 produced by three of the five petitioning companies.

18 The major flaw with Petitioners' paper
19 packaging, however is it suffers a higher incidence of
20 breakage as compared to the competing laminated woven
21 sacks. Laminated woven sacks have superior durability
22 and are almost impossible to break during
23 distribution. One purchaser has even gone so far as
24 to say that a laminated woven sack could probably be
25 dropped from the Empire State Building and would not

1 break.

2 As a regular purchaser of cat litter, I
3 myself can say that I prefer the laminated woven sacks
4 over the paper bags, after having experienced, as you
5 may have, the frustration of having to clean up the
6 mess caused by damaged paper bags.

7 But enough about me. Three of the
8 Petitioners are primarily paper multiwall sack
9 producers, and it is apparent that they have brought
10 this petition as a means to protect their vast paper
11 operations.

12 Their real motivation is not to protect
13 their nonexistent or fledgling laminated woven sack
14 operations, but rather to eliminate subject
15 merchandise that is increasingly replacing paper bags
16 as the packaging of choice in pet and animal feed
17 applications.

18 The statute is clear, however, that the
19 purpose of the antidumping law is to protect domestic
20 producers of the like product, in this case laminated
21 woven sacks. The Commission cannot extend relief to
22 U.S. producers who are seeking relief for a product
23 other than the subject merchandise.

24 Petitioners incorrectly claim that 100
25 percent of the imports of laminated woven sacks come

1 from China and Thailand, whereas we know that other
2 subject product is being imported from other
3 countries.

4 More significantly, as our witnesses will
5 testify today, producers around the world in countries
6 as diverse as Colombia, Brazil, Korea, India, Vietnam,
7 Indonesia, Turkey and Spain already produce the
8 subject merchandise in large quantities, or in a few
9 cases are in the process of making investments to do
10 so.

11 Should an antidumping or countervailing duty
12 order be issued on this product, purchasers will turn
13 to producers in these countries and not to domestic
14 producers to fulfill their demand for laminated woven
15 sacks.

16 Going back to paper is simply not an option
17 for purchasers already accustomed to the superior
18 performance of the polywoven bags. Petitioners
19 acknowledge that this industry is at most nascent in
20 the United States. Like producers in any start-up
21 industry, the Petitioners should expect higher than
22 normal costs until production volumes reach normal
23 long-term levels and they acquire more experience with
24 production methods.

25 Stated otherwise, regardless of whether the

1 Commission finds that a U.S. industry is established
2 or not, this is an industry that is still going
3 through the normal challenges faced by all start-up
4 enterprises, and the Commission must analyze industry
5 performance within this context.

6 Thank you very much.

7 MR. CARPENTER: Thank you, Ms. Levinson.

8 Mr. Dorn, if you could bring up your panel
9 at this point?

10 MR. DORN: Thank you, Mr. Carpenter. Joe
11 Dorn with King & Spalding.

12 I'd just like to say a couple words about
13 scope here at the outset and make sure that the staff
14 have all seen our July 12 submission in which we did
15 make some amendments to the scope as set forth in the
16 petition.

17 It doesn't change anything really of
18 substance in terms of what's covered. We talked to
19 national import specialists and also the folks at
20 Commerce about adding a couple of HTS classifications
21 largely aimed at the potential for circumvention.

22 We also recognize the fact that effective
23 July 1, 2007, there is a new statistical breakout that
24 actually covers the laminated woven sack product we're
25 talking about, it has an outer ply of BOPP film.

1 We also wanted to make it clear that if the
2 fabric were covered on both sides with plastic, which
3 is generally not the case -- it's generally just
4 coated on one side -- that Customs could view that as
5 a plastic product and not a textile product, and we
6 provided that alternative plastic classification.

7 We also provided the HTS classifications
8 that would cover the product were it to be imported in
9 roll form, in just long rolls and all that needed to
10 be done was to cut the individual bag sizes and sew
11 the ends. That's within scope.

12 We haven't seen that happen to date, but
13 we're concerned that if we got duties on the finished
14 bags that that would be a circumvention avenue.

15 I just wanted to point out those few changes
16 and also note that it does not change at all the
17 estimated import volumes that are set forth in Exhibit
18 6 to the petition. If anything, to the extent that
19 any bags have been brought in under these alternative
20 categories, it would mean that our import statistics
21 are underestimated.

22 But we're comfortable with the estimates as
23 they stand, based upon our knowledge that to date the
24 bags have been coming in in finished form, they've had
25 an outer ply of BOPP film and they've been typically

1 coated on one side of the fabric.

2 I will now turn it over to Taryn Koball, who
3 will say a few words about the dumping margins and the
4 subsidy allegations.

5 MS. KOBALL: Good morning, Mr. Carpenter and
6 members of the Commission staff. My name is Taryn
7 Koball from King & Spalding representing Petitioners.

8 Imports of laminated woven sacks from China
9 are being sold in the United States at less than fair
10 value and are benefitting from countervailable
11 subsidies. As noted in the petition, estimated
12 dumping margins are substantial; in fact, in excess of
13 85 percent.

14 The Chinese laminated woven sacks industry
15 also benefits from significant government subsidies
16 aimed at both the textile and packaging industries.

17 The government in China has employed
18 numerous and varied means to achieve its desired
19 results for the laminated woven sacks industry,
20 including establishing lofty production goals for the
21 textile and packaging industries, making available the
22 capital necessary for state-owned enterprises to reach
23 these goals and absolving companies of tax
24 consequences related to the manufacture and export of
25 laminated woven sacks. Several of these plans are

1 enumerated in national, provincial and industry
2 specific five-year plans.

3 The success of the government's subsidy
4 programs is demonstrated by the fact that textiles are
5 currently China's largest export product. China is
6 the largest textile producer and one of the largest
7 traders in the world.

8 Additionally, the production of plastic
9 textile packaging material in China is generating
10 substantial revenues. In 2006, revenue from textile
11 packaging material totaled \$56 billion with
12 approximately one-quarter of that value deriving from
13 plastic textile packaging.

14 China produced roughly eight million metric
15 tons of plastic packaging in 2005 -- this is an
16 increase of 14 percent over the previous year -- for a
17 total of \$14.5 billion in revenue. Laminated woven
18 sacks accounted for more than two million metric tons
19 of China's production in 2005.

20 The impact of China's production and flood
21 of exports has been acute. The Chinese Government has
22 targeted textiles and packaging, which have had
23 substantial impacts on the production of laminated
24 woven sacks.

25 Export subsidies include preferential tax

1 policies for export oriented foreign invested
2 enterprises or FIEs, corporate income tax refunds
3 aimed at reinvestment of FIE profits into export-
4 oriented enterprises, exemptions from paying staff and
5 worker benefits for export-oriented FIEs and export
6 interest subsidy funds for enterprises located in
7 various provinces throughout China.

8 The government also provides low cost policy
9 loans to laminated woven sack producers, tax breaks to
10 producers who buy new equipment or invest in new
11 technologies, grants to loss making state owned
12 enterprises and grants to cover the cost of financing
13 new renovation projects.

14 Without the unfair trade practices at issue
15 in this case, we would not see the substantial
16 increase in imports from China. These are government
17 financed initiatives and unfair actions by individual
18 producers.

19 We believe it is critical that the
20 International Trade Commission make a preliminary
21 finding of injury and that this case move forward.

22 Thank you for your time.

23 MR. BAZBAZ: Good morning, Mr. Carpenter and
24 members of the Commission staff. My name is Isaac
25 Bazbaz. I am the president of Polytex Fibers

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1 Corporation. Polytex has been in operation since
2 1982, and I have been president since 1989.

3 In 1982, Polytex was the first integrated
4 producer of circular woven polypropylene bags for
5 export shipments of commodities like rice and sugar.
6 We actually became the largest bag producer of woven
7 bags in the United States by 1985.

8 Here's a sample of our woven polypropylene
9 bags for rice.

10 In the early 1990s, we began manufacturing
11 woven polypropylene coated bags for industrial use
12 also for the export market. This is a sample of the
13 coated bag.

14 Around 2003, a new type of woven sack first
15 began to appear in the United States market. This new
16 product had an outer ply of biaxially oriented
17 polypropylene, which we referred to as BOPP. Here is
18 an example of a BOPP film.

19 It is reverse printed, meaning that the ink
20 is trapped between the outer surface of the fabric and
21 the inner surface of the film during the lamination
22 process. This protects the graphic from flaking,
23 stretching and rubbing off.

24 Based on information from our customers,
25 these sacks laminated with BOPP were first produced in

1 Asia around 2000 for the pet food market in Thailand
2 and Korea. Soon after that, China began production to
3 supply these Asian markets.

4 In 2003, imports of laminated woven sacks
5 from China began to appear in the U.S. market. In
6 2004, we were approached by Nestle Purina, which had
7 seen laminated woven bags from Asia and were looking
8 for a U.S. manufacturer to produce these bags.

9 Because this was a new product, we had to
10 develop a process for laminating our reverse printed
11 film to our woven fabric. We sought the advice of the
12 manufacturer of our lamination equipment, but they
13 were unable to offer a solution. It took us over six
14 months of research and development and numerous trials
15 to come up with a successful lamination process.

16 We began commercial production of this
17 actually in late 2004. Our first customer was Nestle
18 Purina. This is a sample of the laminated woven sack
19 we began producing in 2004 with the reverse OPP sealed
20 to a woven sack.

21 This laminated woven sack is a distinct
22 product that combines the strength and light weight of
23 a woven bag with the high quality print graphics of
24 the reverse printed BOPP. In a few minutes I will
25 provide more details of the unique attributes of these

1 bags. First, however, I would like to describe the
2 production process.

3 Polytex is an integrated producer in the
4 sense that we manufacture both the polypropylene
5 fabric and convert the fabric into laminated woven
6 sacks. Because we produce our own fabric, our
7 manufacturing process begins with the production of
8 polypropylene strips which are then woven into fabric.

9 As shown on the slide called Yarn Making
10 Process, to manufacture polypropylene strips we start
11 by melting polypropylene and additives in pellet form.
12 The melted plastic is then extruded into a wide film
13 that is cut or slit into narrow strips. The strips
14 are stretched to add strength and wound onto bobbins.

15 As shown on the slide called Weaving
16 Process, the bobbins are placed on a circular loom and
17 woven into fabric in tubular form. The tubular fabric
18 is then slit open to form a wide, single ply flat
19 sheet.

20 We purchase the rolls of unprinted BOPP film
21 and reverse print it according to our customers'
22 design suitable for use in consumer packaging. A
23 printing press is shown on the slide called Printing.

24 The printed BOPP film and the woven
25 polypropylene fabric are bonded in a lamination

1 process as shown on the slide called Lamination.

2 During this critical process the film and
3 the fabric are drawn from opposite directions to meet
4 directly below the die of the laminating extruder. A
5 curtain of liquid polypropylene flows between the film
6 and the fabric, immediately forming a bonding center
7 layer.

8 As the material is being wound up it is
9 sealed and pressed for adhesion. This process ensures
10 that the printed area cannot be separated or otherwise
11 blemished because it is sealed underneath the BOPP
12 film, which gives it protection. The laminating
13 process creates a material resistant to liquid, oil
14 and grease that is perfect for packaging food products
15 sold at retail.

16 From the lamination process, the rolls are
17 sent to a tuber where the fabric is formed into a
18 continuous tube and cut into individual pieces. As
19 shown on the slide called Tubing Fabric Making Bags,
20 these individual tubes are transferred to a sewing
21 line where they are sewn and made into sacks.

22 The bags are finished by sewing the bottom
23 and applying the closure tape and the pull tape for
24 easy opening. We then inspect the bags and package
25 them for shipment.

1 The LW sack is a distinct product that
2 combines the strength, puncture resistance, tear
3 resistance and lightweight qualities of the
4 polypropylene fabric with the glossy, high quality
5 print graphics of BOPP film.

6 LW sacks are different than other types of
7 packaging products. First, LW sacks are not like
8 paper sacks. Paper sacks are made from entirely
9 different raw materials: plies of paper. LW sacks
10 and paper sacks are typically not made by the same
11 companies, in the same facilities or using the same
12 production processes, equipment or employees.

13 For example, paper bags are never laminated
14 to reverse printed plastic film, so our lamination
15 equipment is never used in the production of paper
16 sacks. Different equipment is used to close the
17 bottoms of LW sacks and paper sacks.

18 Laminated woven sacks have fewer plies,
19 weigh less and occupy less space when empty than paper
20 sacks. This makes them less expensive for shipping
21 and storing. They are also much less likely to break
22 during shipping and distribution of the packaged
23 product to the end user.

24 This attractive and practically
25 indestructible sack is the most efficient way to

1 preserve the product and minimize losses throughout
2 the distribution chain.

3 Our customers also perceive the LW sacks and
4 paper sacks as different. For example, as indicated
5 in the ad from Sam's Club shown on the slide, this
6 major customer describes LW sacks as a new type of dog
7 food packaging made of a high strength woven plastic
8 laminate. It points out that the woven bags weigh
9 about half as much as the standard paper bags, are
10 three times tougher than paper bags and result in 50
11 percent fewer product returns.

12 The ad also notes that Sam's Club research
13 shows that their clients prefer woven packaging
14 because of its durability and because it keeps the
15 products fresh. Similarly, the sample Champion Blend
16 dog food bag from China refers to new tear-resistant
17 packaging.

18 Furthermore, as also indicated in the Sam's
19 Club ad, customers that value sustainability like
20 Sam's Club and Wal-Mart favor LW sacks because they
21 take up far less landfill space. Finally, our
22 customers have stated that they have increased their
23 sales of products packaged in the laminated woven
24 sacks.

25 Our customers of LW sacks are almost always

1 manufacturers of consumer goods, products that are
2 sold and displayed in retail stores such as pet foods
3 and some feed products. Paper sacks are used
4 primarily to package a wide range of nonconsumer
5 industrial and agricultural goods not sold at retail
6 such as building materials, chemicals and minerals.

7 Additionally, LW sacks generally are not
8 interchangeable with paper bags because our customers
9 typically have closing equipment at the filling
10 stations that is specific either to paper or to LW
11 sacks.

12 Second, LW sacks are not like other woven
13 sacks. Nonlaminated woven sacks do not use BOPP film
14 and do not require the technically demanding
15 production step of laminating BOPP film to the woven
16 fabric.

17 LW sacks require much higher quality
18 printing equipment than is required in printing
19 nonlaminated woven sacks. Print graphics, if any, of
20 nonlaminated woven sacks are printed directly on the
21 woven sack and produce low-quality graphics on the
22 woven surface.

23 And it would make no commercial sense to
24 print nonlaminated woven sacks with three or more
25 colors in register because the graphics would not

1 remain in register when the bags are filled with the
2 product and the yarns of the woven material separates.
3 Thus, nonlaminated woven sacks are generally not
4 suitable for consumer packaging.

5 LW sacks cost more to produce than
6 nonlaminated sacks due to the lamination of outer ply
7 and the high quality of print graphics, and this
8 results in a substantially higher price for LW sacks.

9 Physical characteristics and end uses
10 between these two bags also vary. LW sacks are more
11 resistant to tearing and have greater tensile strength
12 than nonlaminated woven sacks. They are less likely
13 to break and cause product waste than nonlaminated
14 woven sacks.

15 Nonlaminated sacks are not moisture
16 resistant and will leak oil or grease. Nonlaminated
17 woven sacks are primarily sold to suppliers of goods
18 not generally sold in retail outlets such as
19 agricultural products for export.

20 Our customers view LW sacks and non
21 laminated woven sacks as different products based on
22 their different physical characteristics. For
23 example, laminated woven sacks are printed in three
24 colors or more in register, allowing for high-quality
25 print graphics to serve as point of sale of

1 advertising for consumer products.

2 Additionally, LW sacks can be used in
3 automatic filling equipment where nonlaminated woven
4 sacks cannot. Regardless of the strong demand for LW
5 sacks in the U.S. market, we have been unable to reach
6 a break even point because of the extremely low prices
7 of Chinese exports to the United States.

8 As I noted above, Polytex has been in
9 operation since 1982 and is an experienced and highly
10 efficient business. In spite of our efficient
11 production and newly purchased advanced production
12 equipment, prices of Chinese imports are lower than
13 our cost of production. We have been unable to
14 achieve adequate prices for our sacks because our
15 customers can really receive comparable product at a
16 lower price from China.

17 As noted in our questionnaire responses, we
18 have lost sales to Chinese imports. For example, we
19 lost sales to China on bird seed bags for Red River
20 Commodities. This is a bag we produce in our plant,
21 and this is the bag produced in China.

22 This is a Purina Dog Chow bag produced in
23 our plant, and this is a bag, the same bag, produced
24 in China. We have lost substantial sales in both
25 bags.

1 While we have the production capacity to
2 fulfill any size order at any specification, we simply
3 cannot compete with Chinese import prices that remain
4 lower than our cost of production. We cannot use our
5 capacity and achieve sustainable operations as long as
6 the dumping and subsidies of Chinese imports exist.

7 We request your help in stopping this unfair
8 competition. Thank you for your time. I would be
9 happy to answer any questions.

10 MR. NOWAK: Good morning, Mr. Carpenter and
11 members of the Commission staff. My name is Mike
12 Nowak. I'm the president of Coating Excellence
13 International, LLC, which I'm going to refer to as
14 CEI.

15 CEI was established in 1997. We provide a
16 wide range of products that provide solutions in
17 flexible packaging. Our particular expertise is in
18 printing and laminating film, as demonstrated by our
19 leading position as packager of ream wrap.

20 Among the honors CEI has received are the
21 following: We were Wisconsin Manufacturer of the Year
22 in 2003; Wisconsin Governors New Product Award, 2006;
23 the National Society of Professional Engineers New
24 Product Award in 2007; and Best of Show Flexo-
25 Technical Association Award in 2007.

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1 Let me share one CEI success story. Several
2 years ago we had the opportunity to enter the market
3 for Sweet 'N Low sugar packets. I'm sure most of you
4 have seen these little things. The customer was
5 moving its packaging source to Korea at that time.

6 We were able to achieve significant cost
7 efficiencies and specifically control our labor costs
8 to win back the business from Korea and today are the
9 sole source of Sweet 'N Low sugar packets. We produce
10 two billion packets each month.

11 In sum, CEI is a leading innovating and low
12 cost producer in the packaging sector. In 2005, we
13 were approached by a distributor of imported laminated
14 woven sacks to develop a U.S. source. We researched
15 both market potential and potential competitors. Two
16 of CEI's technical strengths are film printing and
17 laminating with polymers.

18 As explained by Mr. Bazbaz, the lamination
19 of reverse printed BOPP film to woven fabric is a
20 critical step. These were not technologies utilized
21 or understood by U.S. bag manufacturers at that time.
22 Thus, we believe that CEI had a competitive advantage
23 in making this new product even though we had never
24 made a bag.

25 Accordingly, we acquired 100,000 square feet

1 of production space, invested in a printing press,
2 laminator, and bag machines of the type Mr. Bazbaz
3 described. All of these assets are dedicated to the
4 production of laminated woven sacks.

5 Our production process for making laminated
6 woven sacks was very similar to what Mr. Bazbaz has
7 described. The key difference is we purchase our
8 woven fabric rather than make it. Our woven
9 polypropylene fabric is a commodity which is readily
10 available at prices established in the global market.

11 At CEI we don't make paper sacks. We don't
12 make nonlaminated sacks. In fact, we never made a bag
13 of any type before we made laminated woven sacks.
14 Laminated woven sacks use different raw materials,
15 production equipment and production processes than
16 either the paper sacks or nonlaminated woven sacks.

17 All production equipment that CEI purchased
18 was designed by CEI to produce laminated woven sacks
19 in the most cost efficient manner possible and was
20 dedicated to only making that product.

21 Currently more than half our bag lines are
22 idle, and the remaining equipment is operating at less
23 than 40 percent of capacity. The reason is low volume
24 and insufficient orders due to lost sales to China.
25 We will be unable to improve efficiencies and become a

1 long-term viable producer without increased volume.

2 I agree with Mr. Bazbaz. Laminated woven
3 sacks are not like other types of sacks. CEI's
4 potential customers for these products want the high
5 tensile strength, light weight, puncture resistance
6 and tear resistance of woven polypropylene. They want
7 the high quality, multicolored graphics of BOPP film.

8 In terms of customer perceptions and
9 substitutability, the market for laminated woven sacks
10 is distinct from all other types of packaging. Both
11 customers and producers view laminated woven sacks as
12 a new and different product that has reportedly
13 resulted in increased retail sales. Neither paper
14 sacks nor nonlaminated woven sacks can be substituted
15 for laminated woven sacks given the unique performance
16 attributes of the laminated woven sacks.

17 Based on our research regarding how Chinese
18 laminated sacks were being priced in 2004 and 2005
19 when we made our decision to invest, we were price
20 competitive. Since mid 2005, however, global prices
21 for raw materials have increased at the same time that
22 the price of the Chinese laminated woven sacks have
23 declined.

24 Since mid 2005, there has been an explosion
25 in the number of Chinese producers that make laminated

1 woven sacks, all of whom are using low prices to gain
2 entry into the U.S. market. This has driven down
3 prices to a level below our variable cost of
4 production.

5 Let me emphasize that none of our
6 assumptions about demand, customer base, equipment or
7 technology were wrong. The market has continued to
8 expand for the product. We have experienced no
9 unexpected technical difficulties or equipment
10 problems. We knew that our raw material costs could
11 go up and down with world prices, but we never
12 expected that the Chinese prices would not also
13 reflect such raw material fluctuations.

14 We had great hopes of expanding production
15 and employment in our local community and meeting the
16 marketing and technical challenges of this new product
17 as we have with many other new products. The one
18 thing that we had not counted on was the proliferation
19 of Chinese producers and the extremely low prices that
20 flooded the U.S. market during 2006 and 2007.

21 Imports from China are priced 30 to 40
22 percent below our prices, which is often below our raw
23 material cost. Our questionnaire response explains
24 the full impact of the subject imports on our
25 operations.

1 Let me emphasize the following, however. We
2 have new equipment sitting idle because we cannot
3 secure sales order volume. We are highly efficient,
4 but we still cannot produce laminated woven sacks for
5 the price at which Chinese imports are being sold.

6 The Chinese products are of comparable
7 quality and are readily available in the U.S. Our
8 quality is as good or better, and we have ample
9 capacity available to satisfy virtually any order
10 size, large or small, and any laminated woven sack
11 design specified by a potential customer. We just
12 can't match the extremely low prices of the Chinese
13 sacks which are below our variable cost of production.

14 Our questionnaire details just how large of
15 a gap there is between the expectations we had and the
16 reality we face. We have curtailed the plans we made.
17 We would like to think those plans are simply on the
18 back burner until we see an appreciable change in
19 Chinese pricing.

20 We provided instances of lost sales and
21 revenue in the petition. I invite you to examine the
22 volume of production we have lost and compare it to
23 the volume of production we have achieved. It might
24 not have meant we would be at 100 percent of capacity
25 today, but our operations, however, would have

1 benefitted greatly from significant higher production
2 levels and pricing levels that would justify
3 additional investment in the business.

4 Some of the lost sales described in our
5 petition involve bird seed bags that we were supplying
6 to Kaytee, which is a division of Central Garden &
7 Pet. Sample 1 is a 20 pound bag for wild bird food
8 that Kaytee makes for Ace Hardware. This is a bag
9 that was produced by CEI. This is an identical bag
10 imported from China. Sample 2 is a 22 pound wild bird
11 food bag which is a Kaytee brand produced by CEI and
12 the identical bag imported from China.

13 In the second half of 2006, CEI was the sole
14 source of these bags for Kaytee, a manufacturer that's
15 located 10 miles from our plant. In late 2006, Kaytee
16 was told by Central Garden & Pet that it required it
17 to shift sourcing to China, over 10,000 miles away and
18 months away from their plant, and that the reason was
19 strictly price.

20 Here are a couple of other comparisons of
21 laminated woven sacks made by CEI and made in China.
22 Sample 1 is a True Value bird seed bag again packaged
23 by Kaytee produced by CEI and the identical bag
24 produced in China. Sample 2 is a Blaine's Farm &
25 Fleet wild bird food bag again produced by CEI, and

1 the identical bag produced in China.

2 I would emphasize again that all laminated
3 woven sacks are made to the customers' specifications.
4 As a result, our U.S. sacks and the Chinese bags both
5 meet customer requirements. Thus, purchasing
6 decisions are made based on price.

7 In conclusion, CEI has the production
8 facilities, dedicated equipment, technology know-how
9 and skilled workers to compete in the U.S. market for
10 laminated woven sacks. To date, however, we have been
11 unable to come anywhere close to a break even point or
12 achieve sustainable operations.

13 The unfair prices from China have prevented
14 us from utilizing our capacity and achieving any
15 return on our substantial investment. We continue to
16 see huge demand for this new product, especially in
17 the pet food market. It makes no sense to allow
18 subsidized and dumped imports from China to capture
19 this new market at the expense of U.S. producers and
20 U.S. workers.

21 If the dumping and subsidies from China were
22 stopped, we stand ready to invest in additional
23 capacity and hire additional employees to capture this
24 opportunity.

25 Thank you for your time, and I'll be happy

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1 to answer any questions.

2 MR. NICOLAI: Good morning, Mr. Carpenter
3 and members of the Commission staff. My name is Steve
4 Nicolai. I'm been employed by Mid-America Packaging,
5 LLC since 1999, and I've served as its vice president
6 since 2003. I have worked in the packaging sector
7 since 1984.

8 Founded in 1985, Mid-America Packaging is a
9 vertically integrated manufacturer of multiwall paper
10 shipping sacks. We also produce the Kraft paper that
11 is the basic raw material for our paper sacks.

12 Multiwall paper shipping sacks, as the name
13 indicates, are composed of multiple layers or plies of
14 paper. Our sacks have up to five plies of paper. The
15 majority of the multiwall paper sacks are sold to the
16 many industrial end use markets. Most of these sacks
17 have an outer ply of Kraft paper and utilize minimal
18 colored graphics. They're used for shipping cement,
19 minerals and other materials.

20 Here are various samples of some of the
21 industrial products: the plain Kraft bag, a Quickrete
22 sand bag, a Quickrete cement bag, a fertilizer bag for
23 Agri-Grow and a 50 pound salt bag for Cargill salt.

24 A small segment of the multiwall shipping
25 sacks, roughly 10 percent, have an outer ply of white

1 coated paper that is suitable for high-quality
2 multicolored print graphics for packaging goods sold
3 at retail. The Commission should be familiar with
4 this type of paper from its pending investigation on
5 Coated Free Sheet Paper From China.

6 Multiwall shipping sacks with this type of
7 coated paper have been used to package pet food, bird
8 seed and similar consumer goods for retailer sale. We
9 are not aware of any imports of this product from
10 China. Here is a sample of this product type we make
11 for the pet food market.

12 Beginning in 2004, several major customers
13 began to require woven polypropylene sacks rather than
14 paper sacks due to demands of retailers to reduce
15 breakage and product waste. They also required that
16 the woven bags have high quality print graphics to
17 serve as point of sale advertising on the retail
18 shelf. The number of customers requiring this type of
19 packaging has increased every year since 2004.

20 In response to these customers' requests,
21 Mid-America has attempted to produce this type of bag.
22 We purchased lamination equipment to develop this new
23 product. This equipment is designed to laminate woven
24 polypropylene to both coated paper and BOPP film.

25 We had a considerable challenge moving from

1 a paper-based manufacturing process to a manmade
2 textile-based manufacturing process. We have used the
3 lamination machines to laminate woven polypropylene to
4 coated paper and to reverse printed BOPP film.

5 We were successful in developing a process
6 to laminate coated paper to woven polypropylene. We
7 had successful trials of these sacks and began
8 commercial production in April of 2006. Here is a
9 sample of this type of woven bag laminated to coated
10 paper we produce for the pet food market.

11 Unfortunately these laminated woven sacks
12 with an outer ply of coated paper could not compete
13 with imports from China which were laminated to BOPP
14 film and priced lower than our variable cost of
15 production.

16 In the face of that unfair competition, we
17 were unable to secure the order volume or achieve the
18 necessary returns for this product. We never came
19 close to achieving our break even point, and we ceased
20 production of all woven bags in March of 2007. Thus,
21 we have been forced to import from China to fill
22 customers' needs for this product.

23 We also attempted to develop a process for
24 laminating reverse printed BOPP film to woven
25 polypropylene. We began trial production of that

1 product in September 2006. As I mentioned before, our
2 experience and expertise is in paper products, and so
3 far we have not been able to master the technology of
4 laminating reverse printed BOPP film to woven
5 polypropylene.

6 We have not been able to obtain a
7 satisfactory bond from the lamination, and, as others
8 have noted, laminating the BOPP film to the woven
9 fabric is a critical step in the process of making
10 laminated woven sacks.

11 I am certain we would achieve this goal with
12 additional capital investment in technology, equipment
13 and training. Given the low prices of Chinese
14 imports, however, we cannot justify any further
15 investment to enter this new industry with U.S.
16 production.

17 Our motivation to make these capital
18 investments and our ability to compete in the market
19 for laminated woven sacks is entirely dependent on the
20 outcome of this investigation.

21 Finally, I agree with Mr. Bazbaz and Mr.
22 Nowak that the laminated woven sacks are distinct
23 products that are not like paper shipping sacks. They
24 are different than paper sacks with respect to raw
25 materials, production equipment, production

1 technology, physical characteristics and use. If you
2 look at the two pet food bag samples I provided, you
3 will see that the construction of the two bags is
4 totally different.

5 We have been forced to supply this new woven
6 product because our customers have demanded it. Some
7 large retailers have told our customers they will only
8 accept laminated woven sacks for pet food and similar
9 products.

10 Given the fact that our company makes Kraft
11 paper, we would never have an economic motivation to
12 introduce a woven bag if not demanded by our
13 customers. But for these customers who want the
14 strength and tear resistance of woven polypropylene
15 and high-quality print graphics there is no
16 substitute.

17 While all the imports of laminated woven
18 sacks from China that we have seen so far have an
19 outer ply of BOPP film, we fear that the Chinese would
20 start exporting sacks laminated to coated paper if
21 duties were only placed on imports of sacks laminated
22 with BOPP film.

23 The fact that antidumping and countervailing
24 duties may be imposed on coated free sheet paper from
25 China provides Chinese producers even more incentive

1 to laminate coated paper to woven fabric to avoid the
2 duties on coated paper.

3 Thank you for your time. I'd be happy to
4 answer any questions.

5 MR. DORN: Joe Dorn for Petitioners.
6 Following up on my opening statement, I'd like to
7 explore in a little more depth the issue of material
8 retardation, an issue that the Commission hasn't
9 considered since I think about 1991.

10 The statute provides that the Commission
11 "shall determine whether the establishment of an
12 industry in the United States is materially retarded
13 by reason of imports of the subject merchandise."

14 That statutory language came into effect in
15 the Trade Agreements Act of 1979. The prior statutory
16 language talked about preventing the establishment of
17 the industry. There is no legislative history. There
18 are no regulations that added any detail to that
19 statutory definition.

20 What we can say is it's not required to show
21 that the imports are preventing the establishment of
22 the industry. All we need to show is that the imports
23 are retarding the establishment of the industry in the
24 sense of making it more difficult or delaying the
25 establishment of the industry. It's a lesser test

1 than existed before the 1979 Trade Agreements Act.

2 Of course, none of the current Commissioners
3 were involved in the cases that explained some of the
4 factors to be considered, but that's all I have to go
5 on so I'm going to discuss the factors that were used
6 in the past. I don't necessarily agree with all of
7 them, and it's certainly not the case that all the
8 factors have to be satisfied in order for Petitioners
9 to prevail.

10 What is clear is that there's no requirement
11 that the U.S. producers have not commenced production.
12 You can have a situation where the U.S. producers have
13 commenced production of a product, but the industry
14 can still be considered not to be established unless
15 and until the U.S. producers have stabilized their
16 operations.

17 The Commission has tended to look at five
18 factors in making that assessment. I'll quickly
19 address each of those five factors in the context of
20 the facts of this case.

21 First, when did the U.S. industry begin
22 production? Here U.S. production of laminated woven
23 sacks began recently. Two companies began production
24 in 2003, one company began production in 2004, and
25 four companies began production in 2006, so this is a

1 recent effort.

2 The second factor is whether U.S. production
3 has been started and stopped. In this industry it has
4 been. You already heard the testimony about Mid-
5 America Packaging, which has had to stop altogether.
6 They're ready to reenter the market once they can
7 reasonably achieve a decent level of pricing and have
8 an opportunity to make more sales.

9 You will also have evidence from other
10 producers that have seen wide fluctuations in their
11 production volume. In other words, they're not making
12 the product every day. Because of the scarcity of
13 orders, it's been a fluctuating production volume
14 situation so they haven't been able to stabilize their
15 production operation.

16 The third factor is the size of the domestic
17 production in relation to the domestic market. The
18 data there is confidential, but based upon the
19 information we've provided in the petition U.S.
20 production is a very small percentage of the total
21 market at this point, which is a plus factor in our
22 favor.

23 Fourth and most importantly, the U.S.
24 producers have not been able to stabilize production
25 at a level even approaching a break even point, and

1 they've consistently lost money. The Commission noted
2 in the Norwegian Salmon case that one of the factors
3 to be considered in determining whether an industry is
4 established is whether the domestic industry has
5 reached a reasonable break even point.

6 The Commission pointed to an industry's
7 inability to achieve sustained profitability as a
8 factor indicating that it may not be established, and
9 that factor we think is probably the most significant
10 factor in this particular investigation.

11 There are two primary reasons why the U.S.
12 producers have not reached a reasonable break even
13 point. As you've heard from the witnesses, they
14 haven't been able to reach significant sales volumes
15 that utilize their production capacity efficiently,
16 and, second, they haven't been able to achieve the
17 pricing levels required to cover their cost of
18 production.

19 Finally, the last factor the Commission has
20 considered, and this is the one I don't really
21 understand. It's whether the U.S. producers'
22 activities are truly those of a new industry, not
23 merely product lines of existing firms.

24 We have established the fact there's a new
25 industry because we have a separate domestic like

1 product which means we have a separate domestic
2 industry so I'm not sure how this factor came about.

3 In any event, even applying that factor, as
4 you've heard from Mr. Nowak, CEI never made a bag
5 before this product. Mr. Bazbaz had to develop the
6 technology to do the lamination, which is the toughest
7 hurdle to establishing this new industry product.

8 And you heard the testimony from Mr.
9 Nicolai, who was coming from the paper industry. He
10 had no experience making a textile product, so it was
11 a new product for him as well, or a new industry for
12 him as well, so we satisfy this fifth and final factor
13 to the extent that it's going to be considered by the
14 current set of Commissioners.

15 I'll ask Rebecca Woodings to please address
16 the question of material injury because, as I stated
17 in my opening statement, we're arguing in the
18 alternative that either an industry has not been
19 established due to material retardation by reason of
20 the dumped and subsidized imports, and, in the
21 alternative, if the Commission disagrees with that and
22 says an industry has been established then our
23 position is that that industry has been materially
24 injured.

25 MS. WOODINGS: Good morning to all. It's

1 always a pleasure to return to the ITC.

2 Should the Commission decide that there is
3 an established U.S. industry producing laminated woven
4 sacks, the Commission should then find that that
5 industry is materially injured by reason of the
6 subject imports. I will briefly review the facts
7 associated with the statutory criteria for a material
8 injury.

9 The volume of the subject imports is clearly
10 significant. The data contained in the petition
11 document a substantial rise in subject import volume
12 throughout the period of investigation. The
13 Commission will also see a substantial rise reflected
14 in importer questionnaires.

15 In addition, the data will demonstrate that
16 the subject imports account for a very large share of
17 apparent U.S. consumption. Finally, there will be no
18 question that the ratio of the subject imports to U.S.
19 production is extremely high. As we demonstrate in
20 the petition, the lion's share of the growth in this
21 market has gone to the dumped and subsidized imports.

22 The statutory criteria for adverse price
23 effects are also satisfied. In the petition we have
24 documented instances of substantial price underselling
25 for, as demonstrated with our examples, products

1 meeting the exact same specification as regards
2 material content, dimension and print content.

3 You will be able to confirm the extremely
4 low prices of Chinese imports in the importer
5 questionnaires, and some underselling is clearly
6 evident and clearly significant.

7 U.S. prices have also either been depressed
8 or suppressed by the lower priced subject imports over
9 the period examined. U.S. producers who have faced
10 cost increases particularly in raw materials have been
11 unable to pass on those cost increases. Thus, the
12 record reflects significant price suppression. The
13 more recent data are also indicative of significant
14 price depression.

15 If the Commission were to consider this to
16 be an established industry it is nevertheless an
17 industry in its infancy. It is struggling to build
18 sales volume, struggling to fill capacity and to
19 reduce per unit fixed cost.

20 The reality is that in the face of soaring
21 demand, brand new equipment stands idle and
22 functioning equipment is operating far, far below
23 capacity. The financial condition of the industry is
24 extremely poor and getting worse.

25 The Commission has seen plenty of cases

1 where operating returns are negative, but cashflow is
2 still positive. I would direct your attention to the
3 cashflow results for this industry. You heard today
4 from one company that successfully launched commercial
5 production last year and shut down this year. Let's
6 not let that be the fate of other companies.

7 If there's any question about the causal
8 link between the low capacity utilization and
9 depressed financial performance I would also point you
10 to the lost sales and lost revenue allegations. You
11 can easily compare the magnitude of the lost sales
12 opportunities with the magnitude of the sales volume
13 and the revenues that have been achieved. I don't
14 recall an investigation where the comparison is as
15 stark.

16 In closing, there is huge potential for this
17 new industry, but the next critical step for these
18 producers is for the Commission to reach an
19 affirmative determination in this preliminary
20 investigation. Thank you very much.

21 MR. DORN: Mr. Carpenter, that ends our
22 presentation.

23 I saw that you handed up the PowerPoint
24 slides to the court reporter, I believe, and we would
25 like those to be attached to the transcript.

1 MR. CARPENTER: Yes, Mr. Dorn. We certainly
2 will attach those to the transcript.

3 MR. DORN: Thank you. And then also with
4 respect to samples, we're happy to leave those for the
5 Commission staff to review at your leisure.

6 MR. CARPENTER: Okay. We will. I
7 appreciate that. We will return those at the end of
8 the investigation.

9 MR. DORN: Thank you.

10 MR. CARPENTER: Thank you very much, panel,
11 for your presentation. We really appreciate your
12 coming here today to share your thoughts with us.

13 At this point, we'll turn to the staff
14 questions. We'll begin with Chris Cassise, the
15 investigator.

16 MR. CASSISE: Good morning to everybody.
17 I'd like to start off this morning with a few
18 questions regarding the production process that Mr.
19 Bazbaz went through. The chart, by the way, was very
20 helpful. We were hoping you'd bring something like
21 this. I understand that the yarn-making process and
22 the weaving process would not be used in the
23 production of any other type of bag, the paper or the
24 other type of bags. But what about the printing and
25 the lamination machines?

1 I mean, you said your specific machines were
2 dedicated to the production of the subject product,
3 but could you use the lamination machines or the
4 printing machines to make say paper products? And
5 this question could be answered by any of the
6 witnesses.

7 MR. BAZBAZ: Our lamination machine would
8 not be used to make paper products. It's basically
9 only used to laminate the woven fabric to the BOPP or
10 to coat the fabric with polypropylene.

11 The printing presses that we will utilize to
12 make a regular, normal unlaminated sack does not
13 require the capacity or capabilities of the printing
14 press that we use for the LW sacks. Typically a
15 nonlaminated woven sack will be using a stack press or
16 hand-fed press to just apply one or two colors.

17 MR. CASSISE: I mean, because we saw today,
18 you know, a laminated paper product, so those machines
19 could not be used to make that product.

20 Maybe Mr. Nicolai could answer that better
21 since your company makes those products.

22 MR. NICOLAI: As far as the printing goes,
23 there is a very similar press that would direct print
24 on paper or reverse printed film, so it would require
25 a high-end type of press.

1 MR. CASSISE: Maybe the better way to ask
2 the question would be to ask did you go and buy
3 different lamination machines and different printing
4 presses when you decided to get into this market?

5 MR. NICOLAI: Yes.

6 MR. CASSISE: Okay. Also on the BOPP film,
7 none of the companies here actually produce that film.
8 That film is purchased, correct?

9 MR. BAZBAZ: That's correct.

10 MR. CASSISE: And the companies that
11 purchase the fabric? You may or may not want to say
12 this in a public forum, but if you could state where
13 you purchase that product from, which company, which
14 country, that would be helpful.

15 MR. DORN: We'll do that for you
16 postconference.

17 MR. CASSISE: Sure. Mr. Nowak, you had
18 stated in your testimony that you were approached by a
19 U.S. importer who wanted a U.S. source of this
20 product.

21 You didn't tell us whatever happened to that
22 customer and why they seemingly dropped you as a
23 producer. If you could elaborate on what happened
24 with that scenario?

25 MR. NOWAK: We were approached by a U.S.

1 importer, meaning a broker or a sales rep, to offer
2 the product, and they asked us to do an investigation
3 to see if we could be competitive with the Chinese,
4 which is what I indicated we did do, and we felt we
5 could be.

6 They've become our sales representative to
7 the various people that buy bags, so they are working
8 for us trying to sell the bags, but they're not
9 selling much, just like we're not producing much.

10 MR. CASSISE: Okay. Your website also lists
11 the benefits of U.S. production: Lead times being
12 much shorter, bag cutting and sewing being automated
13 rather than manual, better printing, easier to change
14 graphics when needed, better quality control and,
15 needless to say, shorter shipping methods.

16 Do these benefits create any quality issues
17 or quality benefits for your company? Maybe if we
18 pass the bags around we could feel for ourselves, but
19 also none of the customers are willing to pay a
20 premium for these benefits.

21 MR. NOWAK: My perception is that we have a
22 better quality bag, but we don't sell very much of it
23 because of the pricing so I guess the perception of
24 quality is in the eye of the customer and how they
25 measure that quality for the price.

1 I would say our website is an effort to try
2 to sell bags. If you look at the volume, we do do a
3 lot of it because of delivery. If a customer needs
4 something like Kaytee, for example, which I
5 referenced. We still do some business there because
6 they want someone who if there's an emergency they can
7 go to, but the majority of the share is going to be
8 lost based on price.

9 MR. CASSISE: Mr. Nicolai, I actually would
10 like to see the paper bag there, the paper laminated
11 bag. That bag seems to have some of the
12 characteristics of the woven sack. I mean, that's not
13 going to tear very easily, correct?

14 MR. NICOLAI: Correct. It is basically the
15 same properties as the woven bag.

16 The only difference is instead of using the
17 BOPP film as the printing substrate we use the paper
18 substrate since we were not able to master the
19 lamination of the BOPP film, so in essence it's the
20 same product and strength and characteristics.

21 MR. DORN: And you understand, of course,
22 that is part of the like product that we're
23 requesting. That's subject to the scope of the case
24 because --

25 MR. CASSISE: Okay. Okay.

1 MR. DORN: -- it's a laminated woven bag
2 with an outer ply of coated paper with high-quality
3 print graphics.

4 MR. CASSISE: Right there. Yes.

5 MR. DORN: That bag is not being imported
6 from China today, but our concern is that if we got
7 duties on the bag with BOPP outer ply --

8 MR. CASSISE: Right.

9 MR. DORN: -- they would start bringing that
10 bag in.

11 MR. CASSISE: Circumvention. Yes.

12 MR. DORN: The print graphics are
13 comparable.

14 MR. CASSISE: Mr. Nicolai, I'd like for you
15 to elaborate a little bit more on how your firm was
16 unable to "master the technology" of laminated woven
17 sacks and what capital investments you would need to
18 master this technology.

19 MR. NICOLAI: I do not know the exact amount
20 we would require. Perhaps we could provide that
21 later.

22 MR. DORN: Okay. We can get together with
23 our financial folks and provide something in a
24 postconference in terms of the additional investment
25 they would like to make if they had the motivation to

1 do so and the types of equipment they would purchase.
2 Is that the question?

3 MR. CASSISE: Well, I wanted to know what he
4 meant by the company couldn't master the technology.
5 It makes it sound as if there were some trouble in
6 implementing the machinery, the production process. I
7 was just curious.

8 MR. DORN: Yes. I think it's the same. You
9 know, Mr. Bazbaz explained the trick was trying to get
10 the good bond between the reverse printed film where
11 you have water-based inks.

12 Why don't you explain that, Isaac?

13 MR. BAZBAZ: Yes. The difficult part is to
14 have a good adhesion between the fabric and the
15 printed surface of the BOPP, which are completely
16 different materials, and they are not bondable by
17 themselves.

18 So we apply a curtain of plastic, but that
19 plastic is somewhat proprietary in terms of our
20 development to ensure that we merge the
21 characteristics of the ink to the characteristics of
22 the fabric and then just make one single ply that
23 would be subject to high temperature or a lot of
24 friction during transportation.

25 For instance, the pet food has a lot of

1 grease so that if you don't have good lamination can
2 migrate between the OPP and the woven fabrics and then
3 with the laminated, which shows like bubbles, so it
4 was not immediately clear that it was not a good
5 lamination until it was sent through the
6 transportation process to show that we needed to
7 improve on that.

8 MR. CASSISE: Okay. The lamination process
9 is conducted by the application of heat?

10 MR. BAZBAZ: Yes. If you will, let's say
11 that this is the OPP. This is the fabric. You bring
12 the OPP, the printed side of the OPP, to the fabric,
13 and in between there is a layer of molten plastic
14 coming in which becomes the bond, and then this gets
15 pressed and rolled. That is the trick is to get this
16 to adhere.

17 MR. CASSISE: So that middle layer of
18 plastic is the trick?

19 MR. BAZBAZ: It's laminating the plastic to
20 the printed surface.

21 MR. CASSISE: Okay.

22 MR. DORN: It's my understanding Mid-America
23 was able to do the lamination of the fabric to the
24 coated free sheet paper -- that was successful -- but
25 have not gotten to the point of being successful with

1 a strong, good lamination to the BOPP film, and that's
2 what he testified would require additional time and
3 effort to develop.

4 MR. CASSISE: And that was finding out how
5 to succeed at that process? Is that a trial and error
6 or significant increases in capital investment?

7 MR. NICOLAI: If I knew, I guess I would be
8 making it. It's more of a trial and error in a
9 technology that again we're paper people and paper bag
10 makers.

11 We did not want to invest in further
12 employees, people, or in technology or invest more
13 time based on where we were in the marketplace for the
14 price of those products, so it's more the technology
15 and the know-how.

16 MR. CASSISE: Okay. Thank you.

17 Mr. Bazbaz, I would like to talk to you
18 about the methodology that you came up for the U.S.
19 import data in the petition.

20 I'd like to give you an opportunity to
21 explain how you came up with the methodology and
22 whether everyone is in agreement that this is a
23 reasonable methodology to take the HTS Commerce
24 statistics and turn them into what constitutes the
25 subject product.

1 MR. BAZBAZ: Yes. We took the information
2 from the tariff, 6305330020, and the way we did that
3 is that I don't know if you have Attachment A in the
4 exhibits.

5 MR. DORN: It's Exhibit 6 to the petition,
6 Attachment A.

7 MR. BAZBAZ: And this classification is for
8 woven sacks and nonwoven sacks, that they are less
9 than one kilogram of weight. This captures imports
10 from all countries, but the most important ones that
11 were analyzed here were the imports from China and
12 from Thailand.

13 If you can see in the Attachment A, if you
14 start from 1997 the imports in kilograms were 1.8
15 million, then one, then 1.1 and so on until 2002. It
16 jumped from two million to four million, 4.9 million,
17 almost five million. Then from there on it increased
18 substantially more every year.

19 Before 2003 the imports consisted of
20 primarily woven sacks, nonlaminated. This market is
21 for industrial use. It's a very mature market. It
22 has not been growing, so the way that I did this
23 analysis is that I assumed that for that specific
24 growth, for that specific segment, we applied a growth
25 factor of five percent, which could be conservative at

1 the high side of the growth for a mature product.

2 We took, for instance, the volume of 2002
3 and applied a five percent increase every year and
4 then show the imports of LWS by subtracting the amount
5 that I assume it was for the regular nonwoven sacks.

6 MR. DORN: Nonlaminated.

7 MR. BAZBAZ: Nonlaminated sacks, and then
8 the balance was what we assume to be the laminated
9 sacks.

10 You can see there is a very high, steep
11 trend of imports coming in from this direction.
12 That's the way I submitted this.

13 MR. CASSISE: Okay. I understand the five
14 percent growth rate. However, how did you come up
15 with the initial 88 percent?

16 You're assuming that the growth from 2002 to
17 2003, that growth rate -- I guess that would be the
18 three million. You're assuming that's all subject
19 product?

20 MR. BAZBAZ: Yes. Yes, because if you see
21 the previous numbers it went from 1.8 to two million.
22 You know, it pretty much hovered at around a million
23 for a few years.

24 MR. CASSISE: Okay.

25 MR. DORN: You'll be able to check these

1 against the foreign producers' questionnaires, I
2 assume.

3 MR. CASSISE: How would you respond to what
4 Respondents have mentioned, that there may be imports
5 from other nonsubject countries coming into the
6 country? Is that anybody's experience that they have
7 seen these products?

8 MR. BAZBAZ: Well, this is a new industry
9 and certainly there must be some other countries that
10 might be working on this, but I have certainly not
11 seen anything other than China or Thailand.

12 MR. CASSISE: So regardless, the vast
13 majority would be from China?

14 MR. BAZBAZ: Yes.

15 MR. DORN: And with respect to any
16 allegations of products coming from other countries, I
17 would ask the staff to be very careful in making sure
18 that the alleged products are truly the product that's
19 defined in the scope of the investigation that has an
20 outer ply of BOPP or similar film or coated paper. In
21 other words, it has the high-quality print graphics.

22 There very well may be products coming in
23 that are woven bags from other countries. The key
24 issue is whether they have the outer ply that brings
25 them within the scope of this investigation.

1 MR. CASSISE: Mr. Bazbaz, again another.
2 You came up with a conversion ratio of 8,000 sacks to
3 one short ton. If you want to briefly explain how you
4 came up with that and is that reasonable to everyone?

5 These are questions I'll ask the Respondents
6 as well. I just want to get your take on the record.

7 MR. BAZBAZ: Sure. Well, since we sell all
8 the bags on the basis of per 1,000 or per unit, we had
9 to figure out a way to convert the bags from the
10 weight to the per 1,000 units. Of course, it varies
11 according to the size.

12 We've seen that on average our bags are
13 about a quarter of a pound in weight if you take in
14 consideration the 20 pound bags and also the 50 pound
15 bags in a more or less weighted average, so that's why
16 we thought that the market was in a similar condition,
17 and that's how we got to the 8,000 bags per short ton.

18 MR. CASSISE: What would be average range?
19 What would be the range, a 25 pound bag to 50 pound
20 bag? What's the range of your products?

21 MR. BAZBAZ: It goes from 17, 18 pounds to
22 about 55 pounds.

23 MR. CASSISE: Okay. Thank you.

24 MR. BAZBAZ: You're welcome.

25 MR. DORN: I might also just mention that

1 while Mr. Bazbaz is primarily responsible for putting
2 together these numbers, they were vetted by the other
3 Petitioners.

4 MR. CASSISE: I assumed so. Thank you. One
5 quick question on the scope language, and this is just
6 me not knowing the industry.

7 Is there a bright dividing line on the three
8 colors? I mean, are there a lot of one and two color
9 bags in the marketplace?

10 MR. NOWAK: Predominantly the one and two
11 color bags, which I think you saw some samples of
12 today, would tend to be the nonretail store
13 fertilizer, grain, feed kind of thing.

14 When you get up to the three color, four
15 color is where you start to have pictures and higher
16 resolution graphics, and that's why we drew that line
17 as the place where, you know, probably someone
18 wouldn't have it on a store shelf if it was less than
19 three color.

20 MR. CASSISE: But there doesn't exist in the
21 marketplace a one or two color laminated woven sack?

22 MR. NOWAK: Again, it could be made, but --

23 MR. CASSISE: But it's not your experience?

24 MR. NOWAK: It's not my experience. In
25 general, if a marketing person is going to put

1 something on a store shelf it doesn't cost that much
2 more to go to the press and put on more colors and
3 make it pizzazzier.

4 MR. DORN: And my understanding is I think
5 the bags you've been looking at today, the samples,
6 tend to be six to eight colors.

7 MR. BAZBAZ: Eight to nine. They are eight
8 to nine colors, most of them.

9 You at least require four colors to make a
10 process print and then two or three other colors to
11 reinforce the solid color.

12 MR. CASSISE: Okay. Thank you.

13 Mr. Dorn, you were discussing the factors on
14 your material retardation argument. How would you
15 respond to the argument that this is merely another
16 product line in the flexible packaging market?
17 Everyone here was already in this flexible packaging
18 market and decided to try a new product line.

19 I know the Commission hasn't explored it
20 much, but it seems like an argument that could be
21 made. Maybe this is an antitrust argument where it's
22 defining the industry, but how would you respond to
23 that?

24 MR. DORN: First of all, I don't understand
25 where the test comes from in looking at the statute.

1 In the Commission's parlance, industries are
2 domestic industries that are defined in relation to
3 domestic like products, so the Commission doesn't do
4 an antitrust type market analysis or industry
5 analysis. It has statutory criteria that it must
6 apply in defining a domestic like product. Once it's
7 done that, that defines the domestic industry and
8 that's the way we think this provision should be
9 applied as well.

10 But, even if we apply that factor we think
11 we've satisfied that factor because we have folks in
12 the paper industry like Mid-America packaging which
13 are coming from a totally different technology and
14 industry in the paper area trying to get into this
15 textile product.

16 You have CEI, which has never made a bag
17 before. You heard Mr. Nowak testify to that, so this
18 is totally new to them.

19 Mr. Bazbaz has made woven bags in the past,
20 but has never dealt with BOPP film and the technical
21 step which he's been able to master, but others
22 haven't been able to master, of bonding that BOPP film
23 to the woven fabric.

24 So this is not like, you know, you make pipe
25 up to 16 diameter and then you say well, let's start

1 making pipe that's up to 18 diameter. This is not
2 like you're making one flavor of product and you add
3 another flavor.

4 This is a step in terms of technology and
5 raw material and end use, and I would look at it that
6 way.

7 MR. CASSISE: I mean, would you suggest a
8 value added type of analysis where we determine how
9 much value is added from a woven sack by the
10 lamination?

11 MR. DORN: No. What I would suggest is a
12 traditional domestic like product, domestic industry
13 analysis, and if you define a domestic industry and
14 that domestic industry, the establishment of that
15 industry is being retarded by dumped and subsidized
16 imports, then the Commission should reach an
17 affirmative determination.

18 I don't see, you know, where you would pull
19 these other -- I don't know where these other factors
20 would come from like a value added test. I just don't
21 see where it would come from in the statute or the
22 prior cases.

23 MR. CASSISE: My last question has to do
24 with the raw material costs. It's been mentioned a
25 few times, this recent increase in raw material costs.

1 I'm assuming that this is the polypropylene
2 or the polyethylene that's increased in price. If you
3 could give us a little background on what that market
4 is like and what these recent increases are, the
5 magnitude of these recent increases?

6 MR. NOWAK: I think we want to supply the
7 exact numbers I guess after the --

8 MR. CASSISE: Am I correct that it is the
9 polypropylene?

10 MR. NOWAK: You are correct. The woven is
11 based on polypropylene. The BOPP is based on
12 polypropylene. Your laminate is also petrochemical
13 based. I mean, over the last two years I think
14 everyone is aware of what's happened to
15 petrochemicals.

16 MR. CASSISE: Okay.

17 MR. NOWAK: But we can certainly find exact
18 numbers to do that.

19 MR. CASSISE: That would be helpful. Thank
20 you.

21 That's all the questions I have for right
22 now. Thank you.

23 MR. CARPENTER: Mr. Bernstein?

24 MR. BERNSTEIN: Hi. I'd like to thank the
25 panel for their testimony. I'll also note for the

1 record that the attorney actually assigned to this
2 case is Mary Jane Alves. She has to argue a case
3 before a NAFTA panel today, so I am sitting in for
4 her.

5 Let me begin by asking the industry
6 witnesses to elaborate on a statement Mr. Dorn made in
7 his opening remarks. Mr. Dorn said that the
8 investment and marketing plans of the domestic
9 industry were sound.

10 I'm wondering if the industry witnesses, to
11 the extent you can do so in a public session, can
12 indicate to us what sort of examination you did as far
13 as evaluating your investment in the marketing
14 opportunities before you started producing what you're
15 characterizing as this new product.

16 Let me start with Mr. Nowak. You said in
17 your testimony you made certain assumptions about
18 demand, technology and customer base. Can you explain
19 generally what those were and how you went about that
20 process?

21 MR. NOWAK: Yes. Not into details because
22 obviously that would be confidential, but at the time
23 we had, as I indicated, some sales representation that
24 had products that they were interested in.

25 We talked with the customers that they were

1 interested in providing, and based on the pricing that
2 we had at the time on raw materials were able to talk
3 with those customers and get indications from them if
4 we were at these prices would that be competitive and
5 would that be of interest to them. At that point it
6 was.

7 We put together a typical return on
8 investment calculation based on what the customers
9 were telling us from a volume standpoint and a
10 profitability margin standpoint on the products we
11 would sell them and were able to justify a good return
12 on our investment and went ahead to our board and our
13 banks to invest.

14 MR. BERNSTEIN: Could you just clarify again
15 what is the timeframe you're talking about when these
16 discussions and deliberations were made?

17 MR. NOWAK: This was mid 2005.

18 MR. BERNSTEIN: Thank you. Mr. Bazbaz, can
19 you elaborate on the process your company went
20 through?

21 MR. BAZBAZ: Sure. We were approached by
22 our customer, by now our customer, but at that time
23 Nestle Purina, which was looking for a U.S. producer
24 of this type of bag, of the sacks.

25 We had discussions of the potential

1 business, the volume, pretty much the targeted prices,
2 and we made an analysis and we felt that we could be
3 competitive and be profitable at it, so certainly we
4 did that analysis, you know.

5 I can probably search my records to see
6 what's there and provide it on a confidential basis if
7 you want.

8 MR. BERNSTEIN: Again, could you indicate
9 what the timeframe of these discussions were?

10 MR. BAZBAZ: These were early 2004.

11 MR. BERNSTEIN: Okay. And with respect to I
12 guess what you've told us so far, if you could give
13 whatever information you have, the confidential
14 details, in your postconference brief?

15 My impression yesterday in the staff
16 discussion was that we have not received any material
17 of this sort yet from the domestic industry.

18 Mr. Nicolai, can you add anything to this
19 discussion?

20 MR. NICOLAI: Our case is similar to Mr.
21 Bazbaz's. Our own paper sack customers required or
22 were asking us to produce this product, and we decided
23 the market was there and we were going to make the
24 investment to go that route.

25 We don't have anything formally put

1 together, but we can provide any information we have
2 to you at a later date. It was pulled from the
3 customer asking us to produce it.

4 MR. BERNSTEIN: All right. I guess a
5 related question is I guess according to Exhibit 8 of
6 the petition, the subject imports from China really
7 started jumping up in 2005, yet according to what Mr.
8 Dorn said you had three companies beginning to produce
9 this product in 2006.

10 Can anyone on the panel or, for that matter,
11 counsel explain why companies, U.S. producers,
12 continued to get into this business even after what
13 appears to be this subject import surge had begun?

14 MR. BAZBAZ: Well, the market potential is
15 very important. It's very high, and that is that
16 segment of the pet food and bird seed bags is
17 substantial so the motivation is there.

18 It was not a very difficult decision to have
19 made in the year 2003, 2004 and even in 2005 because
20 of the explosive growth of this demand. I just
21 don't --

22 MR. BERNSTEIN: Okay. Perhaps you can
23 clarify something. The companies that began
24 production in 2006, I mean, or if you began production
25 in year X, how long is the planning process?

1 I mean, if you began production in 2006,
2 does this mean you first started exploring or actually
3 started to take steps to produce the product a year
4 earlier? Two years earlier? Three months earlier?
5 Could you give me what the sort of start-up timeframe
6 involved is?

7 MR. BAZBAZ: Sure. Most of the equipment
8 takes at least six months to be delivered, and you go
9 through an analysis probably that would take you four
10 or five months just to evaluate the opportunity and
11 visit with customers and potential buyers, so
12 certainly it is at least one year prior to start
13 testing production.

14 Once you start production it might take you
15 six months to just settle it, so you are a year and a
16 half from the decision making to commercial
17 production.

18 MR. BERNSTEIN: Okay. Let me ask a follow-
19 up on that. You're getting this new product, new
20 production technology, new equipment. I assume, you
21 know, the equipment is delivered. You're not going to
22 be able to run it at full capacity on day one.

23 How long is it going to take a producer, if
24 the three of you can give your experiences, to be able
25 to run, assuming you have the orders, just have the

1 capability of producing a quality product at full
2 capacity? How long does it take you, or are you at
3 that point currently?

4 I guess, Mr. Bazbaz, we can start with you
5 and then proceed to the other witnesses.

6 MR. BAZBAZ: Well, the process of lamination
7 is the critical process that requires certain skills
8 to have it done, but once you've done that it is
9 simple to train employees to get these things
10 established and running.

11 Outside of that, it is really not a terribly
12 complicated process so it's the printing of the film
13 and then laminating and then tubing and bag making.
14 It's more or less a standard process that could be
15 used. You can use any type of labor to do it.

16 MR. BERNSTEIN: I mean, you indicate in your
17 testimony your company started production in 2003.
18 Would it be fair to infer that since 2004 your company
19 would have been able to produce at full capacity?

20 MR. BAZBAZ: Well, we started in 2004.

21 MR. BERNSTEIN: Okay. I may have mis-
22 transcribed that.

23 MR. BAZBAZ: Yes. We started making some
24 trials in 2004. By the end of 2004, we were there.

25 MR. BERNSTEIN: Okay. Mr. Nowak, could you

1 give your scenario?

2 MR. NOWAK: I believe our equipment arrived
3 in April of 2006, and it was fully operational before
4 the end of May and producing good bags. Since that
5 time it's been up and down and up and down.

6 I mean, it could be up all the time if there
7 were orders, but the reason it goes up and down is
8 because of a lack of orders.

9 MR. BERNSTEIN: Okay. Mr. Nicolai, if I
10 understood your testimony and your answers to Mr.
11 Cassise, you have had problems I guess with some of
12 the production technology at least with the film
13 coating?

14 MR. NICOLAI: Correct. The equipment came
15 in I believe January of '06, and by April we were
16 producing the paper-based bag, but we've as yet to
17 master the laminated product, so about three or four
18 months to get the one up.

19 MR. BERNSTEIN: I guess I'll now turn to
20 some more strictly legal issues. These will be
21 principally for Mr. Dorn. A lot of these things will
22 be mainly for you to discuss in your postconference
23 submission, but if you have something to say here
24 please do so.

25 Several of these Respondents are welcome to

1 address them as well in case I don't direct these same
2 questions to you when you testify.

3 I guess the first question is let's assume a
4 material retardation analysis is applicable. In a
5 material retardation case, is the requirement of the
6 Bratsk case applicable?

7 Would you rather discuss that in a
8 postconference submission?

9 MR. DORN: I don't know why the Commission
10 would want to extend Bratsk any further since you're
11 challenging it on appeal.

12 MR. BERNSTEIN: Well, I don't know that we
13 would want to, but we may feel obliged to.

14 MR. DORN: A threshold question is whether,
15 you know, this is a commodity product that would even
16 be subject to Bratsk, and we don't consider it a
17 commodity product.

18 MR. BERNSTEIN: Okay.

19 MR. DORN: Also, given the fact that looking
20 at the fact that our estimates are that imports from
21 China represent over 90 percent of imports from all
22 countries, you know, we just don't think the scenario
23 is there for a Bratsk analysis under material injury,
24 material retardation or threat.

25 MR. BERNSTEIN: Okay. Actually, let me ask

1 one factual question before I get to that. It was not
2 clear from the data in the petition.

3 Does the domestic industry collectively have
4 the ability to supply the entire U.S. market? Is the
5 capacity sufficient to meet U.S. demand, I mean,
6 assuming there were no imports in the market?

7 MR. DORN: You know, looking at the material
8 retardation standard, one of the factors as a plus
9 factor is that the U.S. production was very small in
10 relation to the total market.

11 If the answer to your question was we're not
12 currently able to supply the whole market, that would
13 be a plus factor for us in showing material
14 retardation.

15 I'll ask Mr. Nowak to answer the question
16 about how quickly he could gear up to supply this
17 market.

18 MR. NOWAK: Based on our submission, I think
19 you would see that there is a considerable amount of
20 capacity out there today that could supply what the
21 imports are coming up with.

22 In addition, I would say we could probably
23 double our capacity within three months, so I think
24 that within three months we could, and the way the
25 world works usually you have two months on its way so

1 we're probably talking about a one month gap that we
2 would not be able to and we would have to still rely
3 on imports.

4 MR. BERNSTEIN: Ms. Levinson stated in her
5 opening remarks that if you succeeded in getting
6 duties imposed, and let's say you get the margins
7 you've requested in the petition. Those are very high
8 margins, and let's say they'll foreclose or eliminate
9 a lot of the Chinese imports.

10 She contends that material will just come in
11 from somewhere else. Now, I realize, number one, that
12 as a legal matter you would argue that Bratsk is not
13 applicable and this is, absent Bratsk, not a fact that
14 we should consider.

15 Keeping that aside, I mean, could you
16 address the factual component of that? The imports
17 don't seem to be coming in from other places. Do you
18 think that's a realistic factual concern or factual
19 likelihood that if the contention is the domestic
20 industry could never establish itself because it's
21 simply a high cost producer?

22 MR. DORN: Well, in discussing this, you
23 know, we did a lot of research to make sure that we
24 were correct in our statement in the petition that
25 there were none of these products coming from anywhere

1 besides China and Thailand. In fact, we tried to get
2 quotations from some other countries and were
3 unsuccessful. So it does not appear that this
4 technology exists today in a number of other
5 countries.

6 Also, you know, a key issue in this case is
7 the support that the Chinese government gives to the
8 textile industry and the packaging industry. We're
9 not aware right now of any other government giving
10 that kind of financial support and encouragement to
11 producers to enter this new industry. So it seems to
12 me to be extremely speculative to suggest that if the
13 duties go on imports from China today that imports are
14 going to start coming in from some other country.

15 MR. BERNSTEIN: Okay. Thank you.

16 Certainly. Go ahead.

17 MR. NOWAK: For what it's worth I'm not an
18 expert on the Mexican economy, but we've started to
19 supply a Mexican dog food producer and I'm told that
20 Mexico has 200 percent duties on Chinese bags. We see
21 no other competition down there coming in from any
22 other country.

23 MR. BERNSTEIN: Thank you. I guess, Mr.
24 Dorn, as you correctly noted in your remarks that with
25 respect to material retardation the staff in its

1 legislative history don't provide much guidance. You
2 went with what you have, but the Commission hasn't
3 dealt with this in 15 or 16 years, the current
4 Commissioners have not dealt with this at all.

5 It is possible that the current
6 Commissioners may do something that is slightly
7 different than what its done before. I certainly
8 don't know. One of the things you stated was that you
9 didn't necessarily agree with the factors that the
10 Commission has applied in the past. I guess if you
11 could elaborate here or in your brief which ones you
12 don't particularly agree with or you don't find
13 helpful?

14 I gather it was you don't particularly care
15 for that last factor about the start up more in the
16 introduction of a new product line by an already
17 established business.

18 MR. DORN: Yes. We'll certainly address
19 this in our postconference brief, but that's the one
20 that doesn't square to me with the statute and the way
21 the Commission has always viewed a domestic industry.

22 MR. BERNSTEIN: Okay. Another thing, and
23 I'm going to do something that lawyers are always
24 warned not to do, which is to try to oversimplify
25 matters or sometimes talk about matters in, you know,

1 less technical terms, but I have one impression that I
2 got from reading some of the material retardation
3 cases, and I should emphasize I'm only speaking for
4 myself, was that in the past when the Commission
5 actually used a material retardation analysis it dealt
6 with instances where the industry operations were
7 either of insufficient duration or insufficient
8 continuity that evaluation of the typical factors in
9 the trend analysis that most Commissioners
10 historically have done over a three or three plus year
11 period in an injury investigation was not able to be
12 undertaken.

13 I would ask first for your reaction to that,
14 and second, is it really the case here that you
15 couldn't undertake a trend analysis if you had to?

16 MR. DORN: Well, let me make it very clear,
17 I don't think it makes any difference whether the
18 Commission uses a material injury analysis or a
19 material retardation analysis on the facts of this
20 case. I mean, I think either way it's an affirmative
21 determination.

22 I think if you do a traditional trends
23 analysis you would have to modify that analysis
24 somewhat to just take into consideration that this
25 industry is starting from scratch basically, so I

1 mean, of course you're going to have an increase in
2 production from 2004 to 2006, you're going to have an
3 increased capacity from 2004 to 2006, but some of the
4 traditional performance criteria are going to show an
5 upward trend.

6 The key fact here is to look at the under
7 utilization of capacity, the failure to earn a return
8 on investment, the failure to earn an operating
9 income. One of the criteria in the statute is the
10 impact of imports on the ability of an industry to
11 grow. It's not a factor that gets a lot of attention
12 by the Commission in most cases, but I think that
13 factor should be looked at.

14 To what extent are the imports impeding the
15 ability of this industry to grow? So, you know, we
16 win on trends analysis, it's just that in looking at
17 that trends analysis because it's a new industry I
18 think the Commission has to look at it a little
19 differently than for a mature industry that's been
20 around for 30, or 40, or 100 years.

21 MR. BERNSTEIN: Okay. Thank you. I guess
22 I'll ask three further questions which are things that
23 because some of them require I guess use of BPI I'll
24 just ask you to address in your postconference
25 submission.

1 One is how does the 2004 financial data, and
2 I can't go into this in any detail because it's
3 confidential, discussed at page 20 of the petition
4 support the proposition that the domestic industry has
5 been unable to reach a break even point with respect
6 to the factors the Commission has considered in the
7 past and material retardation analysis?

8 Also, Exhibit 9 of the petition indicates
9 that the domestic industry production has increased on
10 an absolute basis every year. Doesn't this trend
11 indicate at least from a material retardation analysis
12 any production as opposed to start or stop? I'm aware
13 of your position on how this would need to be analyzed
14 with respect to a trends analysis, but if you could
15 just address that with respect to the material
16 retardation factors.

17 The final question goes to another issue.
18 It appears I guess both from some of the testimony
19 this morning and some of the confidential material in
20 the petition that some of the domestic producers also
21 import subject merchandise and would be subject to the
22 related party's provision. If you could discuss in
23 your postconference submission how the Commission
24 should analyze the related party issues in this
25 investigation?

1 MR. DORN: We'll be glad to address all
2 those issues.

3 MR. BERNSTEIN: Okay, and I have no further
4 questions.

5 MR. CARPENTER: Mr. Levy?

6 MR. LEVY: I would also like to thank the
7 panel for its testimony. I guess I'd like to start
8 with trying to go back to some of Marc's questions on
9 demand. I believe it was Mr. Nowak that referred to
10 the explosive growth in I'm assuming talking about the
11 U.S. demand for the laminated sacks. Could you go
12 into I guess a little bit of the history of that?

13 What I'm trying to get at is are we talking
14 about -- I guess has there been a switch over the past
15 three or four years from different types of bags such
16 as maybe the paper sacks to all of a sudden the
17 retailers wanting to use the laminated woven sacks or
18 so? Any of the producers can answer.

19 MR. NOWAK: The answer to that is yes. The
20 retailers have indicated to dog food, birdseed
21 producers that the only bags they want are the woven
22 bags.

23 MR. LEVY: Well, just to follow-up, so about
24 when do we really see this switch? Would it be paper
25 sacks? Would those have been the types of bags that

1 the retailers were asking for prior to I guess the
2 switch to the laminated sack?

3 MR. NOWAK: Predominantly.

4 MR. LEVY: And about what would be the
5 timeframe that you really saw this kind of a switch?

6 MR. NOWAK: Well, I believe we said we saw
7 it start in 2003, you know, but continued to increase
8 and just continued every year to get larger.

9 MR. LEVY: Okay. This is similar thoughts
10 from the other producers?

11 MR. BAZBAZ: This product is taking a path
12 of great growth because of the fact that originally it
13 was demanded by large customers like Wal-Mart. They
14 had a lot of problems in distribution and losses of
15 this product packaging pet foods. They turned to
16 Nestle Purina and said you have to do something
17 better, and that's how it all started.

18 Once we supplied the first bags that went to
19 the market those bags in the case of Nestle Purina
20 where they were packaging the specific products they
21 saw that they had increased sales to the final
22 consumer because of the preference of this type of
23 bags. So it was a win, win situation for everyone,
24 for the distribution channels and also for the
25 consumer and certainly the producers of the pet food

1 bags.

2 So when that happened all the brand managers
3 wanted their products in this type of bag, and that
4 has created that surge in demand. Yes, it's a
5 substitution for the paper bags.

6 MR. LEVY: So, Mr. Nicolai, is it a similar
7 experience with you?

8 MR. NICOLAI: We've seen similar between
9 2003, 2004 demand for this product from our customers.
10 They asked us if we could produce this package for
11 them. So start around that timeframe, end of 2003,
12 2004.

13 MR. LEVY: Okay. All right. I guess I'll
14 ask Mr. Bazbaz, so would part of what happened to MAN
15 have we seen that consolidation of the purchasers, of
16 the retailers? I guess more recently have we seen the
17 Wal-Marts or the big box outlets getting more of the
18 business and that may be having some impact on say
19 price negotiations and that kind of thing?

20 MR. BAZBAZ: Your question is?

21 MR. LEVY: Yes. I'm sorry, it wasn't very
22 clear. I'm wondering if part of the reason that we've
23 seen kind of this explosive demand in growth for the
24 bags has to do with a change in the make up of the
25 purchaser side of the industry. Has there been

1 greater consolidation of purchasers over say the past
2 four years?

3 MR. DORN: You mean during the period of
4 investigation?

5 MR. LEVY: Yes, during the period of
6 investigation.

7 MR. BAZBAZ: I don't think so. I don't see
8 that.

9 MR. LEVY: Okay.

10 MR. NOWAK: I would actually say I think
11 it's gone the other way because I think you saw the
12 Sam's and the Wal-Marts start because of their great
13 interest in reducing spoilage as Mr. Bazbaz said, but
14 after you've now seen the market acceptance of the
15 bags we're seeing virtually every dog food maker even
16 on their own brand starting to use some of the
17 product, we're seeing more horse feed, high end feed
18 type products going into it which wouldn't have
19 happened unless it had a good market acceptance, which
20 is what we're seeing.

21 So if anything I think we're seeing more of
22 a diversification right now and more people starting
23 to use it.

24 MR. LEVY: Okay. Yes. So more different
25 types of because of the qualities of the bags. I

1 guess to kind of go to a somewhat different line of
2 question I guess we could start with Mr. Nowak. Can
3 you describe a little bit the negotiating process or
4 what negotiations you go through when you're
5 negotiating for a sale to one of the retailers?

6 Basically, I'm trying to get a feel, these
7 parts have been referred to as made to order bags
8 with, you know, specific printing I'm assuming, so I'm
9 wondering if there's a bidding process or trying to
10 get an idea of how that works.

11 MR. NOWAK: Well, first, we're not selling
12 to the retailer. I mean, typically a Wal-Mart doesn't
13 package anything, you know? They would have somebody
14 even on their private brands package it for them. So
15 we would be dealing with whoever the producer of the
16 actual product is and then they do the packaging.
17 Typically those firms can work in a number of
18 different ways.

19 We've had some that have had bids where they
20 will give you their artwork and say we have these 30
21 different designs and we'd like you to bid on the
22 process. There are some that will come to you and say
23 here's our product, will you make it?

24 Sometimes they will come first and say
25 here's the price we have from China, can you match it,

1 and sometimes they'll ask us for a price and maybe
2 we'll supply one or two orders and then all of a
3 sudden we get a price that's 30 or 40 percent below us
4 given to us and said match it or we're moving the
5 business.

6 There's obviously a spectrum in between, but
7 typically those are the way it would happen.

8 MR. LEVY: Okay. So like you don't
9 typically go through kind of a set bidding process,
10 it's more like you said like the purchaser would send
11 out for bids from a number of -- I mean, that you know
12 of.

13 MR. NOWAK: Again, there have been instances
14 when that's happened, but in other cases it's just
15 been two or three manufacturers approaching that
16 customer and showing him that, you know, you can make
17 the product, it's been a new product, so they
18 obviously were looking for people who can make it and
19 then they would get pricing from individual ones.

20 So it's not a formal bid process, but
21 they're getting prices from each individual person so
22 it is a bid process I believe.

23 MR. LEVY: Do any of the other producers
24 have anything to add to that?

25 MR. BAZBAZ: Yes. That's typically how it

1 goes. There is a new product design or there is a new
2 size of bag that they want to change into this
3 product. They will ask us for a quotation and, you
4 know, we send a quotation and after a few days or a
5 week they'll say you got it or you didn't get it.

6 MR. LEVY: Okay. Also, another question for
7 Mr. Nowak. I guess there have been a number of
8 references to kind of the stop and start nature for
9 some of the producers and I think Mr. Nowak referred
10 to that basically being based upon orders. Have there
11 been any cases that you can speak of publicly where
12 you for whatever reason have not been able to fill
13 orders in a timely manner, you know, any significant
14 cases?

15 If this is confidential information you can
16 supply it --

17 MR. NOWAK: Is there any case where I've not
18 been able to fill an order in a timely manner?

19 MR. LEVY: Right.

20 MR. NOWAK: Absolutely not.

21 MR. LEVY: Okay. Is that true of the other
22 producers?

23 MR. BAZBAZ: Yes, it is true. We're
24 prepared, you know? We have a large capacity
25 available and skilled people.

1 MR. LEVY: Okay. So no supply disruptions?

2 MR. BAZBAZ: No.

3 MR. LEVY: Okay. I guess with Mr. Nicolai
4 it would maybe be a little different situation since
5 you were trying to develop the process.

6 MR. NICOLAI: Correct. Once we were at
7 production we had the raw material at hand and normal
8 lead times. We were pretty much on time with the
9 production.

10 MR. LEVY: Just a final question. Just to
11 go back to the demand issues, and I guess start with
12 Mr. Nowak again, do you have knowledge of worldwide
13 demand? Has that been also increasing to the extent
14 of your knowledge for the laminated woven sacks?

15 MR. NOWAK: I have very limited knowledge of
16 worldwide production since I've been in. Difficult to
17 sell in the U.S. It's been hard to think about going
18 too far. We have of course looked at Mexico and
19 Canada which have been possible. I have had some
20 preliminary discussions with some people in Europe,
21 but I believe Europe does not dig into this type of a
22 product.

23 They tend to have smaller bags not the
24 larger bags that need the strength characteristics of
25 the woven. Obviously, since we've had very strong

1 competition from China in their home territories it
2 would be very difficult for us to compete with them in
3 the far East, so we have not even looked at that.

4 MR. LEVY: Right. Part of what I'm
5 wondering is particularly in Asia if you know of not
6 so much whether you compete there but whether or not
7 they are also experiencing the similar growth as in
8 the U.S. in demand to the extent that you know.

9 MR. NOWAK: I can't answer that. I don't
10 know.

11 MR. LEVY: Okay.

12 MR. BAZBAZ: Yes. I'm more familiar with
13 the U.S. market than overseas, but there has been some
14 studies made that the growth of pet food has been
15 continuously increasing in the United States because
16 of how we see the pets and how we take care of them
17 and not just the dogs but also cats and some others.
18 So it's a growing pattern, and it's a growing demand
19 for the pet food.

20 So it is not just the substitution growth
21 that you've seen which is most of that, but it's also
22 a total business growing more than GDP. There is very
23 little evidence that other parts of the world like in
24 Asia or in China, you know, that has the same growth
25 pattern. I can search my records and see if we could

1 submit later to you those studies so you can see.

2 MR. LEVY: Yes, that would be helpful I'm
3 sure. I guess the final question, also a demand
4 question, would just be what do you see for the
5 future? Do you see the growth in the U.S. in
6 particular continuing to increase at the same rate or
7 at similar rates?

8 MR. NOWAK: We have seen most major
9 manufacturers of dog foods say that they're going to
10 change and feeds are going to change their line to
11 woven. It's just virtually impossible to take a whole
12 line and say I'm going to change it all this month.
13 They may have a lot of graphics changes and a lot of
14 people involved in doing that.

15 I mean, we believe it's going to continue
16 for a number of years yet, yes, that it's going to
17 continue to grow at a high rate.

18 MR. LEVY: Is that similar in any other
19 producer?

20 MR. NICOLAI: I would concur that the growth
21 is foreseeable. The benefits of the packages is
22 definitely recognizable by the customers, and they are
23 demanding more, so I can see it growing, yes.

24 MR. LEVY: Okay. Thank you. Similar for
25 Mr. Bazbaz?

1 MR. BAZBAZ: Yes. I agree with that, too.

2 MR. LEVY: Okay. Thank you, and those are
3 all the questions I have.

4 MR. CARPENTER: Ms. Klir?

5 MS. KLIR: Hello, and thank you for your
6 testimony. I'd like to start off by just making a
7 request as a follow-up to what you had discussed
8 earlier with Mr. Bernstein about the market analysis
9 that you had undertaken prior to entering this market.
10 For counsel, for the Petitioners who are not present,
11 if that could also be provided for those companies
12 postconference? Any market analysis that they have
13 available that they would have looked at.

14 MR. DORN: We'll be glad to check on that.

15 MS. KLIR: Okay. Thank you. When you were
16 discussing the types of analysis that you went through
17 I would assume that there was some break even analysis
18 done, I mean, if you're talking about target profits.
19 Would any of the industry witnesses -- do you have
20 that available before you entered this market that you
21 could provide postconference if you weren't going to
22 provide it already?

23 Mr. Bazbaz?

24 MR. BAZBAZ: It's my understanding from
25 answering the question there there were no sort of

1 formal --

2 MS. KLIR: No formal break even?

3 MR. DORN: Yes. No formal plans or
4 something like that. It was more done ad hoc in terms
5 of doing investigation of the customers, doing
6 investigation on the cost of materials, the cost of
7 equipment. A lot of analysis but not put into like a
8 -- you know, these are small companies. It wasn't
9 something like it was put into a proposal to the board
10 of directors or something like that.

11 MS. KLIR: Okay. Well just, again, anything
12 that you have available that would get to the notion
13 of break even would be very helpful. Also for
14 postconference it would be helpful if for all of the
15 Petitioners, and you may have been planning to do this
16 anyway, Mr. Dorn, but if you perform a break even on
17 the laminated woven sacks operation for each period of
18 investigation, and if you make any assumptions
19 regarding costs and expenses, if that could be
20 explained in the analysis?

21 MR. DORN: Just to make sure I understand,
22 you say for each period. You mean for each year?

23 MS. KLIR: Yes.

24 MR. DORN: So what they would have needed in
25 terms of capacity utilization or prices in order to

1 break even in each year they were producing?

2 MS. KLIR: Yes. Target revenues, any
3 assumptions on expenses.

4 MR. DORN: All right. Thank you.

5 MS. KLIR: Okay. My next question deals
6 with the reported SG&A expenses. I realize that for
7 the industry witnesses you only know your own data, so
8 I'm just sort of looking at the aggregate. Aggregate
9 data reported by U.S. producers indicate that SG&A
10 expenses as a ratio to net sales is much higher for
11 laminated woven sacks as compared to your overall
12 establishment and operations.

13 I was wondering if anyone could discuss the
14 factors that contribute to this. Is it something
15 unique to the product or the fact that it's a start
16 up? Just any information on that would be helpful.
17 Anybody can start.

18 MR. BAZBAZ: In our case it is higher
19 because of certain other activities that were not in
20 the nonlaminated woven sacks, so we try to apply as
21 much as we can in our administrative costs to each
22 activity rather than just a huge overhead. I don't
23 know if that explains some of that.

24 MS. KLIR: Do you think moving forward,
25 assuming you mature and you're in the market longer,

1 you're no longer a start up, do you see your expenses
2 staying higher relative to other products you produce
3 or do you believe that it will level off and be more
4 in line with your other production processes?

5 MR. BAZBAZ: Our SG&A, part of it is a fixed
6 expense and as the volumes grows that will be
7 diminished pretty much similar to other activities,
8 but certainly it will still be more because it
9 requires more attention.

10 MS. KLIR: Okay. Thank you.

11 MR. NOWAK: In our case I think as I put in
12 our submission this is a brand new market for us, a
13 brand new business for us, we never made a bag, so
14 we're in a Catch 22 position of you have to establish
15 a sales force if you hope to penetrate the business,
16 and if I start to diminish my sales I have no help
17 with competing with the Chinese imports.

18 So, you know, if you take what we have today
19 and put on not our full capacity but a decent capacity
20 utilization rate I believe that our SG&A would be down
21 to our normal levels. However, until we can supplant
22 the Chinese imports that's going to be very difficult
23 to do. If we get rid of the sales force it's like
24 giving up. We'll never supplant them, so I really
25 don't have a choice.

1 MS. KLIR: Okay. Yes. Thank you.

2 MR. NICOLAI: I would have to generally
3 agree with both of my colleagues. I don't know
4 exactly how we put the numbers together. To tell you
5 the truth, I was not privy to how we did that. I
6 think there was some confusion on how we do that based
7 on how the product was set up in our company, so I
8 really can't comment to how the ratio stands.

9 MS. KLIR: Okay. I only have one more
10 question. Again, this is looking at the data at the
11 aggregate level, so I understand that the industry
12 witnesses, you only know your own data, so I'll sort
13 of target this to Mr. Dorn, but feel free to comment
14 at the end of this. The aggregate data provided by
15 U.S. producers indicate that the industry was able to
16 actually cover its variable costs over the period of
17 investigation as well as a portion of its fixed costs.

18 Given that based on questionnaire responses
19 that other products are produced in the same
20 facilities and in some cases on the same equipment one
21 can make the argument that sales of laminated woven
22 sacks do not need to be profitable to benefit the
23 overall profitability of a particular company as long
24 as they contribute to the coverage of its fixed costs.

25 I'd like a comment on that argument. This

1 would probably be in postconference, if this type of
2 analysis was considered by any of the Petitioners in
3 their decision to make laminated woven sacks.

4 MR. DORN: Well, we'll certainly address
5 that in our postconference brief, but I don't think
6 anyone would have a business model entering this new
7 product without the idea of covering their total
8 costs, both variable and fixed, and having a
9 reasonable profit on top of it to have a return on
10 their investment.

11 I don't see any economic motivation to enter
12 this new business with any other expectation.

13 MS. KLIR: Okay. Any comments from the
14 industry witnesses?

15 MR. NOWAK: I guess my comment would be that
16 today we've not dropped our prices all the way down to
17 the level of Chinese prices. We physically can't
18 because we would be below that variable cost, so we
19 have kept them up to a point where I'm sure that's
20 coming out in your analysis. We've been able to sell
21 product because people have been leery of the Chinese
22 product and have been concerned about the distances.

23 Those are falling one by one, so the longer
24 we wait the more we kill whatever market we do have
25 left. At some point we will not be able to sell the

1 product, and we will have to shut down our operations.
2 So while it's coming across that way right now I think
3 there's some things where people are still getting
4 comfortable with the Chinese product in many cases,
5 but that will change.

6 MS. KLIR: Okay. Thank you. That's all.
7 Thank you very much.

8 MR. CARPENTER: Mr. Land?

9 MR. LAND: Hi, again, and thank you all for
10 your testimony. I'm just going to confine my
11 questions to product and process. As far as the
12 testimony earlier that the products you make are
13 essentially made to order could you discuss the
14 different factors that you have received as far as the
15 major order? Is it basically the printing, is it the
16 size, weight, strength? What other factors are going
17 into these orders?

18 MR. BAZBAZ: The structure of the bag is
19 very similar in terms of the common structure for all
20 the sizes. The made to order is basically the size of
21 the bag, different gusset size, or length, or weight
22 of the product in the bag, and the printing that is
23 going to be placed on the BOPP. So those are the two
24 major components of the variability.

25 MR. LAND: Have either of you received any

1 other specific orders? Any other differences? I'm
2 thinking in terms -- in looking at these bags, the
3 width of the polypropylene strip that's used, can that
4 be varied at all? Can the thickness of the strip, the
5 thickness of the bag or the thickness of the laminate
6 that's put on or is that always the same?

7 MR. BAZBAZ: Generally, a customer will have
8 a specification already for the width of the tapes or
9 the strips, the thickness of the lamination and
10 thickness of the film, but they primarily use the same
11 structure for all the sizes of the bags. So when
12 there is a change or something different it just is
13 basically on the size of the bag and on the printing.

14 MR. LAND: Okay. In the petition you also
15 talk about using polyethylene. Have you ever used
16 polyethylene or is it only polypropylene?

17 MR. BAZBAZ: We have only used
18 polypropylene, but we are aware of manufacturers of
19 high-density polyethylene in other parts of the world
20 that could be using this as an alternative for
21 circumvention in case we don't cover polyethylene.

22 MR. LAND: How would that affect the quality
23 of the bag or the cost of the bag?

24 MR. BAZBAZ: Typically, the high-density
25 polyethylene is going to be woven in the same

1 equipment and extruded in the same extrusion lines and
2 the raw material costs are about the same, it's just
3 that the high-density polyethylene elongates more and
4 it's not as stiff or rigid as polypropylene.

5 MR. LAND: Okay. As far as the process goes
6 are there any of these processes, the individual
7 steps, that are patented, have specific things that
8 you follow that we could actually, you know, get a
9 hold of and look at?

10 MR. BAZBAZ: Is your question is there
11 anything proprietary in the process?

12 MR. LAND: Right. In say the extrusion
13 process, the yarn making process, the weaving, is the
14 equipment specific patented equipment that you use or
15 is it made to order equipment also?

16 MR. BAZBAZ: This is equipment that is
17 available. I mean, it's not immediately available,
18 but they will make it available. It's not patented,
19 and none of the processes that we've gone through I
20 think are patented or could be patented.

21 MR. LAND: Okay. Could you provide us with
22 information about the specific equipment? I mean,
23 these pictures are wonderful, but just, you know, a
24 written description of how the material is produced,
25 how it goes through the system?

1 MR. BAZBAZ: Certainly. I'd be glad to give
2 you more detailed description and more photographs of
3 equipment.

4 MR. LAND: Okay. That was all I had.

5 MR. CARPENTER: Ms. Mazur?

6 MS. MAZUR: Thank you. Thank you,
7 gentlemen. Ms. Woodings, Ms. Koball, thank you for
8 your testimony this morning. I think I just have a
9 few questions, essentially factual in nature, to plug
10 up some holes and loose ends. Could I get a bit of a
11 description of the two types of printing, direct print
12 versus reverse print? Is only reverse print involved
13 in the subject product here or do we also have direct
14 printing involved?

15 MR. BAZBAZ: It can be achieved by both
16 ways. You can have surface print and have the
17 printing exposed to other bags or to the environment.
18 So both types of printing are envisioned by the scope,
19 both ways. In the case of Mr. Nicolai, I believe that
20 print is on the surface of the paper.

21 MR. NICOLAI: On the coated paper product it
22 is a direct print where they lacquer on top to protect
23 the print as in paper type bags. The reverse print is
24 for the BOPP type products. So you actually take a
25 mirror image and reverse print it on the film before

1 you laminate it. So you could use either one based on
2 which substrate you're using for the printing effect.

3 MS. MAZUR: Okay. That is helpful. If
4 you'd care to add anything more in your postconference
5 brief that would be fine, too. The bag market, can we
6 talk about where the pet food and birdseed bags fit in
7 terms of the total flexible bag market?

8 Mr. Bazbaz, you indicated that they account
9 for a substantial portion of the bag market. Can you
10 give us some figures or some market shares that you're
11 aware of?

12 MR. BAZBAZ: I will prefer to do that in a
13 confidential session or later on, and I'll be glad to
14 give you that information.

15 MS. MAZUR: Okay. That's fine. Let's see.
16 Mr. Nowak, a couple of points for you. You talked
17 about an explosion of Chinese producers of laminated
18 sacks. What is that knowledge based on? Perhaps
19 you're limited in terms of your knowledge of the world
20 market, but if in fact there is an explosion of
21 Chinese production what market are they going to be
22 servicing with this product?

23 Now, that's not meant to be a softball to
24 say well, of course it's going to be the U.S. market.

25 MR. NOWAK: Well, I can only go by the

1 information that we had and that was when we did our
2 analysis and we would do an internet search to see who
3 potential competitors were we knew that at the time
4 the people that brought us the idea were working with
5 a very limited number of Chinese firms.

6 Today when we go out and do the same thing
7 the number has tripled or quadrupled from, you know,
8 what we would have seen back then. That's where I say
9 there's been a very explosive growth in the number of
10 firms. I can't tell you where. I mean, my
11 expectation is to hit your softball and say it's
12 coming to the U.S., but you know, that's the only
13 market that I know of that has the volume and the high
14 print quality graphics requirement that they would be
15 preparing to supply.

16 MS. MAZUR: Okay. The extent to which you
17 have any additional information or research that can
18 provide background on that, that would be very
19 helpful. Also, Mr. Nowak, you indicated that you
20 compete in Mexico and that there is a 200 percent
21 margin on China sacks in Mexico?

22 MR. NOWAK: That's my understanding, but
23 again, I'm not -- that's what I've been told by our
24 sales representation.

25 MS. MAZUR: Is that as a result of a duty

1 order that you know of or is that the basic tariff?

2 MR. NOWAK: I can't answer that. I mean, my
3 only input was that since both the Mexican economy
4 tended to be -- I want to say this correctly. I mean,
5 my sales rep tells me from a labor rate standpoint
6 they were trying to protect themselves from low priced
7 products coming in and so that they've put a lot of
8 duties on the Chinese goods and this happened to be
9 one of them, but that's the extent of my knowledge.

10 MS. MAZUR: Okay. Is anyone aware of any
11 outstanding duty order on Chinese bags?

12 MR. DORN: I'll take a look at that. I
13 haven't heard that comment before, but we'll certainly
14 research that.

15 MS. MAZUR: Okay. Thank you. One last
16 question is fundamental for the staff in terms of the
17 preparation of our staff report, the question of
18 volume and what statistics we're going to be using for
19 import volume. We have now your estimates that you've
20 presented in the petition based on your industry
21 knowledge, we have questionnaire data that are coming
22 in.

23 As Mr. Cassise and I think Mr. Bernstein
24 have indicated those questionnaire data show a
25 substantially lower volume of imports. How should the

1 Commission weigh the two sets of data? If you could
2 comment on the appropriateness of one or the other,
3 and whether or not the questionnaire data are
4 sufficient.

5 MR. DORN: Well, certainly we'll address the
6 importers' questionnaire data in our postconference
7 brief.

8 MS. MAZUR: Good.

9 MR. DORN: Normally in these cases another
10 check you would have would be the foreign producers'
11 questionnaire data. We'll comment on that as well.

12 MS. MAZUR: Okay. All right. Those are all
13 the questions I have. Thank you very much.

14 MR. CARPENTER: I have a couple of
15 questions, and I think I'll start with Mr. Dorn and
16 material retardation. Mr. Dorn, you mentioned a
17 couple of times I believe that you're making a
18 material retardation argument and in the alternative
19 you're making a present injury argument.

20 In terms of how the Commission should
21 approach this analytically do you have any advice as
22 to whether, for example, you believe the Commission
23 should first look at the question of material
24 retardation, and then only if it makes a negative
25 determination in that area should it proceed to a

1 present injury analysis?

2 MR. DORN: I think that's the logical
3 approach. I mean, I think the threshold question is
4 whether there is an industry. If the answer is no,
5 and that's linked to the imports from China, then that
6 results in an affirmative determination on material
7 retardation. If the Commission looks at the data and
8 decides that U.S. producers have stabilized their
9 operations and therefore there is an industry then
10 they would turn next to material injury.

11 I'll have to say I'll look at that question
12 more carefully in looking at the past cases and maybe
13 I'll have some different views in my postconference
14 brief, but that's my reaction right now.

15 MR. CARPENTER: Okay. Thank you. On the
16 question of one of the issues the Commission has
17 looked at in the past which we have discussed already
18 is the question of whether this in fact is a new
19 industry or rather a new product line of an existing
20 industry. Could it be that question is predicated on
21 whether the Commission accepts your view of domestic
22 like product and domestic industry?

23 In other words, if the Commission agrees
24 with your proposed like product and therefore
25 determines that the domestic industry is the producers

1 of that product then it would be required in effect to
2 find that this is not a product line but rather an
3 industry, whereas if they disagree with your proposed
4 like product and say that the like product is actually
5 more broad than the scope and the domestic industry
6 would be more broad then they could conceivably find
7 that this would be a product line rather than an
8 industry.

9 MR. DORN: (Microphone not on.)

10 MR. CARPENTER: Okay. Thank you. I want to
11 turn next to the question of demand. I have a sense
12 without looking at the numbers that this is basically
13 a growth industry, and the Respondents have already
14 made a point that this is an industry that the Chinese
15 and the Thais have started and you're trying to make
16 in roads into that industry.

17 There have been not in material retardation
18 cases but in some other cases where demand has been
19 growing sometimes the Respondents will make an
20 argument that it's the importers in fact who are
21 growing demand in that industry and any increase in
22 imports and increase in import share of domestic
23 consumption is not the result of producers say losing
24 sales because of lower priced imports but rather
25 because of efforts that the foreign producers in the

1 imports have made to expand the argument.

2 Can there be an argument here or how would
3 you respond to that? I'm not sure that they're going
4 to make that argument, but if they were to make that
5 argument do you have any particular points that you
6 would like to make?

7 MR. DORN: Well, as the witnesses have
8 indicated, I mean, the domestic industry is really
9 trying to get established in reaction to requests from
10 customers. These companies' customers are reacting to
11 the demands of the retailers like Wal-Mart. The
12 customers are looking to supply that new product, and
13 they're looking to China and they're looking to the
14 United States.

15 As you saw from the samples the products are
16 the same, the specifications are the same whether
17 given to the Chinese or given to the U.S. producers,
18 so it's coming down to a matter of price. The
19 question is are those prices influenced by dumping and
20 subsidies? If so, their advantage on price is unfair,
21 and they should not be achieving all the growth or
22 substantially all the growth in this domestic
23 industry.

24 I don't think the other side can say that
25 they're succeeding because of a different type of

1 product, or better features, or better quality, or
2 anything like that. I mean, in our view from
3 everything I've heard and seen it all comes down to
4 their succeeding as a result of unfair prices.

5 MR. CARPENTER: Okay. The question I would
6 pose, I was going to pose this to the industry
7 witnesses anyway, would you agree that any increase in
8 demand is largely customer driven?

9 Secondly, I realize that for some of you in
10 particular you're fairly new into this industry, but
11 have you at this point gotten to the stage where
12 you're trying to actually sell the product and to
13 convince customers the laminated woven sacks that are
14 the subject of this investigation are the best way to
15 go and a superior product to what you had been selling
16 to them? Please.

17 MR. BAZBAZ: Well, this is a product that
18 the customers are demanding. This is not something
19 that was driven by us. We couldn't sell this if it
20 was not demanded. So this requirement came originally
21 from the large retailers, but then they found out that
22 it was highly accepted by the consumers which also
23 created more demand.

24 MR. CARPENTER: Okay. Thank you.

25 Mr. Nowak?

1 MR. NOWAK: I would say right now it is the
2 consumers that are driving the package. I would also
3 answer the first question of I think if you look at
4 the examples where we feel there's been an unfair
5 competition, and I'll rely on my own example I just
6 presented, Kaytee, imports taking the market by 30
7 plus percent lower price did not make the market at
8 Kaytee any bigger.

9 They were going to go 100 percent woven bags
10 no matter who was supplying it. So, you know, in that
11 regard it's not expanding the market. They're not
12 making a market by doing that. The market is there,
13 the people are moving, it's just pricing us out by
14 being able to have them go that cheaply.

15 MR. CARPENTER: Okay. And, Mr. Nowak, you
16 had mentioned a couple of times that you had lost
17 sales to customers because of competition from the
18 Chinese.

19 Without getting into confidential
20 information, but you could also feel free to respond
21 in your brief, I was wondering whether these are the
22 sales that you lost or customers that you had been
23 supplying laminated woven sacks to, and then Chinese
24 importers came in and offered a lower price and took
25 those sales away or whether this was a situation where

1 you had been supplying some other product to these
2 same customers, and then when the customers said they
3 wanted to go with laminated woven sacks, and looked at
4 your product versus the Chinese product and looked at
5 the prices decided to go with the Chinese product?

6 MR. NOWAK: Number one, we make no other
7 products so those would be the only product that we
8 would supply them.

9 MR. CARPENTER: Okay.

10 MR. NOWAK: I believe in our petition
11 submission we've provided examples of both -- you
12 know, we didn't talk about the ones where it was a bid
13 situation today where we lost the business, we talked
14 about strictly the ones where we had the business and
15 lost it to low cost in competition, so both are
16 happening.

17 MR. CARPENTER: Thank you. What would you
18 say are the closest substitutes to laminated woven
19 sacks, and how good of substitutes are those products?

20 MR. NOWAK: The input that I get from
21 customers is there is no substitute. If I did make
22 paper bags, and I don't, I'm sure Steve did the same
23 thing, if he came to you and said he wants a woven bag
24 and you told him I can't give you a woven bag but I
25 can give you a paper bag, he's going somewhere else.

1 MR. CARPENTER: Is that because the
2 customers prefer the greater strength of woven sacks,
3 or because of the graphics, or the whole package?

4 MR. NOWAK: I would say it started out being
5 the strength, the puncture resistance, the lower
6 weight, and I believe it's been demonstrated in the
7 market that the graphics is giving them better appeal
8 and as a result they're getting higher sales.

9 MR. CARPENTER: Okay. Any other comments?

10 Mr. Bazbaz?

11 MR. BAZBAZ: Well, the graphics are
12 substantially a big element of this product, and the
13 second part is the strength in both directions of the
14 fabric that makes a bag what it is.

15 MR. CARPENTER: Okay.

16 MR. DORN: If you look at the last exhibit
17 in our Power Point slides, the advertisement from
18 Sam's Club, I mean, it really pretty much tells the
19 story right there of why this product is different.
20 I'm sorry, it's not the last, the next to last before
21 the graph. It talks about reduces damaged goods,
22 three times tougher than paper bags. The woven bag
23 results in more than 50 percent fewer product returns
24 for consumers, manufacturers and Sam's Clubs.

25 Fewer returns means significant savings and

1 damaged goods as well as savings on transportation and
2 fuel costs. It says, you'll see the last item, member
3 preference for woven packaging. Research shows our
4 members prefer the woven pet food packaging because of
5 its durability and because it helps keep the products
6 fresh.

7 Then there's also it reduces impact on
8 landfills which is important to certain large
9 retailers such as Wal-Mart for sustainability reasons.

10 MR. CARPENTER: Okay. Thank you. A final
11 question is with respect to your product and also from
12 what you've heard in the marketplace as far as the
13 Chinese product or nonsubject imports. Have you heard
14 any significant complaints about the quality of the
15 bags in terms of bags being either returned or refused
16 by customers because of defects or is that just not an
17 issue in this particular industry?

18 MR. BAZBAZ: We don't see that issue at all.
19 It's practically the same bag. It's the same bag.

20 MR. CARPENTER: Okay.

21 MR. NOWAK: I think you could have an issue
22 on a production to production order standpoint like
23 you would in any product in American industry I think,
24 but I mean, it's not a trend.

25 MR. CARPENTER: Okay. But reject rates then

1 I assume would be very small. Is that fair to say?

2 MR. NOWAK: Yes.

3 MR. CARPENTER: Okay. Thank you. Any other
4 questions from staff?

5 (No response.)

6 MR. CARPENTER: Okay. Again, thank you very
7 much, panel, for your testimony and for your responses
8 to our questions. We very much appreciate it. We
9 would like to take about a 10 minute break and we'll
10 resume the conference with Respondents about 12:15.

11 (Whereupon, a short recess was taken.)

12 MR. CARPENTER: Could we resume the
13 conference at this point?

14 Ms. Levinson, please proceed.

15 MS. LEVINSON: Yes. Mr. Carpenter, we're
16 not going to be using the projector. Do you want to
17 shut that off or whatever?

18 MR. CARPENTER: Okay.

19 MS. LEVINSON: For the record my name is
20 Lizbeth Levinson. I'm with the law firm of Garvey,
21 Schubert, Barer. I represent the Respondents that are
22 at this table. We have an extremely experienced
23 panel, and let me tell you who is going to be speaking
24 today. To my right I have Jay Abel who is with Excel
25 Packaging.

1 He has been in the industry for about 25
2 years, and he's going to talk a little bit about the
3 history of the packaging industry and how we got to
4 the point we are at now. To his right is Barry Corman
5 who is with Corman Packaging. He is a distributor of
6 packaging also with a great deal of familiarity with
7 the industry.

8 He also is familiar with the industry in
9 Europe and will be able to answer your questions on
10 that. To my left is Mr. Michael Shapiro with Shapiro
11 Packaging. He'll be talking about the availability of
12 bags from countries other than China and Thailand.
13 Then we have a statement prepared by a purchaser
14 called Jim Lang.

15 Jim had prepared his testimony hoping to be
16 here today but unfortunately was not able to make it,
17 and Ron Wisla from my office will be reading Jim
18 Lang's statement. Mr. Lang will be available for
19 questions from the staff by phone after today.
20 Finally, batting clean up is Richard Boltuck from CRA
21 International who will be presenting our economic
22 analysis. With that, I'll turn the mic over to Jay
23 Abel.

24 MR. ABEL: Good afternoon. My name is Jay
25 Abel, and I'm the President of Excel Packaging. Thank

1 you for the opportunity to appear before the
2 Commission staff today. Excel Packaging is a supplier
3 of printed laminated flexible packaging to a variety
4 of customers in the pet food industry, birdseed
5 industry and farm and feed industry.

6 Excel also supplies the laminated woven
7 sacks from China and has done so for the past five
8 years. I have over 25 years of experience in the
9 packaging industry, served as plant manager for Bemis
10 Company, Incorporated, one of the largest
11 manufacturers of paper bags in the U.S. I have
12 experience in all aspects of the manufacturing of
13 multiwall paper bags.

14 After leaving the multiwall paper bag
15 industry I worked in the pet food industry for over
16 eight years as director of packaging and marketing for
17 a large pet food company. The multiwall bag company
18 produces about 3.6 billion bags per year. Out of the
19 3.6 billion bags per year about 1.4 billion are made
20 in a pinch bottom open mouth style paper bag which
21 I'll refer to as a pinch bottom open mouth bag.

22 This bag is not the subject of this
23 investigation. The pet food industry uses about 900
24 million of these pinch bottom bags per year. Here is
25 an example of the paper pinch bottom bag. The bag is

1 sealed on both ends, made of multiple plies of paper,
2 usually a polyethylene or a polypropylene liner on the
3 inside.

4 This pinch bottom style paper bag dominates
5 the pet food industry today. In fact, that can easily
6 be verified by simply visiting the pet food section at
7 mass merchandisers, grocery stores and pet stores
8 everywhere. I would like to give a brief history of
9 the packaging used in the pet food industry. Twenty
10 years ago the dominant package used in the pet food
11 industry was a sewn style open mouth bag which we
12 refer to as an SOM bag.

13 This bag is also made of multiple plies of
14 paper but is sewn closed at the top and bottom. Here
15 is an example of a sewn open mouth bag. This
16 particular bag is made of craft paper, but it's also
17 made in that same structure, and they're very similar
18 with the exception of the way they are closed. One is
19 sewn top and bottom, that one is sealed top and
20 bottom.

21 The sewn open mouth bag was replaced in
22 about 1990 by the newer style pinch bottom open mouth
23 bag. The pinch bottom open mouth bag was a bag that
24 could be hermetically sealed on both ends of the bag
25 and was made with multiple plies of paper with a vary

1 apply on the inside usually made of polypropylene or
2 polyethylene.

3 The advantages of the pinch bottom bag over
4 the sewn bag were numerous: 1) it offered a sealed
5 end top and bottom; 2) it reduced the potential for
6 bug infestation; 3) the seal provided much better
7 grease and product containment. It provided a
8 billboard for printing and graphics at the top or the
9 bottom and made a much better package from a marketing
10 viewpoint and from consumer sales on the shelf.

11 The pinch bottom open mouth bag did require
12 that the pet food industry install a new style of
13 sealer that would seal the bags on their end of the
14 package. The pet food industry invested in this type
15 of sealing equipment and locked in this pinch bottom
16 style as the dominant package used in the pet food
17 industry.

18 Currently, about 90 percent of this 800 to
19 900 billion bags used annually in the pet food
20 industry are the pinch bottom open mouth style paper
21 bag. While the pinch bottom open mouth bag has many
22 advantages it also has two major flaws. The first
23 major flaw is that because the pinch bottom open mouth
24 bag is made from paper it has a high level of failure
25 caused from breakage and tearing.

1 The second problem is that the plate coating
2 that is typically on the outside of the surface cracks
3 off of the surface on the paper. Our customers
4 complain routinely about these costly problems,
5 especially the breakage. The widespread recognition
6 of this breakage problem motivated innovators to come
7 up with an alternative bag to the pinch bottom open
8 mouth bag that would not break even when filled with a
9 heavy product such as dog food and cat litter.

10 One alternative to the pinch bottom open
11 mouth bag was the laminated woven sack that U.S.
12 producers began producing about 10 years ago.
13 Unfortunately, these earlier versions of the laminated
14 woven sack lacked key ingredients to be successful.

15 The bag was made as a tubular style
16 laminated sack and failed to secure commercial
17 acceptance due to its lack of rigidity and stiffness
18 needed to perform well on existing paper bag filling
19 equipment. Coating Excellence and Polytex are still
20 producing these tubular style bags today even though
21 such bags are clearly inferior to the laminated woven
22 bags being imported from China, which I will discuss
23 in a minute.

24 Here is an example of the laminated tubular
25 style woven sack that was produced by Coating

1 Excellence. You can easily see that with a tubular
2 bag, when you laminate this bag you end up with a
3 loose area of film on each side of the film because
4 you cannot laminate a tubular structure like you can a
5 flat surface. So that, and in general, its overall
6 flexibility in its structure, it's too flimsy to run
7 well in existing type of bag equipment.

8 While US producers were focused on this
9 tubular-style laminated sack, producers in Thailand
10 introduced a new and improved version of the laminated
11 woven sack to the US market about five years ago.
12 Three years later, certain Chinese manufacturers made
13 these same improvements to the laminated woven sacks.
14 The newer version offered favorable features such as
15 higher quality woven polypropylene layers, with
16 specifications that provided good rigidity, a vertical
17 back seam-style structure with tighter tolerances for
18 bag size control and controlled gram weights for
19 specifications for the BOPP film.

20 Significantly, the new laminated woven sack
21 ran very well on the existing customer automatic
22 equipment used to fill the bags. This new and
23 improved laminated woven sack was interchangeable with
24 the paper bags and did not require these customers to
25 make changes to their filling equipment, or to have to

1 go out and purchase new equipment to run the laminated
2 woven sack.

3 The only problem they had to overcome was
4 they had to switch back to sewing the bag closed as
5 opposed to sealing the bags. Here is an example of a
6 vertical back seam laminated woven sack that was
7 produced in China. If you look at this bag closely,
8 you will find that there is a distinct difference in
9 the rigidity stiffness of the package, part of which
10 is created by this vertical back seam structure and
11 the way the bag was made.

12 Instead of being tubular, it is a flat
13 structure and formed very much the exact same way as
14 the paper bags. The main advantage of the laminated
15 woven sack over the paper sack is strength, durability
16 and superior graphics. Laminated woven sacks
17 virtually eliminate breakage, tearing, and the clay-
18 coated paper cracking, which is a common problem with
19 paper sacks.

20 Customers report that there is significantly
21 greater breakage on the current pinch bottom-style
22 paper bag when compared to the laminated woven sack.
23 The laminated woven sack is a less than 1% breakage
24 rate. As a result of these improvements to the
25 laminated woven sack, the US market started to take an

1 interest. The main interest was driven from mass
2 merchandisers like Wal-Mart, Family Dollar, Dollar
3 General, PetSmart, etc.

4 These large retailers that have tremendous
5 distribution networks and move a lot of product on a
6 daily basis were quick to see the savings involved
7 with a new package due to the elimination of breakage.
8 They started to request this package from their
9 suppliers. Polytex now produces, we believe in small
10 volumes, vertical back-seamed laminated woven sacks in
11 the US.

12 As did with the Thai and Chinese operations,
13 any new startup operation requires up-front
14 investments in capital, marketing, and starts out with
15 a very high learning curve. These early costs
16 incurred with expectation of future market share and
17 profitability is to be expected with a new startup
18 operation. Any of the US manufacturers with the
19 correct equipment, industry knowledge and personnel
20 can be successful making the laminated woven sacks in
21 the US.

22 The reason that the Petitioners were
23 unsuccessful in their early attempts was they started
24 out with the wrong equipment, investments in the wrong
25 type equipment, and the wrong style bags, as the

1 tubular-style bags. Please check with purchasers to
2 confirm that the laminated woven sack market for the
3 pet food industry evolved in this way. We can provide
4 you with names of knowledgeable purchasers
5 confidentially.

6 Thank you again for your kind attention and
7 consideration.

8 MR. CORMAN: My name is Barry Corman and I
9 am with the American Bage & Burlap Company, also known
10 as Corman Bag if Lizbeth introduced me. I appreciate
11 the opportunity to appear before the Trade Commission
12 today. My goal today is to give the Trade Commission
13 accurate information regarding the importation of
14 laminated woven sacks, the technical characteristics
15 and uses, and the industries in which they are
16 manufactures and used.

17 I would first like to tell you a little bit
18 about our company. We are a family-owned business and
19 I am fourth generation. My father, who is still
20 active, has been in the bag business for 51 years. My
21 sister has been in the bag business for 23 years.
22 Other than growing up with the business at the dinner
23 table, I am the youngster of the group with only 14
24 years of experience.

25 Our company is primarily a broker

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1 distributor of multiwall paper bags, woven
2 polypropylene bags, extrusion coated woven
3 polypropylene bags, polyethylene bags, and laminated
4 woven sacks. In the past, we have also manufactured
5 multiwall paper bags and woven polypropylene bags, and
6 are generally familiar with the manufacturing
7 processes used to make the types of bags that we sell.

8 We have visited many factories, both
9 domestically and overseas, Europe as well as the Far
10 East, that make laminated woven sacks and multiwall
11 paper sacks, in order to educate ourselves about their
12 production. I have been to the Bancroft Bag
13 production facility, two plants of Hood Packaging, as
14 well as SeaTac Packaging. Over the years, we have
15 also done business with these companies and with Mid-
16 America as well.

17 We have also imported woven polypropylene
18 bags and other synthetic textile products under the
19 Harmonized Tariff Classification 6305330020, which is
20 part of the subject here. I mention this background
21 because we are a little different from the
22 Petitioners, and perhaps the other companies here. We
23 are not limited in the types of bags that we sell. We
24 look to provide our customers with the best bag for
25 them, regardless of whether it is paper, a laminated

1 woven sack, or polyethylene. The right choice depends
2 upon a whole host of factors.

3 The first thing that I want to do is to
4 educate you about what a laminated woven sack is, and
5 to simplify it for you. A laminated woven sack is
6 basically a woven polypropylene bag, which is what
7 this bag is, flexible -- do you want to pass that?
8 The woven polypropylene bag is then coated to give it
9 rigidity and to allow it to be laminated. The
10 structure is then laminate to either a BOPP film or
11 white paper suitable for high quality graphics.

12 The industries that use this are typically
13 the pet food and birdseed industries. As Petitioners
14 have defined it, a laminated woven sack is really two
15 basic types of sacks. Both have woven polypropylene
16 as one component of the finished sack. It is the
17 outer laminated ply that is different. One is paper;
18 the other is plastic. They look different. One looks
19 more like a plastic bag, that's the BOPP sack, and one
20 looks more like a paper bag, what I will term the
21 paper woven polypropylene sack.

22 This outer ply is a critical component for
23 the intended use of these products, a high quality
24 graphic presentation for point of sale purposes. The
25 substrate for the BOPP sack is a clear, thin biaxially

1 oriented polypropylene film. The substrate for the
2 paper woven polypropylene sack is a white paper with
3 an ISO brightness of 82 or greater and a Sheffield
4 smoothness of 250 or less.

5 This would be a clay-coated sheet of paper.
6 Besides the visual appearance of the different
7 substrates, clear versus white, poly versus paper,
8 each has a different cost and production requirement.
9 Not all printing presses will print both paper and the
10 BOPP film. Another difference within the laminated
11 woven sack category is that a BOPP bag is waterproof.
12 Exterior moisture will not affect it.

13 A paper woven polypropylene bag is not
14 waterproof. Exterior moisture can affect the paper,
15 even if the woven polypropylene can protect the
16 product on the inside. A BOPP bag does not have the
17 same coefficient of friction as a paper woven
18 polypropylene bag. It is much more slippery and
19 harder to palletize and stack as a result.

20 This is a common complaint from customers
21 who are contemplating switching from a bag with a
22 paper outer, whether it's the traditional multiwall
23 paper sack or a paper woven polypropylene sack, to the
24 BOPP version. Customers are used to using the sack
25 with paper as the exterior surface with its better

1 friction qualities, and will distinguish between the
2 types of bags on that basis.

3 Another very important difference between a
4 BOPP sack and a paper woven polypropylene sack is the
5 impossibility of seeing through the paper.

6 Petitioners assert that high quality graphics serve as
7 a point of sale advertising for the packaged consumer
8 goods. An equally important point of sale advertising
9 is the ability to see the product. A BOPP sack can be
10 made with a clear -- why don't you pass that around --
11 can be made with clear woven polypropylene fabric in
12 the print design, so there is a window, or as much of
13 the bag as the customer wants, so that the product can
14 be displayed.

15 I have been comparing the differences
16 between BOPP bags and paper woven polypropylene bags,
17 both of which are deemed laminated woven sacks. In
18 reality, and as Jay mentioned, there are two styles of
19 BOPP sacks within this category. One is what is
20 termed a back seam style. In this style, the fabric
21 is laminated to BOPP and then tubed. This is how a
22 traditional multiwall paper bag, or a paper woven
23 polypropylene bag is made.

24 The other style, which is called the tubular
25 style, takes a tube of woven polypropylene and

1 laminates two separate BOPP sheets to each side like a
2 sandwich. The sample that you have passing around
3 there is the back seam style. This is a bag for
4 fertilizer that is the tubular style. Would you pass
5 that around, please? The result is that the edges in
6 the tubular style have small fins or edges that are
7 visible.

8 It is important to note that the back seam
9 style of BOPP is harder to make than the tubular
10 style. The back seam style is the preferred method of
11 construction for several reasons. First, the back
12 seam style allows for better graphics. This style
13 allows printing to wrap around the edges of the bag
14 and be prominently displayed in the gusset or side of
15 the bag. Print in this area is an important point of
16 sale to the customer.

17 The tubular style of construction has the
18 fins on the edge, which the print cannot wrap around
19 as effectively as with the back seam style. In
20 addition, with the tubular style, it is very hard to
21 register the colors where the laminated film sandwich
22 meets. They cannot line up with each other with the
23 precision demanded by retail industries. As a result,
24 it often gives the appearance of a poorly printed bag.
25 A back seam style is clearly preferred where point of

1 purchase advertising is of paramount concern.

2 The second main reason why the back seam
3 construction in the BOPP style is preferred over the
4 tubular style is that it is easier to handle on
5 automated packaging equipment. The back seam
6 construction, because of the overlap of the seam, has
7 more longitudinal rigidity and will generally be
8 easier to use in automated equipment. You do have to
9 realize, however, that every packaging operation is
10 unique and different, and that is an important theme
11 that goes throughout my presentation.

12 I've tried to distinguish between different
13 types of laminated woven sacks that exist. Three of
14 the Petitioners, the ones who are primarily paper sack
15 manufacturers, Hood, Bancroft and Mid-America, make
16 paper woven polypropylene. The remaining two
17 Petitioners, Coating Excellence and Polytex, only make
18 BOPP bags. In looking at their websites, Coating
19 Excellence and Polytex clearly highlight the tubular
20 style of bag, which is easier to make because you do
21 not have to seam the fabric.

22 The laminated woven sacks imported from
23 China are BOPP bags. They are not paper woven
24 polypropylene bags. This is because the availability
25 of the high quality paper is limited in China. It

1 would have to be imported primarily from Europe or the
2 United States to ensure the quality that is needed for
3 the end markets of the pet food and birdseed
4 industries. In addition, the overwhelming majority of
5 BOPP sacks from China are made with a back seam and
6 not in the tubular style.

7 To understand the industry in the United
8 States, it is important to realize that Petitioners,
9 as a group, make varied styles of laminated woven
10 sacks, while the imports from China are primarily a
11 back seam BOPP sack. Because the decision as to which
12 style is right for a customer is based on many
13 factors, the domestic industry actually has more
14 choices to offer as a solution.

15 I would like to switch to the import
16 statistics mentioned by the Petitioners. They
17 acknowledge that not all merchandise entering the
18 United States under the Harmonized Tariff Category
19 6305330020 are LWS. Other products such as non-
20 laminated woven sacks fall into that category.
21 Petitioners also acknowledge that they are not aware
22 of any source that would allow a calculation of
23 laminated woven sacks' share of US imports of all
24 products entered under this classification.

25 We agree that there is no such source.

1 Interestingly enough, this item was deleted effective
2 July 1, and in its place, a separate category for
3 laminated woven sacks was delineated. In the
4 affidavit of Isaac Bazbaz, which is Exhibit 6 of the
5 petition, he estimated that non-laminated woven sack
6 products have increased in volume by no more than 5%
7 annually since 2002. There is no supporting data for
8 this opinion.

9 He further states that the remaining
10 increase in volume of imports from China during this
11 period are laminated woven sacks. I respectfully
12 disagree. Based on other discussions with members of
13 the Textile Bag Processors Association, a trade
14 association of which we have been members for many
15 years, and our own observations of the market, I feel
16 that the 5% figure is just not accurate.

17 I believe that the increase in non-laminated
18 woven sack products during that period is greater than
19 5%. Part of the reason is that certain products from
20 China that are included in the HTS category have also
21 increased in volume during this period. Included
22 under this classification, besides laminated woven
23 sacks and non-laminated woven sacks, are extrusion
24 coated woven polypropylene bags, both in valve and
25 open-mouth styles, as well as leno and raschel knit

1 bags, which you might think of as an onion bag.

2 We have seen an increase in the marketplace
3 for these types of bags, particularly with regard to
4 the extrusion coated woven polypropylene. I recognize
5 that there has been a large increase in imported
6 products from China under the HTS classification.
7 Part of that increase is due to laminated woven sacks,
8 but based on our knowledge of the industry and
9 discussions with other members of the TBPA, the
10 estimate of Isaac Bazbaz is incorrect.

11 The Petitioners assert through their
12 affidavit that 88% by volume and 89% by value of all
13 products imported under the Harmonized Tariff Code
14 into the United States from China fall under this
15 category. Looking at the 2006 figures in the
16 affidavit of Isaac Bazbaz, 19,857 kilograms are
17 imported under this classification. The affidavit
18 extrapolates that 88% of this is laminated woven
19 sacks.

20 This would be 17,407 metric tons of product
21 that are imported into the United States in the form
22 of laminated woven sacks. This is equivalent to
23 19,148 short tons -- and I hope I'm not boring you
24 with statistics -- or 19,148,000 pounds. In his
25 affidavit, Isaac Bazbaz uses a ratio of 8,000 sacks

1 per short ton to convert the weight in kilograms to a
2 number of bags. I concur that this is a fair figure
3 as an average.

4 Using this data, the Petitioner states that
5 153,182,000 laminated woven sacks are imported into
6 the United States. Again, using this data, this means
7 that of the remaining woven polypropylene imported
8 into the United States, if I use the 8,000 sacks per
9 short ton, would come out to about 21,560 non-
10 laminated woven sack items. This simply is not a
11 correct figure. Our company is not a major importer
12 of non-laminated woven items into the United States.

13 I have talked to two other companies that
14 also import non-laminated woven sacks into the United
15 States from China. Together, our three companies
16 imported an estimated 17,000,000 non-laminated woven
17 sacks into the United States. These items were mostly
18 regular woven polypropylene bags. We are familiar
19 through the TBPA with other companies in the United
20 States who import non-laminated woven sacks. We know
21 that these companies import millions and millions of
22 these bags into the United States.

23 Together, the number of non-laminated woven
24 sacks imported into the United States is well in
25 excess of the 21,560,000 calculated using the

1 Petitioners' statistics. You have to also recognize
2 that the growth in woven polypropylene from China is
3 at the expense of other countries. This is in the
4 non-laminated category. We used to import bags from
5 other countries, woven polypropylene bags, and because
6 of better pricing from China, a lot the industries in
7 other countries have lost that market share to China.
8 That explains the growth in the non-laminated woven
9 sacks imported into the United States.

10 I started talking about -- excuse me for a
11 minute. Since I am on the subject of importing
12 laminated woven sacks in China, I am also familiar
13 that laminated woven sacks are available from many
14 other countries. They are imported from Thailand. In
15 addition, I know of laminated woven sacks being
16 produced in Brazil, Vietnam and Spain. As these bags
17 gain in popularity, imports from many countries will
18 find their way into the United States.

19 I started talking about bags and I want to
20 return to that subject. The Petitioners have made
21 many assertions about paper sacks and their uses that
22 are simply misleading. They try and distinguish them
23 from laminated woven sacks, and yet the reality is
24 that paper sacks are used in the same marketplace as a
25 laminated woven sack. As I've said before, each

1 customer is different.

2 One likes paper, one likes paper woven
3 polypropylene, and one will like BOPP. In fact, I
4 have one customer who will use each of these types of
5 bags for his different products. Several final
6 things. In the Petitioners' argument this morning,
7 they had mentioned that the pricing that they had
8 looked at in 2005 -- this is Coating Excellence
9 International -- that based on the pricing that they
10 looked at from China in 2005, they could be
11 competitive with domestically produced product.

12 We have been pricing these bags from China
13 since 2005, and I have seen not a reduction in the
14 costs of these bags from China, but an increase. As
15 the resin market increased, by prices go up or down
16 based on -- for these bags. I want to thank you very
17 much for your time, and I'd be more than happy to
18 answer any questions that you may have.

19 MR. SHAPIRO: Thank you very much. Thank
20 you for the opportunity to give our side of the story.
21 My name is A. Michael Shapiro, and I am the CEO of
22 Shapiro Packaging, a US distributor of flexible
23 packaging and a US importer of the subject laminated
24 woven sacks from China. My family has a long history.
25 My grandfather, Abraham Moses, migrated from Russia to

1 America around 1890 to escape the oppression there.

2 He moved to Grand Rapids, Michigan, started
3 a bag company with a small group of employees, and
4 collecting and repairing burlap bags. The following -
5 -

6 MS. LEVINSON: I want to just say that
7 Richard Boltuck is passing around some pictures that
8 date actually from the early part of the century, and
9 Mr. Shapiro's family.

10 MR. SHAPIRO: This is from 1929, the winter
11 after the Great Depression, and if you look at the
12 front truck, that was my father and his brother
13 behind. And so I have had a long history of
14 understanding the textile business as the circle of
15 life goes around. In 1993 I started Shapiro
16 Packaging, selling flexible packaging. I began
17 traveling to Asia, and I've been to Asia probably
18 about 30 times since then, and saw the woven sacks
19 that were being used for many applications for which
20 paper was typically used in the United States.

21 In other words, while paper was the dominant
22 material in the United States, tubular woven was being
23 used in Asia because of the availability of the raw
24 materials. In 1999, I started importing the tubular
25 laminated sacks from Asia to sell to one of my

1 customers that was packing sunflowers manually. We
2 found that the tubular bags were not suitable,
3 however, for use with their automatic equipment.

4 Tubular bags were simply not functioning on
5 that equipment because they lacked what I call
6 dimensional integrity, and I am sorry to go back to
7 these samples that you were shown once before, or
8 actually two different bags. One is a tubular bag
9 from Coating Excellence. The other bag is a back seal
10 bag, and the tubular bag, again, with the lack of
11 dimensional integrity, has a problem on automatic
12 equipment, so I wanted to bring that to your
13 attention.

14 If you look at the bags, you will see at the
15 edge of the bag, the material, and that creates a
16 problem on equipment that has high tolerances. In
17 2003, I saw the first sample of vertical back seam
18 laminated product that was coming from Thailand. I
19 immediately saw that their product would be more
20 appealing to the customer because it could run under
21 existing automated equipment with little or no
22 modification.

23 That was when I began to source some product
24 from China. I began to sell these products to end
25 users that packed for stores, again, as Wal-Mart,

1 Dollar General, and other mass merchandisers that were
2 unhappy with the multiwall sacks because of the
3 breakage. The breakage problem has all but been
4 eliminated with this particular bag. The fact is that
5 opposing the antidumping and countervailing duties
6 orders on laminated woven sacks from China would not
7 help this domestic industry.

8 Rather, if the Chinese imports are shut out
9 of the US market, domestic industry and the US
10 purchasers will source laminated products from
11 existing producers in other countries, such as
12 Colombia, Brazil, Thailand, South Korea, Turkey,
13 India, Romania and Indonesia, all of which produce
14 this merchandise in large quantities. I know of a
15 company called CP Poly, which is the Thailand producer
16 that produces approximately 100,000,000 bags in
17 Thailand, has set up a new facility in Vietnam with
18 the help of the government.

19 They will start producing 300,000,000 more
20 bags that are heading for the US. They are also
21 planning a plant for Indonesia. In addition, the
22 domestic industry, or US producers that purchase the
23 printed laminated rolls are purchasing laminated roll
24 stock that was the lay flat material before it is
25 formed, and converting it into bags saying it is made

1 in the US. I know of a Colombian manufacturer right
2 now that is producing and importing this material with
3 no duty into the United States and is increasing their
4 capacity in anticipation of, perhaps, the outcome of
5 this scenario.

6 By converting rather than actually producing
7 the laminated woven sacks, the Petitioners will
8 eliminate several significant steps in the production
9 process, including printing and laminating. In other
10 words, they will be performing less than half the
11 actual production process in the United States, yet
12 these Petitioners would have the Commission believe
13 they are US producers.

14 Nothing is preventing the US producers, such
15 as Polytex, CEI, from expanding the production and the
16 sales of the laminated sacks to the United States. In
17 fact, producing here could certainly help the US
18 industry reduce the average overhead. Moreover, the
19 US industry enjoys several natural advantages, such as
20 the lead time, which is a major issue. On the basis
21 alone, the domestic industry has a significant
22 advantage over the imported product.

23 Finally, the domestic industry enjoys an
24 advantage over the Chinese product because of the
25 increased shipping costs. Since January of '07, our

1 costs have gone up 20%, and in the past two years have
2 gone up 60%, and there is no relief in sight. Two
3 years ago, we approximately were paying \$3,000 a
4 container. Today we are paying over \$5,000.

5 Finally, based on my knowledge of the US
6 market and imports, I am convinced that the
7 Petitioners have greatly overstated the share of
8 imports from China under this basket category of HTS
9 6305330020 that are within the scope of the petition.
10 Huge volumes of non-merchandise are under the basket
11 tariff, including products such as onion bags and
12 sandbags. This is an example of a product that would
13 ship, and it ships in the hundreds of millions in the
14 United States, that is under that tariff code.

15 They assert that 80% of the product, again,
16 is coming under this, which is just impossible, these
17 statistics. Moreover, the Petitioners' statement that
18 zero imports of subject laminated woven sacks are from
19 other countries other than China and Thailand are
20 simply wrong. As stated above, the subject
21 merchandise is currently being imported from other
22 Asian countries, Spain and Latin America, and I was
23 told today that a manufacturer from China is about to
24 change his plant and start moving to India because of
25 a favorable situation.

1 Thank you again for your time, and I
2 appreciate this very much.

3 MR. BOLTUCK: I am Richard Boltuck of CRA
4 International, and I welcome the opportunity to appear
5 before the staff today at today's conference in the
6 matter of LWS from China. Shapiro Packaging and its
7 counsel have asked me to review the relevant economic
8 implications of some of the most salient facts about
9 this market.

10 First, none of us here today can help but
11 note that in alleging material retardation, the
12 Petitioners are pursuing a route that virtually no
13 other petitioner has followed in recent years, and I
14 would suggest, for a good reason. Regardless of
15 whether the Commission finds that the US LWS industry
16 is established or not, this is an industry that is
17 still going through the normal challenges of getting
18 up and running.

19 Such industries almost always report
20 operating losses for an initial period of time as they
21 build production, gain market acceptance and market
22 share, learn efficient methods of production, and the
23 like. These early losses are, in effect, investments
24 in the future. So in a case like this one, most of
25 the usual indicators of possible adverse effects from

1 imports with which the Commission is familiar, namely
2 signs of seemingly poor industry performance, must be
3 regarded quite differently.

4 Now, those same indicators may point toward
5 the normal efforts of an industry whose investors are
6 justifiably optimistic about its future profitable
7 role in the market. Unavoidably, most such indicators
8 like operating income and so on are simply snapshots
9 of current income and cost flows, rather than pictures
10 that show the future profile of returns on investment,
11 including the usual investments incurred during the
12 early phases of production.

13 Second, as Jay Abel has explained clearly in
14 his testimony, importers of Thai and then Chinese LWS
15 with vertical back seams are responsible for
16 successfully introducing that product to pet food
17 packagers over the past five years or so, and it is
18 that product, that variant of LWS, that accounts for
19 the bulk of the US LWS market today, and for the
20 continuing strong growth in that market.

21 Prior to that, small volumes of tubular LWS
22 were made and sold in the United States, but this
23 product could never achieve widespread acceptance
24 among packagers because it required special packaging
25 equipment that packagers were strongly reluctant to

1 acquire, whereas by contrast, the back seam product
2 was much more rigid and maintained dimensional
3 integrity so well that it could be filled using the
4 same equipment the packagers had used historically
5 with paper multiwall sacks.

6 These importers undertook considerable
7 effort to educate packagers about the advantages of
8 back seam LWS, showing them that it would run properly
9 in their equipment, that it suffered much less
10 breakage or damage than multiwall sacks in
11 distribution, that it exhibited superior barrier
12 properties, better maintenance of freshness, would
13 maintain its shape when stacked, filled on the floor,
14 was available at prices that competed well against
15 paper multiwall sacks, provided greater recycling
16 potential, and offered consumers an attractive and
17 superior appearance.

18 Today, some US LWS producers are still
19 manufacturing tubular sacks, serving an inherently
20 limited number of customers, while some domestic
21 producers are also entering the more promising back
22 seam segment following the lead of and benefitting
23 from the successful educational efforts of the Thai
24 and Chinese product importers over the past five
25 years.

1 This sequence of events explains why Chinese
2 producers enjoy an important share of the US LWS
3 market today, as well as why US producers are
4 experiencing the normal challenges of building a new
5 industry, challenges that they seek to misrepresent as
6 evidence of the impact of imports. Third, the
7 profitable growth potential of US producers of back
8 seam LWS is substantial in a market shared with
9 imports from China, Thailand and other countries such
10 as Brazil and India.

11 US producers enjoy a significant advantage
12 in the US market because of their proximity to their
13 customers. The Corman testimony of American Bag &
14 Burlap Company that you heard a few moments ago
15 explained that imports, which are customized products
16 for each packager, take 8 to 12 weeks from order to
17 delivery, based on information promoted on the website
18 of one of the Petitioners themselves.

19 Now, for international trade, that is pretty
20 efficient, but it cannot hold a candle to the two to
21 three week lead time required for orders placed with
22 US producers, and the difference between a two to
23 three month lead time for imports and a two to three
24 week lead time for US produced sacks is of huge
25 importance in this marketplace. Many packagers seek

1 sacks to package product that they themselves must
2 turn around for distributors in retail stores on
3 relatively short notice, and for them, US producers
4 are the only game in town.

5 In fact, two of the US producer witnesses
6 this morning testified they were invited into this
7 market by their customers, customers who obviously
8 weren't satisfied with the option of buying from China
9 or Thailand based on price. In a market such as this,
10 it is natural to see imports in US production selling
11 successfully at distinct price points where the US
12 producers earn a premium to reward their significant
13 lead time advantage.

14 This premium reflects an advantage of US
15 producers and not, as sometimes occurs under other
16 circumstances in cases you are familiar with, it does
17 not reflect aggressive underselling by imports that
18 are seeking market share at the expense of US producer
19 sales. The growth of import sales in recent years has
20 been almost entirely at the expense of paper multiwall
21 sales as more packagers discover the advantages of
22 this product.

23 Even so, the price comparisons based on
24 products 1 through 3 specified in the questionnaires
25 are not valid evidence of the existence of price

1 differences and their magnitude. Each of these
2 pricing product definitions includes both tubular and
3 vertical back seam LWS products, which as testimony
4 shows, packagers themselves absolutely do not regard
5 as fully interchangeable on their equipment.

6 US producers sell a significantly greater
7 share of tubular sacks than importers from China.
8 Hence, because of these product mix differences, each
9 of the pricing products contains apples and oranges,
10 and one cannot know what to make of any apparent
11 difference in price between what are, in effect,
12 different products, or at least different mixes of
13 imported and domestic products.

14 In addition, you heard this morning from Mr.
15 Nowak, President of CEI, that customers often want to
16 multiple source. That makes perfect sense for a 25 to
17 30 cent bag critical to a product filled with 6 to 10
18 dollars of pet food that, as Mr. Dorn put it in a
19 different context, these customers do not want all
20 their eggs in one basket either, to secure a reliable
21 supply. And multiple sourcing means that economically
22 that imports are not substituting for domestic
23 production, but coexisting in a more complimentary
24 relationship.

25 Fourth, the staff must come to terms with

1 another data difficulty resulting from information
2 provided by the Petitioners. As explained in both the
3 Corman testimony and Shapiro testimony, it is
4 straightforward to show that the Petitioners have
5 overestimated the share of HTS 650330020 consisting of
6 imports of within-scope LWS from China. I will not
7 review the details, but the evidence and reasoning is
8 unassailable.

9 In short, a much larger share of this tariff
10 heading consists of non-laminated woven sacks and
11 other sacks within the category, including onion sacks
12 and sandbag sacks, than the Petitioners have claimed.
13 Moreover, similarly, we believe imports of in-scope
14 LWS from countries other than Thailand and China are
15 also sold in the US market, whereas the Petitioners
16 have told the Commission that all of the imports
17 originate in Thailand and China. These data issues
18 lead naturally to my next observation.

19 Fifth, it is not difficult to appreciate
20 plausible and likely reasons why this petition was
21 filed, the Petitioners' real motives in bringing this
22 case, that have absolutely nothing to do with injury
23 or retardation caused by imports from China. The
24 petitioning firms as a whole, taken together, have a
25 much greater commercial stake in their existing

1 production of paper multiwall sacks than they do in
2 production of LWS.

3 Imports of LWS vertical back seam product
4 have taken share from paper multiwall sacks in the
5 broader economic market for sacks of all kinds used in
6 packaging of pet food. Of course, seeking to use a
7 Title 7 case to protect an industry that produces a
8 product that the Petitioners' counsel himself has
9 argued is not a like product is not a valid statutory
10 reason to seek protection.

11 In addition, some Petitioners may import or
12 seek to import sacks from the many non-subject
13 countries such as Thailand, Brazil, India, Colombia,
14 Korea, Vietnam, and others, that have ample existing
15 LWS capacity or are making investments in capacity,
16 and thus hope this case limits competition with China.
17 Similarly, the Petitioners have excluded woven
18 polypropylene and/or polyethylene fabric from the
19 petition, the products that are the most significant,
20 indeed, the defining material component of LWS.

21 It is economically logical that they may
22 seek to import this component, add a little value, and
23 call it US production of LWS, even though the great
24 majority of the value added is imported. I would add
25 that as US production of back seam LWS expands, the

1 law of demand assures us that increased sales of US-
2 produced short lead time LWS product will erode to
3 some extent the premium that US producers earn because
4 of the advantage of their proximity to their
5 customers.

6 Hence, the back seam segment of the US LWS
7 industry, which is quite concentrated, may be hesitant
8 to expand its production because it currently
9 exercises some market power with respect to customers
10 who require short turnaround product, and expanding
11 production would therefore limit profitability through
12 a price reduction that has nothing to do with imports.

13 My sixth and final observation notes why the
14 least likely reason behind this petition is protection
15 of US LWS production. In short, as Michael Shapiro
16 has testified, much too much capacity exists already
17 in non-subject countries around the world to make any
18 bilateral antidumping or countervailing duty order
19 against China alone effective in protecting the US
20 market.

21 Producers in South America, India and other
22 countries of East and Southeast Asia that have been
23 successfully manufacturing LWS for their home markets
24 for years would need little incentive to enter the US
25 market. They need some incentive, but not much, and

1 one of the consequences of this petition, if
2 successful, would be to invite them into the United
3 States with open arms. LWS importers from Thailand
4 and China know that little must be done to make
5 foreign product acceptable to US packagers, and
6 importers from other countries will easily discover
7 the same thing.

8 That concludes my statement, and I would be
9 pleased to address your questions at the appropriate
10 time. Thank you.

11 MR. WISLA: Hi. I'm Ron Wisla from Garvey
12 Schubert Barer and I would like to read the statement
13 of Jim Lang.

14 "My name is Jim Lang, and I am vice
15 president for procurement of Dad's Products Company, a
16 family --"

17 MR. CARPENTER: Excuse me, please. I'm
18 sorry for the interruption. Mr. Dorn?

19 MR. DORN: I'm sorry for the interruption,
20 but just a procedural issue in terms of how we're
21 going to question this witness and whether we will be
22 privy to any questioning of this witness, whether
23 Petitioners will be. I understand he is reading a
24 statement for somebody who is not here. He indicated
25 that that person would be available for questioning.

1 I would like to be privy to any questioning of that
2 witness.

3 MR. CARPENTER: In the preliminary
4 conferences, the parties don't have the opportunity to
5 question witnesses from the other side, in any event,
6 but certainly you'll have the opportunity to rebut any
7 statements in your closing statement and in your post-
8 conference brief. With that point, I'm going to
9 permit Mr. Wisla to read the statement.

10 MR. WISLA: Okay. Thank you. I'll start
11 again.

12 "My name is Jim Lang, and I am vice
13 president for procurement of Dad's Products Company, a
14 family-owned, pet food manufacturer located in
15 Meadville, Pennsylvania. We have manufactured and
16 marketed both our own brands and corporate-branded pet
17 foods since 1993. Our sales are approximately \$150
18 million and nearly 200,000 tons per year.

19 "As vice president of procurement, I have
20 responsibility for all sourcing, negotiating, and
21 contracting of all ingredients and packaging. I have
22 done this for 25 years. I am also a principal in the
23 business.

24 "As I see this case, it is part of the
25 broader shift from paper-based packaging to poly-woven

1 packaging in the pet food business. Based upon
2 consumer appeal, durability, barrier properties,
3 recyclability, and competition in the marketplace,
4 there has been, and I believe there will continue to
5 be, a migration from paper bags to poly-woven bags in
6 the retail pet food business.

7 "The move towards poly-woven packaging is
8 primarily driven by, one, mass merchant retailers,
9 such as Wal-Mart, Dollar General, Family Dollar,
10 Petco, and PetSmart, who are increasingly insisting
11 upon poly-bag packaging in order to minimize product
12 damage in the chain of distribution, and, two, the
13 consumers' preference for poly-woven packaging over
14 paper packaging due to enhanced product presentation
15 and graphics and superior recycling capabilities.

16 "I would like to present a brief history of
17 my company's involvement in poly-woven packaging. I
18 was first approached with a poly-woven product by a
19 Brazilian company in the early 1990s. However, the
20 product had poor printing and was inferior to the
21 printing available for paper packaging. There was
22 also no existing demand for poly packaging by either
23 the mass retailers or the grocery chains. I had no
24 desire to pioneer a new packaging format at that time.

25 "The first interest in poly-woven packaging

1 for pet food was presented to me in early 2000 by a
2 large, national, retail customer of ours, and that was
3 Dollar General, specifically to reduce the amount of
4 damage at their stores. I first looked at domestic
5 supply but could not find a single U.S. producer who
6 was capable of handling either my quantity needs or
7 the minimum quality requirements in terms of both
8 construction and printing.

9 "I, therefore, sought out distributors of
10 imported product. I looked at two imports, Pacific
11 Rim and Excel Packaging. I chose Pacific Rim to be
12 our supplier because it had more experience than
13 Excel, and they were already shipping other bags to my
14 customer. However, two years later, the customer
15 pulled the majority of the purchases of this product,
16 and I discontinued using poly-woven at that time
17 because there was insufficient demand for the product
18 by other U.S. customers.

19 "Then, about two years ago, a very large,
20 national retailer, Wal-Mart, requested that we put the
21 product we sell to them in poly-woven bags. Again,
22 damage reduction was the stated objective. Poly-woven
23 bags are dramatically less resistant to breakage
24 throughout the distribution system. You could
25 probably drop one of these bags from the Empire State

1 Building, and they would not break.

2 "Damage reduction has become more critical
3 in recent years as the distribution of pet food has
4 changed drastically over the last decade. In the
5 older model, palletized pet food was sent to the
6 grocery chain's warehouse. Their warehouse would
7 depalletize the dog food and then send a few bags at
8 each time to their retail outlets. However, in recent
9 years, the large national retailers and the pet
10 specialty stores have supplanted the traditional
11 regional grocery chains as the consumers' primary
12 point of purchase.

13 "In the new retail model, entire pallets of
14 pet food are sent from the distribution warehouse to
15 the individual stores. Thus, damaged bags are not
16 discovered until the pallets are disassembled. In the
17 old model, any damage problem was resolved at the
18 distribution centers. In the new model, damage is not
19 found until it is distributed to the individual retail
20 outlets. As a result, the cost of handling damaged
21 merchandise has grown exponentially.

22 "Second, there have been increasing demands
23 on retail stores relative to food safety and health
24 sanitation codes. Broken pet food bags attract
25 insects and rodents.

1 "Third, there is increasing demand for
2 environmental sustainability. Paper packaging is
3 normally more recyclable than poly packaging.
4 However, because of the fat content in dry pet food,
5 it is necessary that the paper packaging incorporate a
6 poly layer to control fat leakage. Thus, in this
7 case, the poly-woven bag is, in fact, more recyclable
8 than the poly-paper construction.

9 "Lastly, enhanced printing technologies and
10 new manufacturing technologies allow superior printing
11 and graphics on the laminated, poly-woven bags as
12 compared to paper bags.

13 "Consequently, recent trends in the pet food
14 industry relating to national retailing, food safety,
15 environmental sustainability, and product marketing
16 have increased the demand for superior package
17 performance, which is increasingly being met with the
18 laminated product.

19 "To source the Wal-Mart account, my search
20 encompassed both domestic and imported suppliers.
21 With respect to domestic suppliers, I seriously
22 considered Hood, Coating Excellence, and Mid-America
23 Packaging, which is my current paper supplier. At the
24 time, I was unable to source domestically. Hood did
25 not have the capacity to produce poly-woven bags

1 domestically and was seeking to both establish an
2 import relationship and working on trying to produce
3 bags domestically.

4 "Mid-America had established import
5 relationships and had bought equipment and attempted
6 to make poly bags domestically. However, they had not
7 perfected the process of laminating the structure
8 without resorting to an additional layer of paper,
9 which added excess material.

10 "With respect to Coating Excellence, they
11 were only able to offer the product with a tubular
12 construction. This product places a nonconsistent,
13 longitudinal seam in the bag that is visually
14 objectionable and could not be used.

15 "Thus, none of the domestic producers with
16 whom I was familiar would handle this business. In
17 addition, at that time, I deemed, and I still do, that
18 both Mid-America and Hood are too new to the
19 manufacturing process with these bags to be trusted
20 with my Wal-Mart account.

21 "The cost of a sourcing error due to quality
22 is extremely high. By adding 50 pounds of pet food to
23 a bag, we add substantial value added to each bag.
24 Thus, a defect in a 30-cent bag that we buy from them
25 turns into a \$6 bag of dog food that I have to

1 repurchase from the retailer if it is damaged.

2 "The technique of sealing polypropylene is
3 not something that everyone can do well when they are
4 learning a new process. I never purchase the first
5 bags off of a new paper bag line, the first bags off
6 of a new printing press, and I would not put my
7 company in the risky position of buying the first bags
8 off of a new poly-woven line.

9 "I normally look for a company to have been
10 producing one to two years before I'm confident that
11 they are knowing what they are doing. At the time and
12 subsequently, I have encouraged both Hood and Mid-
13 America to continue to improve the quality and
14 efficiency of their manufacture of poly-woven bags, as
15 I see a source of domestic supply as desirable.

16 "With a satisfactory domestic supply not
17 being available, I reviewed imported product from
18 Pacific Rim and Excel. Because I had poor experience
19 with Pacific Rim relate to quality, service level, and
20 minimum order quantities, I was reluctant to do
21 business with them again. However, due to the quality
22 of the product samples, other customer
23 recommendations, minimum order quantities, vendor-
24 managed inventory capabilities, and previous
25 experience with the owners of Excel, I sourced this

1 account with them with imported material from China.

2 "The primary attributes that I consider when
3 selecting a vendor are quality, service level,
4 business reputation, and pricing, in that order. My
5 current vendor is giving me a quality product on time
6 and at a competitive price. If others are not able to
7 master the technique of manufacturing these bags
8 efficiently, it is wrong to penalize those who are
9 able to do so.

10 "The pricing that I have seen is not out of
11 line with other vendors' pricing. While there is some
12 difference between the domestic and imported product,
13 the Chinese supply is not of significantly different
14 pricing from other established foreign producers. The
15 spread from bottom-to-top pricing between all
16 producers, domestic and foreign, is not out of line
17 with spreads I have seen in other competitive markets
18 in the pet food business, such as poly rolling stock,
19 folding cartons, et cetera. It is not uncommon to see
20 the same or greater spreads in other packaging
21 industries.

22 "There are many factors that are considered
23 when a supplier costs a package. Set-up times, scrap
24 rates, material costs, overhead, shareholder
25 expectations, returns; they all play a role.

1 "For quite some time, the paper industry has
2 consolidated, closing mills, reducing paper supply.
3 They coincidentally announced matching price increases
4 at the same time. This new market, in which paper
5 packaging must now compete with poly-woven packaging,
6 is one where, again, entrepreneurial activity and true
7 competition exist.

8 "I think it would behoove the domestic paper
9 manufacturers to learn to compete in the poly-woven
10 segment."

11 MS. LEVINSON: Mr. Carpenter, that concludes
12 our direct testimony. I neglected to mention in my
13 introductory remarks that we also have at the table
14 Mr. David Zhu, who is at the right. He is the person
15 the most familiar with the market in China, and any
16 questions in that regard should be directed to him.

17 MR. CARPENTER: Okay. Thank you very much,
18 and thank you to everyone on the panel who appeared
19 for your statements. I will ask you, Ms. Levinson, to
20 provide the name and contact information for the
21 purchaser whose statement was read so that the staff
22 has an opportunity to question that person at some
23 point after the conference.

24 MS. LEVINSON: I will certainly do that.

25 MR. CARPENTER: Thank you. At this point,

1 we'll begin the questions with Mr. Cassise.

2 MR. CASSISE: Thank you all for your
3 testimony. Just a couple of quick points of
4 clarification.

5 You made a distinction between the tubular
6 bags and the back-seam bags. The tubular bags are the
7 bags that have this overhang on the laminant, and the
8 back-seam bags do not have that. I just wanted to
9 clarify that.

10 The tubular bags, you feel, have quality
11 issues that your customers bring to your attention.
12 Is it your contention that the U.S. industry just
13 makes the tubular bags?

14 MR. SHAPIRO: No. The manufacturer that
15 started, when they did their study, came out with a
16 tubular bag in the beginning, which they thought was
17 more the acceptable product, which was actually wrong
18 on their part.

19 The acceptable product that replaced --
20 which was placed on the same equipment that they use
21 paper was the back-seal bag because, if you look at
22 the edge of the tubular bag, you have this material,
23 and the equipment that this product runs on is fixed
24 equipment, so it doesn't have much room for variance,
25 and they can't control the web, which is when they

1 laminate the top to the bottom, and then they fold the
2 bags to put the gusset into it. So it creates a
3 problem with automatic equipment. In hand filling,
4 that bag would be adequate.

5 MR. BOLTUCK: I think, to answer your
6 question directly, my understanding from others, and
7 they can confirm this, is that we think today most of
8 the U.S. production, or much of it, remains tubular.
9 There are customers for it. It's limited because it's
10 difficult to convince a new customer they can use it
11 on existing historical equipment.

12 But the growth potential for the U.S.
13 industry, as well as for others in the market, is in
14 the back-seam bag because that has such general
15 usability on existing packaging equipment and one or
16 more of the U.S. producers are, or probably are,
17 entering and beginning to produce some of the back-
18 seam bags. We think that that is going on, yes.

19 MS. LEVINSON: I would like to just add that
20 part of the problem was that a company like Coating
21 Excellence invested in equipment for the tubular
22 product, and that was just a wrong investment choice.
23 They invested in the wrong product.

24 MR. ABEL: I think, to clarify, the vertical
25 back-seam-styled bag is the style that you would find

1 in a paper-manufacturing operation. The equipment
2 needed to produce that style bag is pretty common with
3 the paper side of the business, but it's very uncommon
4 in the flexible side of the business.

5 So those that may be able to make a tubular-
6 styled bag because they had flexible equipment already
7 could not make the back-seam-styled bag without
8 investing in new equipment.

9 MR. CASSISE: So you're saying that they
10 could make the tubular product on their existing
11 machinery.

12 MR. ABEL: That they already had, yes.
13 That's the way they started out, yes.

14 MR. CASSISE: So you would disagree with
15 their statement that they went and invested in
16 completely different capital equipment.

17 MR. ABEL: Not totally. Some segments of
18 it, they purchase, like a laminator, for example, but
19 they didn't necessarily purchase a tubular, which
20 would make the vertical back-seam-styled bag.

21 MR. CASSISE: So there is some overlap in
22 the machinery.

23 MR. ABEL: Absolutely.

24 MR. CASSISE: Mr. Shapiro, you had mentioned
25 that, 10 years ago, the U.S. industry attempted to get

1 into this market but failed. I was wondering if you
2 could give us a little more detail on that, and who
3 ultimately developed the technology that's used today?
4 I think you had mentioned it was developed in
5 Thailand, but if you could give me a little more
6 detail on that, that would be helpful.

7 MR. SHAPIRO: I would like to share this
8 also with Mr. Abel.

9 The tubular bag was the bag that I brought
10 in from Asia about 10 years ago and had actually
11 bought here domestically, which was used in operations
12 that have hand filling where the product is loaded,
13 weighed, and then dumped into a bag by hand.

14 The automated equipment -- let me pass on to
15 Jay because he would know this information.

16 MR. ABEL: As Mr. Corman has pointed out,
17 these bags are used in a variety of different styled
18 packers. If a packer is running an automatic
19 packaging piece of equipment, a high-speed, automatic
20 equipment, and they are running it on existing paper
21 bag, and they want to go to a laminated woven sack,
22 what will run well on their existing equipment may be
23 different than what was offered in the earlier stages.

24 The vertical back-seam bag, because of many
25 reasons -- it's not just the fact that it's a vertical

1 back seam that enables it to run; it's also the
2 structure, the tolerances, the fact that that bag is
3 made with a thicker layer of polypropylene. The tie
4 layer may be a thicker layer than what's normally used
5 on a tubular-styled bag.

6 So it's the overall structure of that bag,
7 in the vertical back-seam style, that enables it to
8 run well on that existing high-speed paper bag-filling
9 equipment.

10 The earlier versions, due to their lack of
11 experience, starting out with possibly the wrong type
12 of equipment, brought this tubular-styled bag to the
13 market, and it was not acceptable by the folks that
14 were running the high-speed applications.

15 Hand applications, hand packers could
16 probably run the bag with no problem.

17 MR. CASSISE: So what was the difference
18 between the tubular bags that they produced 10 years
19 ago and the tubular bags they are producing today?

20 MR. ABEL: Again, back to the specifications
21 and the structures, they have learned to increase that
22 structure to make them more stiff and more rigid. The
23 one thing that they cannot get away from is that
24 physical fins on the side of the bag, which, to some
25 folks, from a marketing standpoint, is objectionable,

1 and they just plainly say, "We won't put that on the
2 shelf because we don't like the way it looks."

3 MR. CASSISE: And it's more difficult to
4 store or use, moving equipment.

5 MR. ABEL: It's more difficult to run on the
6 packers because it adds a new dimension -- that
7 particular size of those fins are not necessarily
8 always consistent. On one bag, it may be an eight-of-
9 an-inch wide, sometimes it may be cut very, very well,
10 almost even with the side of the package; other times,
11 it may be a quarter-of-an-inch wide. When that
12 variation happens, it will have an effect on the
13 automatic packer.

14 MR. CASSISE: This is just a point of
15 clarification. You had also mentioned, and you
16 mentioned it again, that the U.S. producers have the
17 wrong equipment. You said that 10 years ago. Do they
18 still have the wrong equipment today?

19 MR. ABEL: Within the last two years, two of
20 the companies have invested in the right equipment to
21 make a vertical back-seam-styled bag. Where they are
22 in their production operation in terms of the process,
23 I couldn't speak to that. We know they have invested
24 in equipment in the last year or so. Coating
25 Excellence, we believe, has invested in the equipment,

1 and we feel like Polytex also has the equipment now.

2 But if we were to go back to the examples
3 shown of the two bags, and they said, "This is a bag
4 that was made in China, and this is the same bag," the
5 bag that they said is the same bag that we made in
6 China is not the same bag; it's a vertical-styled
7 back-seam bag that was made in China.

8 MR. CASSISE: As far as imports to the U.S.,
9 you first started seeing the back-seam bags coming in
10 from Thailand or China.

11 MR. ABEL: Thailand. When I was a purchaser
12 at a major pet food company, a Thailand company, CPP,
13 brought in bags to me about eight to nine years ago
14 and started showing a vertical back-seam-styled, poly-
15 woven bag made in Thailand. They were the first to
16 really be successful penetrating the pet food market
17 in the United States.

18 MR. CASSISE: And do you deal with that
19 company anymore? Are they still a supplier, or --

20 MR. ABEL: We compete with them, yes. They
21 are a very large supplier to the pet food industry
22 today, maybe the largest.

23 MR. CASSISE: The technology, obviously,
24 migrated to China, and the majority of the imports
25 come from China.

1 MR. ABEL: We would disagree with that
2 statement. We do not agree that the majority comes
3 from China.

4 MR. CASSISE: You wouldn't agree that --
5 okay.

6 MR. SHAPIRO: The company that Jay refers to
7 is building a new plant in Vietnam and then in
8 Indonesia, so they will be producing, probably within
9 the next two years, about 600 million bags, which they
10 are planning for, again, part of their domestic market
11 but mostly for the U.S. market.

12 MR. ABEL: The company filled its existing
13 capacity in Thailand over about a two-year period, and
14 that capacity is 96 million bags, is what they
15 produced in Thailand of this particular subject,
16 vertical back-seam-styled, laminated woven sack. Once
17 they filled that capacity, now they are looking to
18 expand, and they have a plant that has already opened
19 in Vietnam right now that is going to bring another
20 300-million-bag capacity to their company.

21 MR. CASSISE: But imports from Vietnam are
22 coming in during this period that we're investigating.

23 MR. ABEL: Yes.

24 MR. CASSISE: And from Thailand and from any
25 other countries? India?

1 MR. SHAPIRO: Well, they are coming in from
2 Vietnam right now, Korea, Brazil. Colombia, right
3 now, as I told you, is bringing in rolled stock for
4 U.S. producers to convert, the paper converters, to
5 convert on their existing equipment because they are
6 finding that the U.S. manufacturers would prefer the
7 rolled stock versus the pre-made bag. So they are
8 gearing up to, as they want to eliminate the printed
9 roll stock, as they have described, which is the laid-
10 flat bag on a big roll, is part of what they want to
11 stop from coming in from China, is coming in right now
12 from Colombia.

13 I had talked to the manufacturer, and they
14 have new equipment coming, and they have plans for
15 building more for the next two years to come in to
16 supplement what is going to, they are hoping, stopping
17 China.

18 MR. BOLTUCK: So what he means by they would
19 like to stop it from coming in is he means that's in
20 the scope.

21 MR. CASSISE: Correct. Right. I
22 understand.

23 MS. LEVINSON: Mr. Cassise, I just want to
24 emphasize that the vast majority is coming from
25 Thailand. Thailand was the innovator, the establisher

1 of this product and still remains today operating at
2 full capacity.

3 MR. CASSISE: There is obvious disagreement
4 with the import numbers, and, Ms. Levinson, if you
5 could brief that and come up with an alternate
6 methodology. You will also be privy, of course, to
7 our questionnaire data, and you can go from there.
8 But we're definitely in disagreement on that. We
9 would like to come up with a consensus.

10 Real quick, on the difference between the
11 back-seam and the tubular, what's the difference in
12 the machinery? Are there different pieces of
13 machinery that you need? Is there a different capital
14 expenditure?

15 MR. ABEL: It's completely different pieces
16 of equipment. The differences, without getting into
17 details, a multiwall back tuber can take multiple
18 plies of paper and put it all together and form a bag.

19 In this particular case, we're taking
20 multiple plies of materials that have already been put
21 together in the lamination process, starting with the
22 woven layer, and then the reverse-printed BOPP layer
23 are married together, as Bazbaz gave the demonstration
24 earlier in his testimony, with an extrusion-lamination
25 process. Then that one roll of material, although

1 it's three layers, goes to a tuber and then runs
2 through that tuber, which actually forms the bag and
3 creates the vertical back-seam-styled bag.

4 MR. CASSISE: Okay. If you, in your post-
5 conference, can just take this and show the
6 differences in the process, that would be very
7 helpful.

8 MR. ABEL: We can do that.

9 MR. CARPENTER: Can you turn your microphone
10 on, please?

11 MS. LEVINSON: I'm sorry. I believe that
12 Pacific Rim is listed as an importer of product from
13 China, but their main supply is from Thailand, not
14 from China at all. In fact, I happened to speak to
15 them, and they said they do not import from China at
16 all.

17 MR. CASSISE: So they would be
18 misclassifying the country or origin with the U.S.
19 Customs Service.

20 MS. LEVINSON: I don't want to say that.

21 MR. CASSISE: We'll talk with them.

22 MS. LEVINSON: Yes.

23 MR. CASSISE: Mr. Corman, you had mentioned
24 that you had been to Europe, and possibly Asia, to see
25 other production processes. Anything stick out in

1 your mind on the difference between the U.S. and the
2 foreign production processes that would cause
3 differences in efficiency and cost?

4 MR. CORMAN: Well, in terms of Europe, my
5 knowledge there is that these BOPP bags are making
6 inroads in the industries in Europe. It's multiwalled
7 paper bag plants that I have visited in Europe. Their
8 production processes are similar to a multiwalled
9 paper bag in the United States.

10 In terms of the BOPP bags, the difference
11 really has to do with the tubular versus the back-seam
12 construction, and that different equipment is required
13 to make those bags. So my experience in going over to
14 China is that they will weave their own cloth, they
15 will then slit it to form a flat sheet, they will
16 laminate it, they then tube it and bring it together.
17 When you make a tubular construction, you're weaving
18 the cloth, and then you're taking two sheets of BOPP,
19 and you're laminating it as a sandwich, and that's why
20 you have those fins at the edges.

21 There is no need for a separate tube when
22 you're doing the tubular style for you to make the
23 tube. It is actually made during the weaving process
24 of the fabric.

25 MR. CASSISE: Okay. Thank you. Mr. Zhu, if

1 there is anything you could tell us about China, we
2 would love to hear about it.

3 MR. ZHU: Yes, sir. I'll be happy to. I
4 just want to make a quick comment in general regarding
5 the technical challenges of making this style bag.

6 From the Petitioners' testimony, it gave me
7 the impression that this is a product this is highly
8 sophisticated to make, it's been very challenging for
9 U.S. manufacturers, but I want to speak to the other
10 side, since I'm familiar with it.

11 In terms of manufacturing in China this
12 product, it's not new technology. The Chinese
13 manufacturers have been doing that for over 30 years
14 in the past. The equipment basically started with the
15 Japanese, and then double-edged manufacturing from
16 Germany, and, pretty soon, the Chinese manufacturers
17 started to make this equipment. Today, if you put a
18 factory together making this styled back, you're
19 probably talking about six months' time, under \$1
20 million investment, you can be in business. That's
21 why you have so many Chinese manufacturers out there.

22 Also, in terms of cost and pricing, as
23 importers, we are already paying an eight-percent duty
24 on this when we bring products from China. We pay
25 about 20 percent on the shipping cost, and then the

1 long lead times. So the U.S. manufacturers already
2 enjoy a huge advantage over the importers. If they
3 still cannot make the business work, that's really
4 hard for me to believe.

5 Another issue at point is this is basically
6 a market that, when we import a product into this
7 country, there is so much added cost, which the
8 American manufacturers do not have. At one point, I
9 heard one Petitioner saying that when they bid on a
10 project, they get about 30 percent lower cost from
11 Chinese bidders, and the Petitioner is asking for 95-
12 percent antidumping countervailing duty. The math
13 doesn't seem to work to me. So I just wanted to bring
14 that to your attention.

15 MR. CASSISE: Well, the Commerce Department
16 will have fun with that math.

17 You mentioned there is low capital
18 investment to get started in the business in China.
19 Do you have any sense that since there are more and
20 more producers, the capacity is increasing in China or
21 staying steady? Could you talk to that issue?

22 MR. ZHU: I do see some investment but not
23 at large capacities because the Chinese market is
24 already very crowded with the existing manufacturers.
25 You probably can count 200 to 300 manufacturers right

1 there without looking very hard. All you have to do
2 is go to the Web site, "Made in China.com" or
3 whatever. You can find hundreds of them. It's
4 already there, and the market is very tough.

5 It's very competitive, and they are serving
6 the Chinese market with the same product that is the
7 subject product. They are using it for rice
8 packaging, for fertilizer packaging, for chemicals,
9 biochemical products packaging. They have been doing
10 that for 30 years. It's not a very challenging
11 manufacturing. With the technology that we have in
12 this country, it won't be a difficult job to get into
13 production and still beat the imports because most of
14 the product, if you look at the manufacturing cost, 60
15 to 70 percent is resin, polypropylene resin.

16 My company has invested, along with my
17 partners, in China -- we have a stake in our joint
18 venture in China -- we buy resin from the open market,
19 global market. It is a global market, polypropylene
20 resin. We but it from Korea, we buy it from India,
21 and we buy it from the U.S. So when we buy resin from
22 the U.S., we have to ship it from the East Coast or
23 the West Coast all the way to Shanghai or Shindo in
24 China, and we have to pay a lot of money for just
25 getting the resin, raw material, for our plants.

1 MR. CASSISE: The Petitioners, this morning,
2 made the contention that those polypropylene prices
3 were increasing rapidly. Have you experienced the
4 same increase in costs of polypropylene resin?

5 MR. ZHU: Yes, we have. Today, we pay about
6 1,400 U.S. dollars per ton, not counting all of the
7 other expenses of getting the product to the door.

8 MR. CASSISE: Right. I understand. Do you
9 have any sense of what percentage of the production in
10 China stays within the Chinese home market and how
11 much is exported to the United States or to other
12 markets? I know that you don't represent the entire
13 industry, but even if you had some sense of estimates
14 of market share.

15 MR. ZHU: Sure. I have not done extensive
16 research in that regard, but, from my impression from
17 my knowledge, with people I've talked to in the
18 factories there, the majority of that type of product
19 is still consumed within China because the domestic
20 market relatively is a lot larger, plus it's a lot
21 easier to deal with.

22 Chinese consumers do not have that higher
23 demand than the U.S. consumers do, so it's easier to
24 sell their products domestically, plus it doesn't need
25 an export department for a factory to do that because

1 you don't have to speak English in order to sell a
2 product in China rather than exporting.

3 MR. CASSISE: But you're also saying that
4 this type of packaging has been prevalent in China and
5 Japan and Korea for 30 years, whereas it's just
6 beginning to show up here in the last five. So the
7 home market in China is much more developed than their
8 export markets. Is that a fair statement?

9 MR. ZHU: In that sense, I would think so,
10 yes, but I have to make an adjustment in that, which
11 is, in terms of high-glossy graphics, that is not the
12 case because the Chinese consumers traditionally do
13 not regard that as a big selling point. Now, more and
14 more, they are moving towards that. For instance,
15 like, the rice bags, manufacturers do want to make an
16 appeal to consumers, so they tend to put higher glossy
17 graphics on it, but, traditionally, it's not been the
18 case.

19 MR. CASSISE: So, traditionally, it's more
20 of just the woven sack in China, not with the laminate
21 on at all.

22 MR. ZHU: With a few colors, not like eight-
23 color printing or 10-color --

24 MR. CASSISE: It's not just the woven bag.

25 MR. ZHU: Yes. It's still a similar

1 product, but it's with less graphics on it.

2 MR. CASSISE: So three colors as opposed to
3 eight.

4 MR. ZHU: Yes.

5 MR. CASSISE: Okay. And do you have any
6 sense of what other export markets that the Chinese
7 industry exports to?

8 MR. ZHU: I know some of our previous
9 suppliers export to Europe. Some of them export to
10 Australia and New Zealand, some to Canada. I'm
11 speaking about the suppliers that used to supply us as
12 a business. These are the markets I happen to know --
13 Latin America, too, maybe Brazil.

14 MR. CASSISE: Would you say that those other
15 export markets combined are larger than the U.S.
16 market?

17 MR. ZHU: I would think so because, just
18 looking at the aggregate size of the EU and other
19 parts of Asia, like Japan or even Australia, I would
20 think it's probably larger, but in terms of the pet
21 food market, I really don't know, maybe not. That
22 would be my guess.

23 MR. CASSISE: Mr. Corman or Mr. Zhu, how do
24 you respond to the Petitioners' contention that this
25 type of packaging isn't as prevalent in Europe because

1 they are used to smaller packaging that doesn't
2 require the strength of the woven fabric? Is that
3 your experience, or is this type of packaging just as
4 prevalent in Europe?

5 MR. CORMAN: The type of packaging is just
6 as prevalent. They use the same weighmants, if you
7 will, for pet food converted to kilograms. For
8 instance, this happens to be a paper bag for 15 Kg of
9 pet food that's in Europe, and this is the type of bag
10 that would be substituted for by a laminated woven
11 sack, and 15 Kg is 33 to 34 pounds.

12 We actually do business with several
13 companies in Italy who produce a lot of bags in the
14 pet food market, and they do the same basic sized bags
15 as they do here in the United States. It ranges from
16 small packages all the way on up to 50 pounds, or 25
17 Kg.

18 MR. CASSISE: Okay. Thank you. That's
19 helpful.

20 My last question is really a request to Ms.
21 Levinson, which is, it appears we're going to get not
22 a lot of responses from the Chinese producers, so if
23 you could find anything, along with Mr. Zhu and Mr.
24 Corman, to place in your post-conference brief, that
25 will help us tremendously. Thank you all.

1 MR. CARPENTER: Mr. Bernstein?

2 MR. BERNSTEIN: Mr. Corman, let me start
3 with you. In your testimony, I believe you said that
4 you were aware of laminated woven sacks imported in
5 the U.S. from Brazil, Vietnam, and you named a third
6 country, which I think I may have named Spain. You
7 were talking fast and I'm not sure that was the third
8 country. Was that -- first of all, what was the third
9 country you mentioned?

10 MR. CORMAN: It was Spain.

11 MR. BERNSTEIN: Okay, it was Spain. What is
12 the basis for your knowledge that imports from those
13 three countries are in the U.S. market?

14 MR. CORMAN: I've seen the bags here in the
15 United States.

16 MR. BERNSTEIN: Okay. It would be helpful
17 in your post-conference submission, if you could prove
18 -- you know, provide whatever documentation or
19 whatever that you have that these bags from these
20 markets are currently here. I mean, do you have any
21 feeling or knowledge about how substantial a
22 quantities are of these -- these sources are relative
23 to the Chinese or the Thai?

24 MR. CORMAN: That, I don't know.

25 MR. BERNSTEIN: Okay.

1 MR. CORMAN: I would assume it's not Spain,
2 but I don't know.

3 MR. BERNSTEIN: When Mr. Shapiro testified,
4 he made a much longer list of countries than you did
5 of non-subject countries, i.e., countries other than
6 China, from which he thought the laminated woven sacks
7 were present in the U.S. market. And you heard Mr.
8 Shapiro's testimony. Did his more extensive list of
9 sources surprise you?

10 MR. CORMAN: No. I only just went with what
11 I know.

12 MR. BERNSTEIN: Okay. Do you have any
13 personal knowledge as to whether those additional
14 countries he named in his testimony, their imports
15 are, in fact, present in the U.S. market?

16 MR. CORMAN: I don't know the answer.

17 MR. BERNSTEIN: Okay.

18 MS. LEVINSON: Mr. Bernstein, I just want to
19 clarify that the number of countries that Mr. Shapiro
20 mentioned are producers of the product. I'm not sure
21 that he was saying that they're currently present in
22 the United States.

23 MR. BERNSTEIN: Well, I was going to ask him
24 next.

25 MS. LEVINSON: Okay.

1 MR. BERNSTEIN: But one of the things I
2 sometimes enjoy doing is asking one witness from the
3 panel whether another witness's testimony surprised
4 them.

5 MS. LEVINSON: That's fine. I do want to
6 add in our post-conference brief --

7 MR. BERNSTEIN: Okay.

8 MS. LEVINSON: -- about three pages of
9 materials from websites -- three inches, sorry, not
10 three pages -- three inches of advertisements from
11 various websites across the world that we're going to
12 be submitting, that will show you which countries are
13 claiming that they are producing these bags. Now,
14 that's obviously --

15 MR. BERNSTEIN: Okay.

16 MS. LEVINSON: -- different from exporting
17 countries.

18 MR. BERNSTEIN: And let me ask Mr. Shapiro
19 the question I think your lawyer wants or sort of
20 implies I should ask you. You've listed a long list
21 of countries that produce -- you believe produces like
22 product or produce the laminated woven sacks. How
23 many of these, and if you could go through these sort
24 of in a list and write them, other than the three
25 mentioned by Mr. Corman, Brazil, Vietnam, Spain, and

1 Thailand, which we know about from the petition, how
2 many other countries' imports are present in the U.S.,
3 to your knowledge?

4 MR. SHAPIRO: Well, excuse me, we had
5 requested quotations actually from all of these
6 countries in these different countries. I had my
7 office go through the Internet and solicit them. And
8 then we had talked to some people in Brazil and we're
9 waiting for samples and other information. But, I
10 think that they understand that there is a petition
11 going on and suddenly some of the e-mails and things
12 have all stopped. But, I do know that Columbia and I
13 was expecting samples to be coming from Columbia, from
14 a manufacturer called Seaplass, that is manufacturing
15 roll stock and bags; but, again, their focus right now
16 is on this roll stock, because of the demands here. I
17 might have samples that have come. I've asked for
18 them; but, suddenly, everything seems to be drying up
19 as this information keeps going out.

20 MR. BERNSTEIN: Well, let me clarify again.
21 I understand that you're testifying that these
22 countries produce product within the scope. Are you
23 testifying, if you know, that these countries, again,
24 other than the three Mr. Corman says he has personal
25 knowledge of, and Thailand and China, which are

1 mentioned in the petition, are actually exporting this
2 product currently to the United States or have within
3 the past three years?

4 MR. SHAPIRO: Yes, we've gotten a quotation
5 from a company out of Korea that has indicated that
6 they're shipping much product here and it's acceptable
7 to the U.S. consumers. Columbia, if we get the
8 samples that we've requested, we can show you those,
9 too.

10 MR. BERNSTEIN: Okay. And if you could name
11 that company in your post-conference submission and
12 any -- in particular, countries that are exporting it
13 from these other non-subject countries, if you could
14 name those --

15 MR. SHAPIRO: Yes.

16 MR. BERNSTEIN: -- and identify those, I
17 think we would appreciate that.

18 MR. SHAPIRO: Yes, we will.

19 MR. BERNSTEIN: Okay.

20 MS. LEVINSON: Mr. Bernstein, I think Mr.
21 Abel would like to just make a brief addition to Mr.
22 Shapiro's comments.

23 MR. ABEL: Also, we have customers that have
24 asked us to quote for Korean manufacturers that are
25 currently supplying them now. They want to get

1 pricing from us to see how it compares to a Korean
2 supplier that is supplying these bags to them right
3 now.

4 MR. BERNSTEIN: Okay.

5 MR. ABEL: And we'll give you -- we'll
6 include that in the post-conference brief.

7 MR. BERNSTEIN: The next question is for Ms.
8 Levinson and just to try to get you to clarify, I
9 guess, an argument or some contentions your witnesses
10 have been making. They have identified the price of
11 products within the scope, one of which are called
12 paper coded laminated woven stacks, the second is
13 tubular back coded laminated woven stacks, and the
14 third is back seam back coded laminated woven sacks.
15 Now, are you arguing these are distinct like products
16 or just separate segments within a particular -- one
17 particular like product, which would be the like
18 product is proposed -- be defined by the Petitioner?

19 MS. LEVINSON: At the moment, we're not
20 challenging the Petitioner's definition of the like
21 product and we think that the Commission should
22 analyze injury within the context of like product as
23 defined by the Petitioner. However, it was glaringly
24 obvious that the Petitioners were not painting the
25 true picture of how complex this industry really is

1 and were giving the impression that there was one
2 laminated woven sack that the Chinese produce and that
3 they produce a substitutable product. So, what we are
4 bringing to your attention is the reality of how
5 segmented the industry is.

6 MR. BERNSTEIN: I appreciate that. Let me
7 go through these and -- I mean, this may go through
8 ground that Mr. Cassise covered, but just try to
9 clarify this. I'll go through each of these three and
10 if your witnesses could clarify within each of these
11 three whether there is head-to-head competition
12 between the Chinese imports and what is currently
13 being produced domestically. And this is just sort of
14 yes or no. The first one would be the paper coded
15 LWS. Is there head-to-head competition between the
16 Chinese imports and the domestically produced product
17 there?

18 MR. ABEL: No. To our knowledge, there is
19 no Chinese imports for the paper to woven structure.

20 MR. BERNSTEIN: Okay, thank you. The next
21 one is the tubular back coded laminated woven sacks.
22 Any head-to-head competition there?

23 MR. ABEL: Yes, there is.

24 MR. BERNSTEIN: Okay.

25 MR. ABEL: Made in both countries.

1 MR. BERNSTEIN: And the third one would be
2 the back seam back coded laminated woven sack.

3 MR. ABEL: Yes, there is.

4 MR. BERNSTEIN: Okay, thank you. Mr. Abel,
5 you said you previously worked in the pet food
6 industry?

7 MR. ABEL: Yes, I did.

8 MR. BERNSTEIN: Perhaps I can draw on your
9 experience in asking you this question. I would
10 imagine pet food -- do pet food producers, any create
11 inventory -- keep inventories of the bags, in which
12 pet food will be packaged around?

13 MR. ABEL: Absolutely.

14 MR. BERNSTEIN: Do you have any idea how
15 long -- how large those inventories would tend to be?

16 MR. ABEL: It varies with the pet food
17 company and their experience with purchasing. But,
18 ideally, you would like to keep a three- to four-week
19 inventory. That's all.

20 MR. BERNSTEIN: Okay.

21 MR. BOLTUCK: Excuse me, I just wanted to
22 add one thing and I think maybe Mr. Corman can speak
23 to this, too, in response directly to that question.

24 MR. BERNSTEIN: Sure.

25 MR. BOLTUCK: That is that where inventories

1 are possible, for instance, where you know exactly
2 what the ingredients are and what the image on the bag
3 will be, it won't change, they would have to be larger
4 and more costly to the extent that the order delivery
5 time is longer and, therefore, that's a cost
6 associated with a longer delivery time.

7 MR. BERNSTEIN: Well --

8 MR. BOLTUCK: And there is a shorter
9 delivery time from a domestic producer to a customer
10 than from an import producer to a customer.

11 MR. BERNSTEIN: Well, that was actually
12 going to be my next question. And I guess to the
13 people either have looked in this industry or have
14 dealt -- deal with those, who work in the industry, is
15 to what extent does, in this particular product, if it
16 is kept in an inventory and bags or not necessarily
17 the most bulky or space intensive type of product to
18 keep around, one would think, to what extent is faster
19 delivery important to pet food manufacturers?

20 MR. ABEL: Well, it's critical. For
21 instance, if I have a new product line that I have to
22 rollout for -- let's just say Wal-Mart decides that --
23 we've presented a new product line to them and they've
24 agreed to roll it out, they give you very short
25 periods of time, in fact, windows of which you have to

1 have that product in all the stores. They'll say if
2 you don't deliver between this date and this date,
3 you're out. So, you have a very short window of time
4 to respond. In that situation, there is a lot of
5 pressure put on being able to get that package that
6 you need, bags that you need, in time to get them
7 filled and shipped, et cetera. So, there are a lot of
8 cases where, because of new product roll-outs or
9 whatever, that you would have a very short turnaround
10 time period requirement. Now, given that if it's a
11 product line that you've been running for a long
12 period of time, that then begins to spread out and you
13 would have more time to react.

14 But, traditionally, it's money, okay.
15 Traditionally, that inventory of bags sitting on my
16 floor is tying up my capital cash flow and I don't
17 want to have a lot of that inventory sitting on the
18 floor.

19 MR. BERNSTEIN: All right, thank you.

20 MR. CORMAN: Excuse me, can I just comment
21 on one --

22 MR. BERNSTEIN: Sure.

23 MR. CORMAN: -- correlated to what Jay said.
24 There's also the end of that and that is that pet food
25 manufacturers oftentimes will change their print or

1 they will -- something will happen to a particular
2 product line and they want as little inventory of that
3 product as possible in an unbagged state, because then
4 it's just wasted and they have to throw it out,
5 because they have made the decision to change. So,
6 that's another reason to keeping inventories low and
7 lead times being short help.

8 MR. BERNSTEIN: Okay, thank you. Mr.
9 Shapiro, you currently import the subject merchandise
10 from China, as I understand.

11 MR. SHAPIRO: Yes.

12 MR. BERNSTEIN: How many -- can you give an
13 idea how many suppliers do you use or how many Chinese
14 bag producers supply you?

15 MR. SHAPIRO: Presently, two factories.

16 MR. BERNSTEIN: Two factories, okay. And
17 that's been fairly constant over time?

18 MR. SHAPIRO: Yes.

19 MR. BERNSTEIN: Okay. And the two factories
20 have been in -- how long have these factories been
21 around?

22 MR. SHAPIRO: Dave might want to comment on
23 our supply, how we've --

24 MR. BERNSTEIN: Okay.

25 MR. SHAPIRO: -- been putting this together.

1 MR. ZHU: Just very quickly. We used to buy
2 from two to three other manufacturers and about a year
3 ago, we started our own investment in this new factory
4 ourselves. So, we have a joint venture ourselves.
5 But the two previous factories, they've been in
6 business for a little after 1980. So, they've been
7 around for about 30 years.

8 MR. BERNSTEIN: Okay. Mr. Zhu, you
9 mentioned a new factory?

10 MR. ZHU: Yes.

11 MR. BERNSTEIN: Okay. And when was that
12 established?

13 MR. ZHU: A year-and-a-half ago.

14 MR. BERNSTEIN: And is that a supplier to
15 Mr. Shapiro?

16 MR. ZHU: Yes. We are the same -- we are
17 partners.

18 MR. BERNSTEIN: Okay. Mr. Shapiro, when you
19 started receiving material from this new factory of
20 Mr. Zhu's, how did your -- did your customers have any
21 difficulty or assurance -- want assurances with this
22 factor of getting from a new source of supply?

23 MR. SHAPIRO: They didn't have any problems.
24 We have a high Q&A program put together. So, we --
25 everything was consistent.

1 MR. BERNSTEIN: Well, Mr. Wisla spent a lot
2 of time reading into the record this statement from
3 Mr. Lang, saying that he would never buy something
4 from a purchaser, who had just been in business 90
5 days to two years, because of, I guess, startup
6 quality problems. Given your own experiences with
7 supplying material from a new factory, do you think
8 that's a valid concern?

9 MR. SHAPIRO: We had discussed that with Jim
10 at that time when we were doing it, so we were already
11 using the same printer to print the product. And the
12 conversion, we had already done some testing with the
13 product, so it was not a major issue. We've been
14 doing it probably a year-and-a-half with him.

15 MR. BERNSTEIN: Thank you. Mr. Shapiro,
16 during your testimony, I don't recall you saying
17 anything about the pricing trend of the Chinese
18 products -- the Chinese LWS you've supplied during the
19 last few years. Could you characterize that in any
20 way?

21 MR. SHAPIRO: Well, they've gone up with the
22 raw material prices, as well as freight.

23 MR. BERNSTEIN: All right, thank you.

24 MR. SHAPIRO: Again -- I'm sorry.

25 MR. BERNSTEIN: Okay.

1 MR. SHAPIRO: Again, as he explained, we buy
2 material on the world market, so as resins have gone
3 up, operations have gone up.

4 MR. BERNSTEIN: Okay. Ms. Levinson, I
5 guess, you spoke -- mister, doctor, I'm not sure which
6 is correct -- Boltuck once described this in his
7 testimony, his product is customized products for each
8 customer. You indicated that there were a lot of
9 differences between products. Would it be correct to
10 assume that you, as a legal matter, not characterize
11 the laminated woven sacks as a commodity product?

12 MS. LEVINSON: Yes, that's absolutely
13 correct.

14 MR. BERNSTEIN: Would you concede, then,
15 that the Bratsk case is inapplicable to this
16 investigation?

17 MS. LEVINSON: No, I would not and that is
18 something I would like to brief in my post-conference.

19 MR. BERNSTEIN: Okay.

20 MS. LEVINSON: But part of the reason for
21 that is that the Petitioners are certainly alleging
22 that the laminated sacks coming from China are
23 interchangeable and substitutable for the products
24 being made in the United States. But, that's
25 something that I will explain in more detail.

1 MR. BERNSTEIN: Okay. I guess that there
2 are two things in that respect for you to explain.
3 First of all, is it's the Petitioners contention that
4 controls or what the Commission would find to the
5 nature of the commodity product. The second thing is
6 to the extent that Bratsk says you apply a replacement
7 benefit test in certain circumstances, is it correct
8 to infer that when those circumstances are not met,
9 replacement benefit test is, therefore, inapplicable?

10 MR. BOLTUCK: Well, I just want to say that
11 there is underlining economic reality here that goes
12 beyond the narrow confines of any individual past case
13 that a court may have looked at without violating the
14 principle the court may have had in mind, which is
15 that imports from third countries, when they're
16 induced by perspective order or, if you prefer, the
17 hypothetical of what would happen if the price of the
18 subject import from one country had been higher than
19 it actually was, that when that substitution would
20 have occurred, that it offsets the effects on the
21 domestic industry. The effects are falling on that
22 third country, not on the domestic industry. Now,
23 that can happen economically. I mean, there's a lot
24 of literature on this. I can happen with substitution
25 for actual historical imports. You know, you get less

1 than you did last year. It can happen with potential
2 imports that would be induced to come in logically
3 given -- looking at the commercial situation in the
4 world market, the fact that there exists capacity and
5 capability to market, interest marketing, and so on.
6 So, the underlining economic reality is that this is a
7 market, in which there are numerous countries with
8 established capability, knowledge of how to make the
9 product, existing capacity, home market sales, history
10 of satisfying customers just not in the United States.
11 That was the situation that China and Thailand were in
12 five years ago. And logically, that if China and
13 Thailand were early movers into this market, China,
14 particularly, were disadvantaged by this case, it
15 would create opportunities principally for those third
16 countries. The Chinese and Thais know that, because
17 they had an opportunity in this market five years ago
18 when no one else was interested in serving it. And if
19 the Chinese were disadvantaged and given the small
20 level of production of the U.S. product, other
21 countries would be basically invited into this market.
22 So, that's just the economic reality.

23 MS. LEVINSON: And Mr. Bernstein, what I
24 would like to do in my post-conference --

25 MR. BERNSTEIN: Okay.

1 MS. LEVINSON: -- brief is to take Bratsk
2 and the principles that they enunciated, perhaps under
3 different factual circumstances, but the principles
4 are the same here and extend the Bratsk analysis to
5 this present case.

6 MR. BERNSTEIN: Well, you are certainly
7 welcome to do that. You might want to try to convince
8 Commissioners, many of whom do not think that Bratsk
9 is an appropriate construction of the antidumping law,
10 but we're still compelled to follow it as a Federal
11 Circuit precedent. To the extent you wish to extend
12 it, that would be an appropriate construction. I
13 think the Commissioners would be interested in such an
14 argument.

15 Mr. Boltuck, you had indicated that, I
16 guess, many of -- you think many of the domestic
17 industry problems may be due to the fact that they're
18 in the startup period. You heard the same answers I
19 did when I asked the domestic industry witnesses this
20 morning about how long they thought it would take them
21 -- took them to start up their operations and why they
22 started up their operation. A lot of that -- what do
23 you think an appropriate startup period would be for
24 this industry, the duration of time between the time
25 operations commenced and operations would past what

1 you would term as the startup phase?

2 MR. BOLTUCK: Well, I think it's on a
3 continuum or spectrum of -- to improve from some time.
4 And what I heard was it takes a year-and-a-half from a
5 decision to get to market really at all in any
6 commercial sense. Getting to market isn't the test.
7 It's really a question of then working out the
8 difficulties with the product, with the production
9 process, with any other aspect of marketing a product
10 that you're not familiar with historically. So,
11 beyond that year-and-a-half is when the real learning
12 period kicks in, as you began accumulating production
13 experience. And I know that several of the
14 Petitioners have basically said they've started
15 production in 2006. So, it's not a very long period
16 to date. I would certainly think that we have some
17 hope of seeing them begin to grow into the market
18 potential they have over the next few years. I would
19 think it would be continuous. That may be why they
20 chose to file the case now, when they think they can
21 take advantage of the indicators that appear during
22 this startup challenge to show that they're not really
23 growing and thriving, when it really is just a case of
24 catching them exactly the right moment to take this
25 snapshot.

1 MR. BERNSTEIN: Thank you. Ms. Levinson, do
2 you have any comments about Petitioners' contention
3 about whether a material retardation analysis should
4 be applied here?

5 MS. LEVINSON: Well, it's difficult to know,
6 because, frankly, I haven't been able to see the
7 questionnaire responses.

8 MR. BERNSTEIN: If you can address that
9 post-conference. Let's not spend anymore time on
10 that. I have one final question. This is for Mr.
11 Boltuck. You had indicated essentially that the
12 pricing product categories we've established were too
13 broad, because they included what you quote as tubular
14 and the back sewn segment. For purposes, since under
15 the statute, we do have to conduct an underselling
16 analysis on the facts available, what would you
17 suggest we use?

18 MR. BOLTUCK: Well, I think that you're
19 committed for the preliminary investigation to these
20 pricing products. You'll collect the data. You'll do
21 the calculations, the count. The real issue, as in
22 many cases, is for the Commissioners to say how
23 probative they find that evidence when they take into
24 account everything that it probably captures in the
25 flux. And they ought to be aware that the reality

1 here is that there are a mixture of products and there
2 was a criteria left out. I mean, there's always a
3 desire to have identified products that count for a
4 large coverage of the products that are being sold in
5 the marketplace and I would say that is a good feature
6 of a product definition in identifying a pricing
7 product. But, it can't come at the expense of mixing
8 products that customers regard in different ways. And
9 if that happens, you know, which may happen for very
10 innocent reasons in a preliminary investigation, when
11 everyone is learning how to define products and so on,
12 when it does happen, at least the Commission should be
13 aware of that when it votes that, you know, that in
14 weighing all kinds of sources of information about
15 causation. This source seems to be less probative
16 than it might be in some other investigations, let me
17 put it that way.

18 MR. BERNSTEIN: I would like to thank the
19 witnesses for their testimony. I have no further
20 questions.

21 MR. CARPENTER: Mr. Levy?

22 MR. LEVY: I would like to also thank the
23 witnesses for their testimony. I guess my first
24 question would kind of go probably to the pricing
25 issue. I guess I will ask Mr. Abel, to start off

1 with. When you are -- it's kind of a similar as to
2 the Petitioners, when you're negotiating the prices
3 and the sales with your suppliers, would you be --
4 would you specify some of the criteria that the bag be
5 a vertically backed seam bag versus a tubular seam?
6 Is that something that would be part of the
7 specifications that you would apply to them?

8 MR. ABEL: Yes, it would.

9 MR. LEVY: Okay.

10 MR. ABEL: Typically, it's something they
11 provide to us, but certainly is going to be addressed.
12 If we have a customer that is requesting us to quote
13 on them, the first thing we want to do is identify the
14 specifications, because, obviously, pricing, we want
15 to be comparing apples to apples. So, yes, that is
16 part of the specification.

17 MR. LEVY: Okay. So would that come from
18 the, say, your downstream supplier, the Wal-Mart, they
19 would tell you that we want a vertical back seam or is
20 it what the producers want?

21 MR. ABEL: Typically, it's going to come
22 from the user of the bags, the packer of the bags.
23 That's the person that is going to really establish
24 the specifications. So, in the case of pet food, it's
25 the pet food manufacturers, who are going to establish

1 the specification, not necessarily the Wal-Mart's or
2 the -- to some extent, they will have an impact, if
3 they prefer one over the other. But from a
4 vulnerability standpoint on the packaging equipment,
5 it would be the pet food manufacturer.

6 MR. LEVY: Okay, yes. It seems like as
7 opposed to the laminated versus paper, that might be
8 more of a downstream issue; but the vertically back
9 seam versus the tubular, it's more just the --

10 MR. ABEL: Yes.

11 MR. LEVY: Also, a related question. There
12 have been some references to the tubular seam bags
13 being able to be sold to purchasers that maybe don't
14 use the automated equipment as much. How large a
15 segment of the purchasers would that account for? I
16 mean, can you give me a general idea?

17 MR. ABEL: To address just the pet food side
18 of the business and the pet food market, I would say
19 that it's probably 20 percent or less that would be
20 manually filling bags today. Most of that industry
21 has automatic filling equipment.

22 MR. LEVY: And this is certainly more a
23 question for the domestic producer, but I'm just
24 trying to get an idea. There have been some mention
25 that, I think, Mr. Corman mentioned and some others

1 that the domestic producers are, I guess, primarily
2 the tubular seam. Any idea of what share of domestic
3 -- available domestic production would be tubular
4 versus back seam? Because, I think there is some
5 mention that some of the U.S. producers are starting
6 to get into the back seam. I guess if Mr. Corman
7 could address that.

8 MR. CORMAN: Other than knowing that two of
9 the U.S. producers, Coating Excellence and Polytex,
10 have indicated that they can produce and then just
11 recently been able to produce the back seam style.
12 But, how much of that, I wouldn't have any knowledge.
13 But all of the other producers in the United States,
14 the Petitioners, Mid-America, Bankcroft, and Hood
15 Packaging, they only make the paper woven
16 polypropylene style. That's always in a back seam.

17 MR. LEVY: A question for Mr. Zhu possibly,
18 if you can answer this. I'm trying to get an idea, is
19 it less expensive to produce the back seam bags versus
20 the tubular bags? And I know there may be a variety
21 of different factors. But, if you were -- say, if you
22 were just starting up, not just, I guess, refitting
23 some paper bag, any idea on the expense of it?

24 MR. ZHU: The cost of manufacturing the back
25 seam is just slightly higher, just a little bit

1 higher, but not by much.

2 MR. LEVY: Okay.

3 MR. ZHU: It's more in the equipment, the
4 difference in the equipment.

5 MR. LEVY: Okay. So, any cost advantages
6 that, say, the Chinese producers might have in
7 producing their bags would be more economy to scale,
8 if they were more experienced in producing those
9 versus --

10 MR. ZHU: We're not including the difference
11 in the equipment in the costing. But, in terms of
12 just the costing of manufacturing, there is a very
13 slight difference.

14 MR. LEVY: I guess for Mr. Abel, is there a
15 significant difference in the cost of the equipment?

16 MR. ABEL: The equipment to make the
17 vertical back seam as compared to the equipment for
18 tubular?

19 MR. LEVY: Right.

20 MR. ABEL: Yes, there is a significant
21 difference in the cost.

22 MR. LEVY: Okay. Is the --

23 MR. ABEL: Tubular less expensive than
24 vertical back seam.

25 MR. LEVY: Just to go to some more general

1 demand questions and this may be best directed to Mr.
2 Boltuck. Pardon, if we've already addressed this.
3 But, would you agree with Petitioners'
4 characterization of U.S. demand for the laminated
5 woven seam bags to be exploding or increasing at a
6 really great --

7 MR. BOLTUCK: Well, it's growing because --
8 it is growing and that's why they, also, have good
9 prospects once they get their process really running
10 and figure out the right way to market this, given
11 their advantages in the marketplace. But the reason
12 it's growing is because the Thais and the Chinese
13 began a process of educating packagers in the United
14 States about the advantages of this product about five
15 years ago. And, of course, after a number of
16 packagers discovered those advantages, then it
17 obtained a life of its own. Competitors of those
18 packagers wanted to be able to do the same thing.
19 They educated themselves, if nobody else did. And
20 this is basically occurring at the expense of the
21 paper multiwall sales.

22 Now, that does not mean that when this
23 marketplace is entirely mature, that there will be no
24 paper multiwall sales, because this doesn't mean that
25 it's right for every application. But, it does mean

1 that there's still a good share of sales of paper
2 multiwall out there where the packagers, those
3 packagers may, in the course of the next few years,
4 become convinced or convince themselves that this
5 would be a better product for them. So, that's the
6 opportunity that all the participants in the LWS
7 market have and to share and the domestic producers
8 will certain share in that, especially taking
9 advantage of their shorter lead times and other
10 advantages in the marketplace.

11 MR. LEVY: So, even expecting this growth to
12 continue into the next few years, at least --

13 MR. BOLTUCK: Yeah. I mean, I guess that
14 seems safe to say. It won't continue forever, because
15 it will be an equilibrium reached at some point
16 dividing the market between paper multiwall, and LWS
17 and maybe other products will come along, too. I
18 mean, this isn't the static -- technologically static
19 marketplace, in that respect. So, I've heard, you
20 know, what's the next big thing. But, in any case,
21 there is certainly more growth potential.

22 MR. LEVY: I think those are all of the
23 questions that I have. Thank you, very much.

24 MR. CARPENTER: Mr. Land?

25 MR. LAND: Thank you, again, for your

1 testimony. I would like to go back and ask the same
2 questions that I asked the Petitioners. And someone
3 here had mentioned something earlier about variability
4 and the characteristics of the input materials,
5 different widths, strengths, whatever, of the
6 polypropylene that's going in. Can someone address
7 that further, how wide is the range?

8 MR. SHAPIRO: What we have done with a
9 particular product, we've actually standardized out
10 product. But, you can -- you have variable
11 thicknesses of the material, of the coating, which is
12 the laminated layer that you've talked about, and of
13 the BOPP, which is the other layer. We've
14 standardized it, so that from our experiences with our
15 customers and the equipment they have, that we've
16 found that this would work better, having one product,
17 because the customer, again, was relying on us to help
18 educate them, what would work best on their equipment.
19 But, yes, there are things that you can do by making
20 the material wider, thicker. We didn't do much
21 experimenting, because of the experiences actually
22 following what Thailand was doing.

23 MR. LAND: Let me ask Mr. Zhu, are there
24 many different types of materials available being
25 produced among all the different companies producing

1 in China?

2 MR. ZHU: Different materials in terms of
3 raw material input?

4 MR. LAND: Well, depending on what the raw
5 material inputs are. For instance, is it regular
6 practice among the Chinese producers to have different
7 sizes of the width of the polypropylene that's woven
8 in?

9 MR. ZHU: Yes.

10 MR. LAND: And --

11 MR. ZHU: Yes.

12 MR. LAND: -- are there certain sizes that
13 are appropriate for certain uses?

14 MR. ZHU: There are different sizes, because
15 in making this bag, the first raw material you have to
16 get is the basic PP woven fabric and you have to
17 specify in a certain width; otherwise, you're going to
18 have more waste, if you just -- you know, you can do
19 some inventory, but not at large quantities, because,
20 let's say, if you have -- your bag is, you know, one
21 meter wide, for instance, just pick an example, if you
22 stock that exactly one meter, that's fine. But, if
23 your next customer comes in and says, well, I want,
24 you know, 0.8 meter width bag and then about 0.2 meter
25 bag, you're going to -- you know, that raw material

1 you're going to waste. So, it is coming in different
2 sizes, different ways. So, as a manufacturer, you do
3 not want to stock too much inventory. You may stock
4 certain common sizes. There are certain common sizes,
5 but not many.

6 MR. LAND: Okay.

7 MR. ZHU: Does that answer your question?

8 MR. LAND: Partially. But, it leads to
9 another question. The Chinese producers, are they
10 mostly -- what step are they starting at to produce
11 the bags? Are they purchasing already woven material?
12 Are they weaving it themselves?

13 MR. ZHU: It varies. In some larger
14 manufacturers, they start from the very beginning.
15 They buy basic resin. They start weaving. In some
16 manufacturers, they just buy the basic fabric and they
17 buy -- they have to buy polypropylene film, BOPP film,
18 and they print some of them -- contracting the
19 printing to another facility, to the printing for
20 them, and they bring it back, they laminate. Now,
21 remember, this industry is very diverse, very
22 unconcentrated. There is almost zero government-owned
23 factories per se. Ninety-five percent of the Chinese
24 manufacturers today, 300 of them, maybe 400 of them,
25 95 percent, I can say, are private owned small

1 businesses, mostly employ like 100 people, 200 people.
2 You rarely see large enterprises coming into this
3 industry, because, traditionally, this is a neglected
4 industry by the Chinese government. The government
5 doesn't care about these plastic bag manufacturers.
6 The Chinese government cares about building huge
7 ships, jet fighters, and all those steel-making
8 petrochemicals. This is a very, very unfocused area
9 for the Chinese government. If Chinese subsidized,
10 they would be bankrupt a long time ago. There are so
11 many places to subsidize. I just wanted to make that
12 comment.

13 MR. LAND: Let me ask in general, is this
14 true in the other Asian producers, in Thailand?

15 MR. BOLTUCK: Is what true? Could you
16 clarify that?

17 MR. LAND: That everything is that diverse,
18 everyone contracts out every little part of it and
19 there's no vertically integrated producers?

20 MR. BOLTUCK: I don't think that's what he
21 said. My understanding of his point is that there are
22 a variety of different business models, some use
23 production at different stages, some use -- buy
24 upstream product from other manufacturers, who may
25 also be indigenous. So, there are a variety of

1 different models. I have no knowledge of how it's
2 organized in Thailand or other countries.

3 MR. SHAPIRO: To the best of my knowledge,
4 the plant in Thailand is totally integrated, so they
5 actually -- I believe actually make their own resin.
6 So, they go from resin to knitted material, all the
7 way through the process. And that's probably one of
8 the few companies, I think, in the world that does
9 that.

10 MR. LAND: Okay. That was all I had.

11 MR. CARPENTER: Ms. Mazur?

12 MS. MAZUR: Thank you. Thank you for all
13 the witnesses' testimony today and thank you for
14 coming to Washington to deliver it in person. We
15 greatly appreciate that. Again, I've got a few
16 questions regarding some factual issues. Let me ask
17 Mr. Corman, can you give us a bit of background, more
18 background from your perspective on the flexible bag
19 market and where the laminated woven sacks that are
20 subject to this proceeding fit, in terms of that
21 grander flexible bag market?

22 MR. CORMAN: The flexible bag market in the
23 United States is comprised of polypropylene bags,
24 multiwall paper bags, and then, of course, what's
25 called a woven polypropylene laminated sacks. They

1 are mostly interchangeable with a multiwall paper bag,
2 in the forms that they've been imported.

3 MS. MAZUR: Do you have market shares or
4 estimates of what kind of shares of the flexible bag
5 market each of those types would have?

6 MR. CORMAN: I have no idea how much
7 polypropylene is made. There is about a 3.5 billion
8 multiwall paper bag market in the United States, of
9 which eight or nine hundred million is really within
10 the pet food sector. But, I do not know how many of
11 these LWS are imported into the United States. But,
12 they are primarily for that pet food sector and bird
13 seed.

14 MS. MAZUR: To the extent to which you can
15 estimate for us based on your industry background and,
16 also, are you part of the textile bag processors --

17 MR. CORMAN: Correct.

18 MS. MAZUR: Do they have any information
19 that might be available to the Commission, in terms of
20 the flexible bag market, statistics in terms of shares
21 that each of these different types might comprise?

22 MR. CORMAN: Let me answer that and then you
23 can -- okay. In terms of the Textile Bag Processors
24 Association, that encompasses people, who import both
25 laminated woven sacks, regular woven polypropylene,

1 bulk bags, FIBCs, which is a woven textile. Not all
2 of the members of the association import laminated
3 woven sacks. There is no gathering of information or
4 statistics within the organization that would tell me
5 or the organization how many of these bags come in.

6 MS. MAZUR: Okay, that's what I was
7 wondering, if, in fact, there were --

8 MR. CORMAN: Go ahead.

9 MR. ABEL: A good source for the industry,
10 for the pet food industry for statistics would be, if
11 you want to take a look at PSSMA, which is the
12 industry standard for the paper bag industry, they
13 will give you a lot of statistics on how many bags are
14 made and the different types of bags that are made.

15 MS. MAZUR: That's for the paper bag
16 industry?

17 MR. ABEL: For the paper bags. And then for
18 the pet food industry alone, there is an organization
19 called APPMA, American Pet Producers Manufacturers
20 Association. They, also, will give a tremendous
21 amount of information about that section of the
22 market.

23 MS. MAZUR: Again, if there is anything, Ms.
24 Levinson, that you can add into the post-conference
25 brief that would give us some of this background

1 information, it will be very helpful. Thank you.

2 Let's talk about the differences between the
3 back seam and the tubular types of product. Do all
4 three of you gentleman sell both of those types of
5 products? Do you charge a price premium for the back
6 seam or do you -- are they basically sold at the same
7 price? What is the differential -- I'm asking what is
8 the price differential between the two?

9 MR. CORMAN: I generally find it's \$15 per
10 thousand bags, in terms of my cost differential, to go
11 from a tubular, which is the less expensive, to the
12 back seam construction, and it just tracks that way
13 when I price it.

14 MS. MAZUR: So, \$15 --

15 MR. CORMAN: Dollars per thousand.

16 MR. SHAPIRO: It could be five percent --
17 four to five percent difference. Would that be fair,
18 45%?

19 MR. CORMAN: It depends how much the bag is.

20 MR. SHAPIRO: That depends on the bag -- it
21 depends how big the bag is. But, 97 percent of
22 everything that we sell, and I work with Mr. Abel, is
23 the back seam bag.

24 MS. MAZUR: Okay. If you could give us a
25 bit of information on that in the post-hearing brief,

1 in terms of the price differentially, that each of you
2 might charge your customers for the two types of
3 products, that would be helpful.

4 I guess Mr. Zhu, I'm trying to -- help me
5 out here, in terms of understanding, you are a Solaris
6 Manufacturing Corporation, is a manufacturer in China?

7 MR. ZHU: It's a Michigan registered
8 company. We have a joint venture in China, which Mr.
9 Shapiro, Mr. Abel, and I are partners.

10 MS. MAZUR: Okay.

11 MR. ZHU: Does that answer your question?

12 MS. MAZUR: All right. So -- right. Have
13 you completed a foreign producer questionnaire for the
14 Commission?

15 MR. ZHU: Because I'm not directly
16 importing, importing all --

17 MS. MAZUR: No, as a foreign producer. Have
18 you completed a foreign producer questionnaire?

19 MR. ZHU: No, we haven't.

20 MS. LEVINSON: Yeah, but I think the
21 question is, has FDD, in China, have they completed a
22 foreign producer's questionnaire? Do you know? Are
23 they working with --

24 MR. ZHU: Do we need to provide it at this
25 moment?

1 MS. MAZUR: No, no, no, not at this moment.

2 MR. ZHU: No, not this moment, but at this
3 stage of the investigation?

4 MS. MAZUR: Yes.

5 MS. LEVINSON: We have been working somewhat
6 independently from the Chinese. They've been using
7 different counsel.

8 MS. MAZUR: But that's why I'm trying to
9 understand Mr. Zhu's status here today. He's part of
10 the joint venture with two of the witnesses?

11 MS. LEVINSON: Yes, that's right.

12 MR. ZHU: We will provide those when it
13 comes to the time where we have to get involved with
14 the manufacturing facility there.

15 MS. MAZUR: And if you could also in the
16 post-conference brief, again try to provide a bit more
17 detail, in terms of the relationship between Solaris -
18 -

19 MR. ZHU: Sure.

20 MS. MAZUR: -- and the two witnesses here.
21 Thank you. And one last, but big issue, is obviously
22 the import statistics that we have to deal with.
23 Certainly, the Commission can make no judgement or
24 assessment of anything without quantifiable data to
25 rely on. So, if you're going to be tell us or making

1 arguments with respect to non-subject sources of
2 supply or characterizing the marketplace as being --
3 you know, the majority of imports are from, in fact,
4 Thailand and not China, we need to have the data that
5 goes along with that. Right now, we have estimates
6 provided to us in the petition. That's one set of
7 data. We have questionnaire data. I don't know if
8 you've seen that yet, but that is not giving us
9 anything diametrically opposed to what we're seeing,
10 in terms of that subject, non-subject relationship.
11 Volumes are certainly different, but the relationship
12 of subject and non-subject is not that much different.
13 So, if you're going to be making arguments as to the
14 importance of non-subject sources, we need to have
15 some estimate of what you think, then, those -- what
16 import statistics should be.

17 MS. LEVINSON: Well, I understand the
18 dilemma and we will certainly do our best.

19 MS. MAZUR: I appreciate it. And those are
20 all my questions. Thank you.

21 MR. CARPENTER: Thank you, again, very much,
22 panel for your presentation and your responses to our
23 questions. At this point, we'll take a short recess
24 until 2:40 and we will have the closing statements,
25 beginning with Petitioners.

1 (Whereupon, a brief recess was taken.)

2 MR. CARPENTER: Mr. Dorn, Ms. Koball, please
3 proceed.

4 MR. DORN: Joe Dorn for Petitioners. We do
5 have agreement on a number of issues here, beginning
6 with like product. Respondents agree that the like
7 product should be defined as defined in the petition,
8 as coextensive with the scope of the investigation.
9 That means the domestic industry is also as we've
10 defined it and that should be used in assessing
11 material retardation and material injury.

12 There is also no dispute that the volume of
13 subject imports is significant. Mr. Boltuck described
14 the imports from China as having an 'important share
15 of the U.S. market.' There is also no dispute that
16 there's a big increase in the volume of imports from
17 China. What we did learn today -- we identified 41
18 foreign producers in our petition. Mr. Zhu says there
19 are 200 to 300 and then he said, well, maybe just over
20 100. We suggest that you have Mr. Zhu provide you a
21 list of all those Chinese producers and compare those
22 against the foreign producers' questionnaires that
23 you're receiving here at 500 E Street.

24 There is also no disagreement that demand
25 for this product category is growing and it's driven

1 by customer preference for this product.

2 Now, there is a dispute about the estimate
3 on the volume of imports, but I've heard nothing today
4 that would change the information we have provided in
5 the petition. We stick by our information regarding
6 laminated woven sack share of the imports within the
7 HTS category. The other side agrees with our
8 conversion factor of 8,000 sacks per short ton for
9 laminated woven sacks. And we would point out that
10 the import data is collected in kilograms, not in
11 units. Non-laminated woven sacks seem to be much
12 lighter than laminated woven sacks. Onion bags, we
13 estimate would be about 50,000 per short ton, as
14 opposed to 8,000 per short ton. Sand bags, we
15 estimate to be about 25,000 per short ton, as opposed
16 to 8,000 per short ton. There is also no evidence in
17 the record that we see any demand spike for either
18 sand or onions.

19 We, also, heard a lot about alleged
20 production in other countries, apparently based upon
21 searching the web. What we didn't hear was any hard
22 evidence about imports from other countries during the
23 period of investigation.

24 We heard a lot of talk about tubular versus
25 back seam bags. It's totally misleading. First of

1 all, both the tubular bag and a back seam bag can be
2 used in automatic filling equipment. A tubular bag,
3 you can adjust the -- you can make it stiffer or not
4 stiff and accommodate any automatic filling equipment.
5 I have examples right here of a back seam bag made for
6 Purina, for Dog Chow that is made by Polytex.
7 Polytex, by the way, only makes back seam bags. And
8 we have a tubular bag from China. Just the opposite
9 of what they're saying. And, apparently, the customer
10 views these as interchangeable. Then, we have a
11 Chinese import of a wild bird food bag, which has a
12 back seam. And we have Polytex's wild bird food bag
13 with a back seam, as well.

14 So, these bags are both made, as was
15 conceded finally by the other side, in both China and
16 the United States. They're competing against each
17 other. And in our view, they are completely
18 interchangeable. It's a matter of customer
19 preference. Some customers don't like the back seam,
20 because it's another point where you could potentially
21 have breakage. They prefer the tubular. Some
22 customers prefer the back seam. Most customers will
23 go back and forth. And according to the domestic
24 industry participants, there is no difference in
25 pricing between the back seam bags and the tubular

1 bags.

2 I found Mr. Boltuck's argument on
3 underselling data very puzzling, because as I heard
4 the testimony, they're claiming the back seam bag is
5 better and it costs more to produce than the tubular
6 bag. They're saying most of the imports from China
7 are back seam. They say wrongly that most of the bags
8 in the United States are tubular. So, by combining
9 the two, according to Mr. Boltuck, it seems to me, we
10 would be understating the margins of underselling. It
11 would have been fairer to do back seam versus back
12 seam and tubular versus tubular, based upon his
13 erroneous assertion that back seam bags costs more and
14 are priced higher than tubular bags.

15 With regard to the bags that have an outer
16 ply of coated paper, I think I heard one of the
17 witnesses say that you couldn't get the coated paper
18 in China. Well, there's an antidumping case and
19 countervailing duty case pending here at the
20 Commission against imports of coated free sheet paper
21 from China and I would ask the Commission staff to
22 look at the record of that case to see if coated free
23 sheet is available in China to producers of woven
24 bags. Also, contrary to the testimony we heard, I
25 understand the same printing equipment can be used to

1 print either on paper or on BOPP.

2 So, in conclusion, what we have here is
3 agreement on the major issues of like product, volume
4 of imports. Didn't hear any contradiction to the
5 price underselling. And there is no contradiction
6 that the imports are taking market share from U.S.
7 producers. They claim it's not due to price. They
8 claim it's for other reasons. But, I think our lost
9 sales allegations, once you've been able to inquire
10 into those, and our lost revenue allegations, once
11 you've been able to inquire into those, will
12 demonstrate that, in fact, the domestic producers are
13 losing sales to imports from China on the basis of
14 price and that their prices for their products are
15 being suppressed because of the lower priced imports
16 from China. Thank you.

17 MR. CARPENTER: Thank you, Mr. Dorn. Ms.
18 Levinson?

19 MS. LEVINSON: As Mr. Dorn just mentioned,
20 we do, in fact, agree on the like product issue, at
21 least for purposes of this preliminary determination,
22 and we do also reserve the right to explore this issue
23 further should the case go to a final. Much of their
24 presentation was focused on like product and, again,
25 this is just not an issue here.

1 They show you bags before our presentation
2 that from 30 feet away, all looked like they were the
3 same bag and they did not take the time or the
4 attention to detail to describe to you, as of right
5 now, that there are, in fact, many different kinds of
6 laminated woven sacks and that, in fact, they were
7 showing you tubular, they were showing you the back
8 seam bags. There are distinctions that they wish
9 would go away. But the fact is that the distinctions
10 are there and I think that our presentation
11 highlighted those distinctions in a way that's
12 comprehensible to people just introduced to the
13 industry.

14 They made a number of concessions, which I
15 think are favorable to us. For example, two of their
16 producers admitted that they got into this business,
17 because customers came to them, customers that --
18 long-standing customers, who wanted to purchase from
19 them. They had every opportunity to supply these
20 customers and every advantage in front of these
21 customers. They, also, admitted that multiple
22 sourcing is something that customers typically desire.
23 It's an advantageous thing and that that should give
24 them an advantage in the United States market, in
25 which they have many, many other advantages.

1 As the Commission analyzes the usual injury
2 indicia that will perhaps be shown in the
3 questionnaires, should keep in mind that any losses
4 that are shown are equally consistent with the
5 optimistic viewpoint of this marketplace of where the
6 future lies for these Petitioners should they remain
7 in the industry, improve their technology, be more
8 innovative than they have been in the past, and more
9 responsive to customer needs.

10 Now, Mr. Dorn showed you a tubular bag that
11 was produced in China. We never said that there's no
12 tubular bags produced in China. The overwhelming
13 majority of bags that are coming from China are not
14 the tubular type. And what they failed to mention,
15 and I hope I have the statistic right, if I don't, I
16 know Mr. Boltuck will correct me, but 90 percent, I
17 believe Mr. Abel said that 90 percent of the bags in
18 the pet industry today are the multiwalled paper bags.
19 And that's the industry that -- is that correct -- and
20 that is the industry, in which the Petitioners have
21 participated fully and that is the industry that is at
22 risk here and that is not a legally cognizable
23 argument to bring before this Commission.

24 I'm going to let Mr. Boltuck address the
25 underselling arguments from Mr. Dorn.

1 MR. BOLTUCK: In his summary, Mr. Dorn said
2 at the end, somewhat disingenuously, I think, that we
3 didn't contest underselling. I guess that could mean
4 a few things. But, what we did say is that in this
5 industry, in this marketplace, the domestic industry
6 does earn a premium. The premium is a benefit to the
7 industry, reflecting advantages that it has in the
8 market, advantages that no one has contested, that the
9 Petitioners, themselves, highlight on their own
10 website for customers, namely a very sharp difference
11 in the lead time for delivering a customized product,
12 a product that has to be ordered to certain
13 specification for the printing and so on. And there
14 are ways of somewhat mitigating that, but you can't
15 get around the difference between two-to-three-week
16 lead time and a two-to-three month lead time, where
17 you have a customized product.

18 Now, with respect to the apples and oranges
19 issues in these product specifications, Mr. Dorn is
20 suggesting that you can still interpret the
21 underselling data, I believe, because the back seam
22 back must be selling for more than the tubular bag.
23 But the truth is, we don't really know what -- the
24 tubular bags are selling to a different segment of
25 customers, who do want that product, and find it fully

1 acceptable. They've got the equipment for it.
2 They've tweaked their process over a number of years.
3 That's not most packages of pet food in the United
4 States, but there is a loyal segment that buys that
5 from the domestic producers. It's just a separate
6 segment than buying the back seam bags for the most
7 part and in that segment, we don't know if the price
8 is higher or lower for the sales of the domestic
9 producers. There's no reason to suppose. I mean,
10 it's a different product. You know, it's pencils and
11 pens, in that respect. And Mr. Dorn, himself, said,
12 at one point, well, they sell at the same price and in
13 his producers experience. And at another point, he
14 said some customers like one and some like the other
15 and some like tubular bag, because it doesn't have a
16 seam. I mean, this is exactly what one tries to get
17 around in defining products. You have to have
18 evidence where you know you're comparing like to like.
19 You've narrowly enough described the product. So, you
20 really have head-to-head competition and the
21 purchasers really don't care. And the evidence is
22 that the purchasers really do care, many of them do.
23 And so, that is not an appropriate product
24 description. But, at the same time, that's the
25 evidence you have. And all we would ask is that the

1 fact that it's got differences in mixes between what's
2 being imported from China and what's being produced
3 domestically be taken fully under account by the
4 Commission and in how much significance or weight they
5 give to any analysis of underselling.

6 MS. LEVINSON: That concludes our testimony
7 -- not our testimony, our closing arguments. Thank
8 you.

9 MR. CARPENTER: Thank you, Mr. Levinson and
10 Mr. Boltuck. On behalf of the Commission and staff, I
11 want to thank all the witnesses, who came here today,
12 as well as counsel for sharing your insights with us
13 and helping us develop the record in these
14 investigations. Before concluding, let me mention a
15 few dates to keep in mind. The deadline for the
16 submission of corrections to the transcript and for
17 briefs in the investigation is Tuesday, July 24th. If
18 briefs contain business proprietary information, a
19 public version is due on July 24th. The Commission
20 has not yet scheduled its vote on the investigations.
21 It will report its determinations to the Secretary of
22 Commerce on August 13th and Commissioners' opinions
23 will be transmitted to Commerce on August 20th. Thank
24 you for coming. This conference is adjourned.
25 //

1 (Whereupon, at 2:56 p.m., the preliminary
2 conference was concluded.)
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CERTIFICATION OF TRANSCRIPTION

TITLE: Laminated Woven Sacks from China
INVESTIGATION NO.: 701-TA-450, 731-TA-1122
(Preliminary)
HEARING DATE: July 19, 2007
LOCATION: Washington, D.C.
NATURE OF HEARING: Preliminary conference

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.

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Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

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