

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)
) Investigation No.:
SACCHARIN FROM CHINA) 731-TA-1013 (Review)

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THE UNITED STATES INTERNATIONAL TRADE COMMISSION

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) Investigation No.:
SACCHARIN FROM CHINA) 731-TA-1013 (Review)

Thursday,
March 26, 2009

Room 101
U.S. International
Trade Commission
500 E Street, S.W.
Washington, D.C.

The hearing commenced, pursuant to notice, at
9:35 a.m., before the Commissioners of the United States
International Trade Commission, the Honorable SHARA L.
ARANOFF, Chairman, presiding.

APPEARANCES:

On behalf of the International Trade Commission:

Commissioners:

SHARA L. ARANOFF, CHAIRMAN (presiding)
DANIEL R. PEARSON, VICE CHAIRMAN
DEANNA TANNER OKUN, COMMISSIONER
CHARLOTTE R. LANE, COMMISSIONER
IRVING A. WILLIAMSON, COMMISSIONER
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APPEARANCES: (Cont'd.)

Staff:

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WILLIAM R. BISHOP, HEARINGS AND MEETINGS
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SHARON BELLAMY, HEARINGS AND MEETINGS ASSISTANT
CYNTHIA TRAINOR, INVESTIGATOR
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CLARK WORKMAN, ECONOMIST
MARY KLIR, ACCOUNTANT/AUDITOR
DAVID GOLDFINE, ATTORNEY
JAMES McCLURE, SUPERVISORY INVESTIGATOR

In Support of Continuation of Antidumping Duty Orders:

On behalf of PMC Specialties Group, Inc.:

ZETTA BOULIGARAKI, President, PMC Specialties
Group, Inc.
MARK R. MILLER, Vice President, Manufacturing, and
Director, Regulatory Affairs, PMC Specialties
Group, Inc.
MICHAEL T. KERWIN, Economist, Georgetown Economic
Services, LLC

ADAM H. GORDON, Esquire
GRACE W. KIM, Esquire
Kelley Drye & Warren LLP
Washington, D.C.

In Opposition to Continuation of Antidumping Duty
Orders:

On behalf of Tianjin Changjie Chemical Co., Ltd.:

DENNIS DELANEY, Sales Manager, TR International,
Inc.

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P R O C E E D I N G S

(9:35 a.m.)

CHAIRMAN ARANOFF: Good morning. On behalf of the U.S. International Trade Commission, I welcome you to this hearing on Investigation No. 731-TA-1013 (Review), involving Saccharin from China.

The purpose of this five-year review investigation is to determine whether revocation of the antidumping duty orders covering saccharin from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Schedules setting forth the presentation of this hearing, notices of investigation, and transcript order forms are available at the public distribution table. All prepared testimony should be given to the Secretary; please do not place testimony directly on the public distribution table.

All witnesses must be sworn in by the Secretary before presenting testimony. I understand that parties are aware of the time allocations; any questions regarding the time allocations should be directed to the Secretary.

Finally, if you will be submitting documents that contain information you wish classified as

1 Business Confidential, your request should comply with
2 Commission Rule 201.6.

3 Madam Secretary, are there any preliminary
4 matters?

5 MS. ABBOTT: Madam Chairman, all witnesses
6 for today's hearing have been sworn.

7 (Witnesses sworn.)

8 MS. ABBOTT: There are no other preliminary
9 matters.

10 CHAIRMAN ARANOFF: Thank you. Then let us
11 please proceed to opening remarks.

12 MS. ABBOTT: Opening remarks in support of
13 continuation of orders will be by Adam H. Gordon of
14 Kelley Drye & Warren.

15 MR. GORDON: Good morning, Chairman Aranoff,
16 Vice Chairman Pearson, members of the Commission and
17 Commission staff. Thank you very much for having us
18 here this morning.

19 My name is Adam Gordon with the law firm of
20 Kelley Drye & Warren. We are here today on behalf of
21 PMC Specialties Group, Inc., the sole U.S. producer of
22 saccharin.

23 Five years ago, PMC appeared before the
24 Commission asking your help to combat massively dumped
25 imports of saccharin from China. The evidence in the

1 original investigation was very strong, and the
2 Commission unanimously found that PMC had been injured
3 by Chinese imports.

4 It is worth noting at the outset that all
5 but one of the Chinese companies still has the same
6 rate or higher than it received in the original
7 investigation. It is also worth noting that just
8 until three days ago not a single one of them had
9 appeared in this review, and as of today the
10 Commission has received only one questionnaire
11 response, largely incomplete, from any Chinese
12 producer.

13 Over the past five years, the order in this
14 case has provided very valuable benefits to our
15 client. When the order went into effect, dumped
16 Chinese imports were removed from the market and PMC
17 Specialties Group was able to regain market share and
18 prices regained stability.

19 If that was the full extent of the story,
20 however, we probably would not be going through a full
21 review and we would not be here today. As you will
22 hear this morning, there have been challenges as well.
23 Our client has had to deal with issues including
24 ongoing circumvention and, like other manufacturers,
25 significant increases in raw material costs.

1 In fact, midway through the period of review
2 PMC Specialties Group made the very difficult decision
3 to shut down its plant and then to re-engineer its
4 production process to be more efficient, to use fewer
5 hazardous chemical inputs and, most importantly, to
6 focus on saccharin production.

7 As the Commission staff saw firsthand, our
8 client is a producer and once again is producing
9 saccharin. As we have documented in our submission on
10 the record and as you will hear this morning, they are
11 fully and primarily committed to U.S. production now
12 and in the future and not to importing saccharin.

13 As the kinks in the new production process
14 are completely ironed out, they will increase
15 production over this year and in the future and
16 greatly reduce the level of imports that they bring
17 in.

18 Given all that they have done and are doing
19 to essentially reinvent themselves as a focused
20 saccharin producer, our client is quite vulnerable to
21 injury from dumped Chinese imports. The Chinese
22 industry has enormous capacity and a strong incentive
23 to come back to the U.S. market. Events over the past
24 two years have shown just how capable and willing the
25 Chinese industry and government is to take actions

1 that affect supply and pricing.

2 If the order is revoked and the Chinese
3 industry is allowed to resume dumping in this market,
4 volume will surge and prices will do exactly as you
5 would expect. They will plummet, and it will be
6 impossible for PMC to earn a reasonable return. The
7 impact will also be exactly as you would expect under
8 these circumstances.

9 To be perfectly clear, if the order is
10 revoked it is virtually certain that our client and
11 hence the U.S. saccharin industry will cease to exist.
12 As you will hear this morning, this is not the result
13 that is supported by the record before the Commission.

14 To the contrary, based on the evidence that
15 is on the record, the Commission should vote to
16 continue this order. Thank you.

17 MS. ABBOTT: Will the first panel in support
18 of continuation of the antidumping order please come
19 forward?

20 (Pause.)

21 CHAIRMAN ARANOFF: Mr. Gordon, please
22 proceed whenever you're ready.

23 MR. GORDON: Thank you. Good morning.
24 Joining us this morning are two PMC Specialties Group
25 executives: To my left, Ms. Zetta Bouligaraki,

Heritage Reporting Corporation
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1 President of PMC Specialties Group, and to my right,
2 Mr. Mark Miller, PMC's Vice President of Manufacturing
3 and Director of Regulatory Affairs.

4 Also appearing on behalf of PMC Specialties
5 Group are my colleagues, Grace Kim of Kelley Drye &
6 Warren, and Michael Kerwin of Georgetown Economic
7 Services.

8 In our affirmative presentation this
9 morning, four of us will provide testimony on
10 different aspects of this case. First, Ms.
11 Bouligaraki will discuss changes in the global market
12 and the U.S. market for saccharin that have happened
13 since the order was put into place and how PMC
14 Specialties Group has responded and intends to respond
15 in the future.

16 Second, Mr. Miller will discuss the changes
17 PMC Specialties Group has made to its production
18 process. Third, Mr. Kerwin will discuss economic
19 issues involved in this review.

20 Fourth and last, I will briefly discuss
21 certain legal issues that are involved in the review
22 specifically relating to the propriety of employing an
23 adverse inference with respect to the near total
24 failure of the Chinese industry to participate and
25 also to the issue of related party status.

1 Ms. Bouligaraki?

2 MS. BOULIGARAKI: Good morning. My name is
3 Zetta Bouligaraki, and I'm the president of PMC
4 Specialties Group. I have been the president of PMC
5 Specialties Group since 2007. I have been with the
6 company for over 20 years working with saccharin and
7 other products that we produce.

8 I first started out as a chemist in the
9 production and technical area after receiving my
10 Bachelor's and Master's in Chemistry. Prior to
11 becoming president I was the Vice President of Global
12 Sales, and prior to that I was Market Manager for
13 Cobra Tech, which is our corrosion inhibitor product
14 line.

15 By way of background, our company and its
16 predecessors have been producing saccharin at our
17 Cincinnati facility since the 1960s. Our parent
18 company, PMC, Inc., bought our Cincinnati plant from
19 Sherwin Williams in 1985. We also have produced other
20 specialty chemicals and chemical intermediates in
21 Cincinnati through this time.

22 I would like to begin my testimony by saying
23 that the antidumping duty order in this case has given
24 PMC Specialties Group valuable assistance over the
25 past five years. As I will discuss, it is true that

1 our company also has had to deal with other
2 challenges, important challenges over this time.

3 As the Commission knows, we are emerging
4 from a very difficult period of re-engineering our
5 operations to focus on producing saccharin in a way
6 that avoids using several very hazardous chemicals.
7 This process required us to be shut down for far
8 longer than we would like to. It also required us to
9 import and sell significant amounts of Chinese
10 saccharin in order to avoid losing our customer base.

11 We are now coming out of this process with
12 the ability to produce commercial amounts of saccharin
13 without using or producing several hazardous
14 chemicals.

15 During this entire effort and over the past
16 five years as a whole, the order provided important
17 benefits by keeping dumped Chinese imports out of our
18 market. If the order had not been in place, we never
19 would have had the ability to revamp our plant to be
20 focused on saccharin production as we are today.

21 When it went into effect, the order was very
22 successful at the beginning removing dumped imports.
23 Chinese imports disappeared from the U.S. market, and
24 we were able to regain market share and experience the
25 benefit of fair share pricing. This helped us to

1 regain stability in the market and begin to get back
2 to financial health.

3 Our ability to make the most of the order,
4 however, has been challenged in several important
5 ways. First, since virtually the month the order went
6 into effect we have been dealing with circumvention by
7 Chinese producers shipping product through other
8 countries who do not have legitimate production. Much
9 of our work in this area is confidential, and our
10 lawyers have discussed it in detail in our brief.

11 Our work to fight circumvention has been
12 very expensive, frustrating and continues to this day.
13 I will note that we have had some success, for
14 example, by getting the Commerce Department to include
15 an Indian company, Beta Udyog, under the order.

16 Second, our costs, like those of virtually
17 every other chemical producer, have gone up a great
18 deal as raw material costs rose throughout the world.
19 Saccharin is a petroleum-based product, and we have
20 seen huge increases in the cost of our raw material.

21 Third, as Mark Miller will discuss in more
22 detail, our company's saccharin production was part of
23 a larger chemical process that required some very
24 hazardous chemicals such as sulphur dioxide, ammonia
25 and chlorine. The risks and cost of producing

1 saccharin using a chemistry with historical use have
2 gone up over time. Our company has been very
3 concerned that our production operations be safe and
4 minimize the risk to our community and ourselves.

5 Fourth, when the order went into effect the
6 chemistry we used to produce saccharin also produced
7 several other chemicals that we sold. The markets for
8 those chemicals also changed over time, and they
9 became less profitable for the same reasons we have
10 discussed, including import pressures.

11 Even with the order in place and most
12 Chinese imports out of the market, these other factors
13 put great pressure on our ability to be profitable,
14 and in 2005 and 2006 we were forced to make some very
15 hard decisions. We decided to stop production in
16 order to fundamentally reassess the direction our
17 company was going to take.

18 We produced a large amount of material in
19 the first half of 2006 which we continued to sell from
20 inventory after we shut down. When we shut down, we
21 started evaluating our options. We looked back to
22 research we had done in the 1980s concerning ways to
23 produce saccharin from a different starting material
24 using a shorter chemical process. This process
25 allowed us to focus on saccharin production alone. It

1 also avoided the chemical reactions that use hazardous
2 chemicals like chlorine.

3 I will tell you candidly that the
4 re-engineering process took longer to complete than we
5 would like to. We have had to re-engineer our plant
6 and also find a source for the new starting material.
7 We also have had to deal with the typical kinds of
8 debugging problems that are inherited in any large
9 scale re-engineering of a manufacturing facility,
10 especially one as complex as a chemical plant.

11 With all of this going on, we continued to
12 supply our customers from inventory and also increased
13 the amount of saccharin we imported to cover our
14 needs. At the same time, we developed a source of our
15 new starting inputs and began production using the
16 re-engineered process in early 2008.

17 Since then we have been producing on a small
18 scale and working through production issues that have
19 come up. Overall, the order was an important part of
20 my company's ability to justify the decision to
21 re-engineer our production process and to focus on
22 saccharin instead of saccharin plus several other
23 chemicals.

24 While we went through a period of being shut
25 down, we have re-engineered our plant and are

1 currently producing saccharin. If the order remains
2 in place, we are committed to being a producer as our
3 primary business and to growing our production over
4 time.

5 I would also like to talk briefly about
6 recent pricing in the global market. After the order
7 went into effect, prices increased and then were more
8 or less stable. In late 2007 and 2008, however,
9 prices soared in the U.S. market and across the world.
10 Prices for saccharin went to levels that had never
11 been seen before. This was a huge surprise and caused
12 an enormous amount of turmoil all over the world.

13 This disruption was caused by production
14 shutdowns in the Chinese industry, which has enormous
15 capacity and produces over 80 percent of the world's
16 saccharin. This led to panic by the global market.

17 First, in late 2007, the Chinese Government
18 closed one of the Chinese suppliers, Suzhou, because
19 of an accident at its factory. Next, also in late
20 2007, the Chinese Government shut down the rest of the
21 Chinese saccharin industry in connection with the
22 Olympics. This caused a tightening in supply all over
23 the world and took most of the world by surprise.

24 Because of this, supply was almost
25 impossible to get and prices went through the roof.

1 This situation lasted for most of 2008, even after the
2 Olympics were over and the Chinese Government let the
3 industry start producing again.

4 Currently, however, the situation has
5 changed. All of the Chinese producers are back in
6 operation, including Suzhou, who we see in Europe.
7 Supply is easily available, and prices have gone back
8 down to levels we saw before the Chinese industry shut
9 down.

10 We have submitted price quotes documenting
11 recent offers at very low prices from as recently as a
12 few weeks ago as part of our prehearing brief. We
13 also know that at least one Chinese producer has added
14 capacity.

15 If the order is revoked, I expect that all
16 of the Chinese producers will come back into the USA
17 market, and we fully expect that the prices will drop
18 much more. This would essentially put an end to our
19 ability to remain a U.S. producer at a time when we
20 are finishing re-engineering our operations and
21 re-entering the market.

22 I would like to finish what I began. The
23 order has provided very valuable benefits to our
24 company over the past five years. Without the order,
25 I have no doubt that we would not exist as a saccharin

1 producer today. The order has helped take dumped
2 Chinese imports out of the market, which in turn has
3 given us room to reinvent ourselves as a focused U.S.
4 producer.

5 We are very concerned about what will happen
6 if the order is revoked. If the order is revoked, I
7 fully expect to see a flood of Chinese imports at very
8 low prices and aggressive pricing that will undercut
9 our business. If this happens, it will most likely be
10 impossible for us to stay in business.

11 We have seen what has happened to other U.S.
12 chemical industries like the industry that made
13 Vitamin C, which is now only produced in China. If
14 the order is revoked, we fully expect that our company
15 and our industry would be destroyed.

16 My company is committed to being a U.S.
17 producer of saccharin. We are producing today, and we
18 intend to increase our production in the coming years.
19 We can and will remain in business in the market that
20 has fair prices.

21 Continuing the order will allow us to
22 complete the process of reestablishing ourself in the
23 market, and we ask that the Commission vote to keep
24 the order in place.

25 That concludes my testimony, and I will be

1 happy to answer any questions that you might have.

2 CHAIRMAN ARANOFF: Thank you.

3 MR. GORDON: Thank you. Now we'll turn to
4 Mr. Miller.

5 MR. MILLER: Good morning. My name is Mark
6 Miller. I'm the Vice President of Manufacturing and
7 Director of Regulatory Affairs for PMC Specialties
8 Group. I have been with PMC over 17 years in various
9 corporate capacities. I have both a Bachelor's and a
10 Master's degree in Chemistry.

11 I would like to spend a few minutes this
12 morning discussing our production process and the
13 changes we have made during our process of
14 re-engineering our plant.

15 PMC Specialties Group uses a saccharin
16 process called the Maumee process. This is one of two
17 chemical processes that can be used to make saccharin,
18 and it is used by ourselves and by the Chinese
19 producers. Producers in the rest of the world use a
20 different process called the Remsen Fahlberg process,
21 which uses a different starting material and chemistry
22 to get to the same end product.

23 The Maumee process we historically used is
24 based on a petroleum based chemical called phthalic
25 anhydride or PA as its starting material. Making

1 saccharin from PA involves multiple chemical steps
2 that require highly hazardous chemicals such as
3 sulphur dioxide, anhydrous ammonia and chlorine.

4 We used this process historically because
5 the overall Maumee chemistry produces not only
6 saccharin, but also several other useful chemical
7 products that we sold commercially.

8 As you would expect, using hazardous
9 materials inputs such as sulphur dioxide, ammonia and
10 chlorine carries risk and makes us very concerned
11 about safety and potential liabilities.

12 Since it was first built, our plant is
13 located in an area that has become increasingly
14 developed over the years, and as the area has
15 developed we find ourselves essentially adjacent to a
16 residential neighborhood. Additionally, in the time
17 since the order went in place we also have seen
18 important changes in the environmental and legal
19 requirements and risks that we face as a producer.

20 Because of this, over the years our company
21 consistently invested in upgrading and maintaining its
22 plant to keep the facility and the surrounding
23 neighborhoods as safe as possible and to comply with
24 changes in environmental regulations.

25 For example, in the late 1980s we made major

1 process, equipment and instrumentation upgrades in
2 order to comply with EPA's Clean Water Act
3 regulations. In the mid 1990s, we designed and
4 installed a methanol recovery unit. This allowed us
5 to reclaim methanol and recycle it into the saccharin
6 production process.

7 In the late 1990s, we built a custom
8 enclosure for in-use chlorine rail cars. This
9 provided added safety in the event of a chlorine leak
10 and also was tied to EPA's Risk Management Planning
11 Program.

12 Given these investments, when the order went
13 into place we were operating an up-to-date, efficient
14 and safe facility. When we started looking at
15 re-engineering our production process to focus on
16 saccharin production we knew that changing our
17 starting material would allow us to move away from
18 several of the hazardous inputs we had been using.

19 The modified production process gave us the
20 added benefits of reducing energy costs, reducing
21 labor costs and increasing our efficiency. This in
22 turn allowed us to reduce the risks associated with
23 production and also allowed us to move away from
24 making other chemicals that we no longer wanted to
25 produce.

1 These considerations and a decision to
2 remain committed to producing saccharin in the United
3 States prompted us to move forward in 2007 with
4 re-engineering the production process. At the same
5 time, we also knew that re-engineering our production
6 process would require important changes to our plant.

7 Any plant, particularly a chemical plant, is
8 a complex group of very complicated systems. In order
9 to accommodate the new input material we are using,
10 re-engineering our plant to focus on saccharin
11 production required us to redesign and rebuild.

12 When you make changes to any complex system
13 like a chemical plant, especially when you change it
14 around to use a different starting input, you will run
15 into all kinds of issues that need to be worked out.
16 The work we have done is not as simple as merely
17 replacing one bit of equipment or turning off part of
18 our facility.

19 Regardless of the amount of new equipment
20 you may or may not need to purchase, any time you try
21 to rearrange the way a chemical plant works you
22 immediately are dealing with very complicated and
23 delicate processes that are unforgiving if you make
24 mistakes.

25 Without getting into confidential detail, as

1 we have resumed production we have run into the
2 ordinary kinds of issues that any producer experiences
3 when restarting operations that have been
4 significantly re-engineered. We have been able to
5 identify and to correct several production issues and
6 are successfully operating the new process that the
7 Commission staff saw firsthand when they visited our
8 facility in February.

9 While our re-engineered operation currently
10 is producing at a modest level, it is important to
11 remember that it is scaleable. As we showed in the
12 business projections we submitted to the Commission,
13 we are committed to increasing our level of production
14 over the course of this year and the years to come.

15 As Zetta said, our company has made and
16 implemented some difficult decisions over the past
17 couple of years. We are now at a point where our
18 production process is focused on saccharin production
19 using a re-engineered Maumee process that is safer,
20 more efficient and that will reduce our manufacturing
21 cost.

22 The order in this case has been important in
23 permitting us to come through these challenges and
24 still be in a position to continue operating as a
25 significant U.S. producer. If the order is revoked,

1 however, I have no doubt that our efforts to return to
2 full production in a cleaner and more efficient way
3 will be destroyed.

4 This concludes my testimony. I will be
5 happy to answer any questions you may have concerning
6 our production process to the extent that I can do so
7 publicly. Thank you.

8 MR. GORDON: Thank you, Mr. Miller.

9 Now Michael Kerwin of Georgetown Economic
10 Services.

11 MR. KERWIN: Good morning. I'm Mike Kerwin
12 of Georgetown Economic Services. This morning I'd
13 like to address conditions of competition in the U.S.
14 saccharin market and the likely volume and price
15 impacts of Chinese imports in the event of revocation.

16 The market for saccharin is mature, and
17 there were not major changes in demand over the period
18 of review. While imports of saccharin increased
19 significantly in 2008, they did so as a reflection of
20 panic buying due to a contraction of global supply.
21 All purchasers who expressed an opinion said that true
22 demand for saccharin was stagnant or contracting over
23 the period of review.

24 As you've heard from Ms. Bouligaraki,
25 supplies of saccharin became tight worldwide during

1 part of 2008 due to the temporary closure of Chinese
2 producer Suzhou late in 2007 and China's other
3 saccharin producers around the time of the Olympic
4 Games.

5 These actions resulted in short-term
6 shortages of saccharin and panic buying, which led to
7 large price increases. While the prehearing report
8 implies that the closure of PMC Specialties Group's
9 facility in Cincinnati led to product shortages, the
10 fact of the matter is that price increases in the U.S.
11 and global markets were far more clearly associated
12 with the closure of production facilities in China.

13 As we've discussed in our brief, recent
14 price offers for Chinese saccharin show that supply
15 shortages are now a thing of the past as saccharin
16 prices have fallen back down to earth in 2009.

17 A significant change in the conditions of
18 competition in the saccharin market since the time of
19 the original investigation is the advent of new
20 producers of saccharin in third country markets.
21 While at the time of the original investigation most
22 nonsubject imports of saccharin came from Korea or
23 Japan, since that time industries have been
24 established or expanded in Taiwan, India and Israel.

25 Further, imports from Korea and Japan have

1 increased substantially since the time of the original
2 investigation. In total, imports from third countries
3 have increased dramatically, rising more than
4 threefold since the time of the original
5 investigation.

6 This expansion of third country saccharin
7 production makes the domestic industry significantly
8 more vulnerable because imports from nonsubject
9 countries are likely to follow prices for Chinese
10 imports downward if the order is revoked.

11 As stated by one importer, "We will need to
12 try to make Japanese and Indian materials compete
13 against the Chinese materials. The price for
14 saccharin should go down."

15 On the issue of the likely volume of subject
16 imports in the event of revocation, the record from
17 the original investigation showed very clearly that
18 imports of saccharin from China increased rapidly in
19 both absolute volume terms and as a share of the U.S.
20 market.

21 The record in this review shows just as
22 clearly that Chinese import volumes fell quickly after
23 the imposition of the order to very minor levels.
24 But, as you've heard, circumvention of the order has
25 been a significant problem that reduced its

1 effectiveness.

2 In the last years of the period of review,
3 Chinese imports have returned in very significant
4 volumes. In fact, in the single year from 2006 to
5 2007 U.S. imports of saccharin from China increased
6 fivefold and then doubled again in 2008, a rate of
7 increase far in excess of that at the time of the
8 original investigation.

9 This expansion stands as strong evidence of
10 the continued focus of the Chinese industry on the
11 U.S. saccharin market. I should point out that while
12 PMC Specialties Group did import saccharin from China
13 in this period, it in no way accounted for the
14 increase in imports in 2008 as PMC's imports from
15 China actually declined during the year and accounted
16 for a relatively small element of total U.S. imports
17 of saccharin from China in 2008.

18 The Chinese industry has almost completely
19 avoided participation in this review with just a
20 single foreign producer's questionnaire response
21 filed. For this reason, we believe the Commission
22 should draw an adverse inference in relation to the
23 likely volume and price effects of the Chinese imports
24 in the event of revocation.

25 At the very least, the Commission should not

1 reward the Chinese industry by giving them the benefit
2 of the doubt in relation to their production
3 capabilities and export orientation. The Chinese
4 industry is the world's largest saccharin industry,
5 accounting for 80 percent of global output. The
6 industry is extremely export oriented with the Chinese
7 Government mandating that no more than 7.7 million
8 pounds of saccharin can be sold domestically.

9 Over the period of review, exports of
10 Chinese saccharin to the United States increased
11 dramatically, while most other markets declined.
12 Exports to the European Union, for example, fell 24
13 percent from 2003 to 2007, and those to Asia dropped
14 35 percent. In fact, exports from China to markets
15 other than the United States fell by 9.2 million
16 pounds from 2003 to 2007, an amount that far exceeds
17 the entire U.S. consumption of saccharin.

18 Aside from the Chinese Government's
19 manipulation of the output of its saccharin industry
20 in 2007 and 2008, there is clearly ample excess
21 capacity in China, and recent trends show that Chinese
22 producers have the desire and the motivation to target
23 the U.S. market in the event of revocation.

24 While there is still an implication in some
25 of the statements on the record that Chinese producer

1 Suzhou was permanently closed by the Chinese
2 Government in 2007, there is evidence to the contrary.
3 Materials that we located on the internet, including
4 Suzhou's own website, indicate that saccharin
5 continues to be a major product for this company and
6 that Suzhou had output of the product in 2008.

7 Further, market intelligence indicates that
8 Suzhou continues to sell aggressively in Europe. In
9 fact, a recent press article states that Suzhou
10 exported at least 3.6 million pounds of saccharin in
11 2008. The Commission should not rely on industry
12 capacity data that do not include Suzhou because
13 recent evidence shows that it is very much a going
14 concern.

15 Removing Suzhou from the database would
16 amount to giving the company the benefit of the doubt
17 and rewarding the Chinese industry as a whole for its
18 refusal to participate in this review. Simply put,
19 there's no evidence that the capacity of the Chinese
20 industry has been reduced in any permanent manner.

21 Quite to the contrary. As you have already
22 heard, industry intelligence indicates that Chinese
23 producers have actually added capacity since the time
24 of the original investigation.

25 Beyond the five authorized producers of

1 saccharin in China, there are also apparently illegal
2 producers of the product, even if these illegal
3 manufacturers are only producing for the domestic
4 market. Such competition provides more reason for
5 legitimate producers to export their output.

6 Given that U.S. imports from China in 2008
7 already exceeded those in any of the years of the
8 original period of investigation other than 2002, it
9 is evident that the Chinese industry has ample
10 capacity to shift to the U.S. market in volumes far in
11 excess of those at the time of the original
12 investigation.

13 Adding fuel to the fire, in the face of the
14 ongoing slowdown in the Chinese economy the Chinese
15 Government has made clear that it would like to export
16 its way out of its troubles, and a policy of
17 encouraging saccharin exports has been adopted. This
18 encouragement is manifested in the Chinese
19 Government's announcement in December of 2008 of an
20 increase in the value added tax rebate on exports of
21 saccharin from five to nine percent.

22 Another important change since the time of
23 the original investigation is the imposition of an
24 antidumping duty order in India on imports of
25 saccharin from China. This order, which imposes high

1 specific tariffs on the Chinese product, was imposed
2 in March of 2007. This development shows that the
3 Chinese producers continue to sell at aggressively low
4 prices and provides further incentive for Chinese
5 exports to be directed to the U.S. market in the event
6 of revocation.

7 The final factor that speaks to large
8 volumes of subject imports if the order is revoked is
9 the relatively high price of saccharin in the U.S.
10 market. Several sources on the record assert that
11 U.S. prices are high relative to those in all other
12 world markets and that such prices would immediately
13 draw imports from China.

14 While the Chinese industry has ample
15 capacity to shift to the U.S. market immediately, the
16 Commission has long recognized that attractive prices
17 in the U.S. market provide a strong incentive to shift
18 exports from third country markets in the sunset
19 context.

20 On the question of the likely price effects
21 of the subject imports, several facts indicate a
22 severe impact. At the time of the original
23 investigation, underselling by the Chinese imports was
24 universal, and numerous examples of resultant price
25 reductions and lost sales were documented by the U.S.

1 industry.

2 Even with the discipline of the order in
3 place, imports from China have undersold the domestic
4 product more often than not. Recent offers for sale
5 from Chinese producers show that they remain extremely
6 aggressive and that the price spike seen in 2008 due
7 to supply shortages is now a thing of the past.

8 Finally, both purchasers and importers state
9 their belief that revocation of the order will lead to
10 immediate reductions in prices for saccharin from
11 China. They also make clear that such drastic price
12 competition would force price reductions on domestic
13 saccharin and nonsubject imports.

14 The impact on the domestic industry of large
15 and increasing volumes of Chinese saccharin sold at
16 aggressively low prices would be obvious. PMC
17 Specialties Group's modified production process is
18 really just getting underway, and a return to wide
19 open, unfair price competition from dumped Chinese
20 imports would immediately doom its strategy of
21 increasing production of saccharin.

22 In the face of reduced export opportunities
23 around the world and relatively high U.S. prices,
24 Chinese imports would be immediately attracted to the
25 U.S. market and could easily command the market in its

1 entirety within a short period. The result would be
2 the permanent loss of the U.S. saccharin industry.

3 Thank you very much. That concludes my
4 testimony.

5 MR. GORDON: Thank you, Mr. Kerwin.

6 As the fourth presentation this morning on
7 our panel, I would like to touch briefly on two legal
8 issues. The first issue I would like to address
9 arises from the failure of nearly all of the Chinese
10 industry to participate in this review.

11 It should be beyond dispute that the
12 Commission's job in this review has been impeded by
13 the fact that just one Chinese producer and no
14 exporters responded to the Commission's repeated
15 attempts to obtain responses to the questionnaires.

16 In a sunset review, foreign producers' data
17 are especially critical, given the prospective nature
18 of the Commission's analysis and the importance of
19 data on foreign production, foreign capacity and
20 capacity utilization.

21 The prehearing report provides some
22 information concerning the Chinese industry, but
23 important questions remain unanswered. For example,
24 what really is the status of the single largest
25 Chinese producer, Suzhou?

1 The record suggests that this producer was
2 closed in late 2007, but, as you have heard this
3 morning, other evidence we have placed on the record
4 indicates that the company appears to be alive and
5 well and conducting business aggressively in Europe at
6 least.

7 Next, what does the Chinese industry plan
8 with respect to the expansion and production levels in
9 the coming years? We know that they have massive
10 capacity and that the Chinese Government limits their
11 ability to sell saccharin in China in order to protect
12 the Chinese sugar industry. The record suggests that
13 they intend to move back into the U.S. market in a big
14 way if the order is revoked, but complete information
15 is lacking.

16 The failure of the Chinese industry to
17 respond to the Commission's questionnaire is, I
18 submit, a clear failure to cooperate and has denied
19 the Commission a complete and accurate record. As a
20 matter of law, sound policy and the Commission's past
21 practice, the use of an adverse inference concerning
22 volume and price impact is fully warranted.

23 The second issue I would like to briefly
24 address is the issue of whether PMC Specialties Group
25 should be excluded from the industry as a related

1 party. As it did during the period of the original
2 investigation, PMC Specialties Group imported both
3 subject and nonsubject saccharin during the period of
4 review.

5 As you've heard this morning, PMC
6 Specialties Group has gone through a difficult period
7 of re-engineering its plant to make its production
8 process more efficient, less costly, less hazardous
9 and focus on saccharin production instead of that plus
10 production of other chemical intermediates as part of
11 the saccharin production process.

12 During this process, the company did import
13 significant amounts of saccharin, but it did so only
14 to prevent the loss of its customers while it was
15 re-engineering its production operation. The
16 Commission has seen this scenario in other cases as
17 well.

18 But now PMC is producing and intends to keep
19 producing at higher levels. Under these circumstances
20 and as we have discussed in detail in our prehearing
21 brief, we submit that the Commission should recognize
22 that the company's primary commitment is to domestic
23 production and not importation.

24 With that, we will be happy to answer any
25 questions that you may have. I also note that we

1 brought some samples that Mr. Bishop might pass around
2 at some point for your perusal. Thank you.

3 CHAIRMAN ARANOFF: Thank you very much, and
4 welcome to all of the witnesses. We really appreciate
5 your taking time away from your business to join us
6 today and answer all our questions. It's the best way
7 for us to get to understand what's going on with
8 respect to a production facility far outside of
9 Washington if we have the experts here with us, so we
10 thank you.

11 By random rotation I'm going to begin the
12 questioning today, and I want to start by asking Ms.
13 Bouligaraki and Mr. Miller to describe for us exactly,
14 because it's not really clear on the record, what
15 exactly is the status of your production facility
16 today? How much are you making? How many workers are
17 working there? How far along the path are you towards
18 bringing it up to the full level of production that
19 you anticipate?

20 MR. MILLER: We've come a long way in the
21 past few months. When the Commission visited us in
22 early February we were in production. We've continued
23 to pursue production. Our employment levels have
24 increased. We have about ten people committed to the
25 production of this particular product. That has

1 increased by adding a production shift so that we are
2 producing on a five day, three shift rotation.

3 We continue to work through the production
4 issues that we alluded to. They have been
5 significant, and it's somewhat difficult to appreciate
6 the kinds of problems that we run into, both on the
7 chemistry side of the reengineering as well as, I'll
8 call it the physical or engineering elements related
9 to the significant redesign by using the new raw
10 material input.

11 I think we're making good progress and we
12 hope to be on track to produce the kinds of volumes
13 that we indicated in the more confidential portions of
14 our brief.

15 CHAIRMAN ARANOFF: In the nearly two years
16 that the country has not been producing saccharin in
17 the U.S., I know you've sold some product out of
18 inventory and you've also sold some imported product.
19 Have you, as you've been using that combination have
20 you nevertheless lost customers that you set out to
21 keep? If so, do you have plans to get them back? How
22 are you going to do that?

23 MS. BOULIGARAKI: Correct. We have lost
24 customers, and that was the reason, although we had
25 built inventory, we had to make sure that we had

1 inventory in our warehouses so when our customers need
2 the product we have customers.

3 But one of the things that happened last
4 year, which is very unusual to the whole chemical
5 industry, 2008 was a very unusual year because of the
6 Chinese Olympics. So no one really knew what China is
7 going to do after the Olympics. China pretty much
8 shut down the chemical industry to get clean for the
9 Olympics.

10 So yes, you are correct, we lost some
11 customers. But our goal is to regain our customers
12 with our U.S. produced saccharin right now.

13 CHAIRMAN ARANOFF: The customers that you
14 lost, are you aware, did they decide to become direct
15 importers themselves rather than purchase imported
16 product through you? Or did they just stop using
17 saccharin?

18 MS. BOULIGARAKI: No, no. The saccharin
19 market is pretty stable, the demand for saccharin is
20 pretty stable. So those customers that, they bought
21 material from China directly, they did. But USA
22 customers want to buy from PMC Specialties. They want
23 us to be in business. Customers right now in the USA
24 do not want to depend on China or India just for the
25 chemicals any more.

1 So yes, we do have customer support. Our
2 customers are supporting us. And through this the
3 last couple of years, they were the ones really that
4 help us to go through this very difficult period. So
5 they stick with us, but yes, we lost some customers.

6 CHAIRMAN ARANOFF: And just so I understand,
7 the way that you're going to get these customers back
8 is that you believe they want to have a U.S. supplier?

9 MS. BOULIGARAKI: Absolutely correct. They
10 do want to have U.S. production right now. Everybody
11 is very nervous with China, recent incidents from
12 China on contamination. Saccharin, although it's a
13 small part of their formulation, is a key ingredient
14 and it goes to a variety of applications. So yes, we
15 do see that. Customers want to make sure that they do
16 have a U.S. source, they can visit the plant, all our
17 records are open, so yes, they would like that.

18 CHAIRMAN ARANOFF: In terms of the costs to
19 the company that you, the investment that you made in
20 reengineering your process, I just want to make sure,
21 the actual data are confidential, but I want to make
22 sure that the data that we have in Table 3-14 in the
23 staff report which is the table on capital
24 expenditures and R&D, does that reflect everything
25 that you invested in the reengineering process? Or

1 are there other investments that I should be aware of?
2 I just want to be sure we have a number on the record
3 that represents the total investment in the new
4 production process.

5 MR. GORDON: I'm sorry, which table again
6 please?

7 CHAIRMAN ARANOFF: It's 3-14. Sorry about
8 that, it's page 3-14.

9 MR. MILLER: Yes, ma'am, those numbers are
10 essentially complete. There are components of that.
11 We may not truly reflect R&D efforts and the
12 associated staff, our own staff time to work through
13 some of those problems in developing the new
14 reengineering process, but those are complete.

15 CHAIRMAN ARANOFF: Thanks.

16 Just so that counsel understands where I'm
17 going with that, I'm looking back at two prior cases
18 that the Commission did sunset reviews where the
19 domestic industry had not been in production for some
20 large chunk of the period that we were looking at, in
21 particular Synthetic Indigo, and the one before that
22 was Sebacic Acid.

23 The big issue in those cases was basically,
24 was that domestic industry ever really coming back?
25 Had there been signs of a sufficient commitment to

1 return to domestic production for the long run. In
2 Synthetic Indigo in particular there was a finding
3 that that was not the case. That resulted in the
4 revocation of the order.

5 So I'm looking for ways to distinguish
6 what's going on here from those cases.

7 MR. GORDON: Chairman, those cases are
8 fundamentally distinguishable from the present
9 situation. Firstly, in the Indigo case you had notice
10 from the Resolution Trust Corporation that they were
11 liquidating all of Buffalo Colors' assets. That is
12 not the case here. You have direct testimony from a
13 company, and they are in production. They are not
14 still not in production. Your investigators first-
15 hand watched production occurring and it's still
16 occurring. So Buffalo Colors' situation, being in
17 bankruptcy for an extended period of time, then having
18 the RTC put a lien on all of its assets and subject it
19 to liquidation to satisfy their pension liabilities is
20 a fundamentally distinguishable situation.

21 Similarly, Sebacic Acid I say is
22 fundamentally distinguishable. In that situation, I
23 think it's very clear from the decision, from the
24 views of the Commission, that you had actual notice
25 from the company that they were no longer in

1 production. They had indicated a potential ability
2 and an interest to resume production if the market
3 warranted, and that's not the situation here.

4 Here you have a company that's in a
5 transitional period similar to what the Commission saw
6 with Pineapples in Thailand. They're reemerging from
7 a period of retrenchment and reinventing themselves,
8 and they are committed to production in the U.S.
9 market. They're not in bankruptcy. They have not
10 given you notice that they have no interest in
11 continuing production. And they are working through
12 these problems. They've been able to go through a
13 difficult process largely because or in part because
14 the order has helped the market. It's not been
15 perfect, nor has it been a failure.

16 MR. KERWIN: Chairman Aranoff, if I could
17 add a point. I think that one thing you're seeing
18 here in this industry, in this case is something
19 that's a little different.

20 What was required of PMC to reengineer their
21 production process was not a massive capital
22 investment. this was not a matter of installing an
23 entirely new line or building a new facility. This
24 was a means of reengineering an existing facility and
25 to try to do so on as cost-effective basis as

1 possible.

2 What has been explained to us by the people
3 from PMC is that the reengineering of the process,
4 while not extremely capital intensive, did require a
5 large amount of research and development. It required
6 a lot of, a fair amount of time. This was something
7 that has not been done within the saccharin industry
8 before. It's a novel idea. And working through the
9 kinks in the process, figuring out how to go about it
10 in the first place, whether the input material would
11 function and go through the production process as it
12 was theoretically envisioned, working it through the
13 process, working through kinks with a supplier of the
14 new input material, making sure that the whole
15 facility could run in a safe manner, in an
16 environmentally responsible manner, and that the
17 output of the product itself would actually be useable
18 by customers took a great deal of time.

19 I think what you see here that is different
20 from some other cases is that this was not a massive
21 capital investment but it was a very significant
22 research and development investment and it did take,
23 unfortunately, a fair amount of time to work through
24 this process to get to the point where they were
25 getting an output from the process that was something

1 that was up to the standards of their customers and
2 saleable in the marketplace. That's where they are
3 now.

4 CHAIRMAN ARANOFF: I appreciate those
5 answers.

6 I'm going to turn the questioning over to
7 Vice Chairman Pearson.

8 VICE CHAIRMAN PEARSON: Thank you, Madame
9 Chairman. Welcome to all the members of this panel.
10 I'm not sure whether you're going to have a nicer day
11 here than you would have in Ohio, but it's good to
12 have you here regardless.

13 I share some of the Chairman's questions as
14 to whether indeed there still is a domestic industry.
15 My review of the record leaves it less clear than I
16 would like.

17 Mr. Miller, I just wanted to clarify, is PMC
18 producing saccharin today? You're not there at the
19 plant, there's somebody there producing saccharin?

20 MR. MILLER: We are producing saccharin
21 today. Yes, sir.

22 VICE CHAIRMAN PEARSON: And for how long
23 have you been producing saccharin under the current
24 procedures?

25 MR. MILLER: We began the reengineering

1 process last summer. We made an extensive run of
2 production roughly through about a four month period
3 the middle of last year. That production run
4 identified some significant yield difficulties with
5 the new process and caused us to go back into review
6 of the quality of the raw materials, the production
7 process that we had envisioned at that point in time
8 in the existing equipment, and did take quite a bit of
9 time to resolve.

10 We were able to return to production in
11 January and that was part of the time that the
12 Commission's representatives saw our production
13 operations. We made progress in solving some problems
14 at that point in time. Since that time we have
15 another campaign that's ongoing which we began
16 approximately the beginning of March. We have been in
17 continued manufacturing.

18 I will admit that the volumes of output are
19 modest, but we are in an R&D piloting type of
20 operation because the raw material inputs are very
21 expensive and the unfortunate loss of some of the
22 materials due to yield issues is very troubling. So
23 we're taking it a bit slow. But we do expect to
24 emerge from that.

25 VICE CHAIRMAN PEARSON: Are you seeing an

1 improvement in yield as you gain experience --

2 MR. MILLER: Yes, sir.

3 VICE CHAIRMAN PEARSON: -- with the new
4 process?

5 MR. MILLER: Yes. We made some good efforts
6 last week. I can tell you that.

7 VICE CHAIRMAN PEARSON: Earlier you passed
8 four different saccharin products around here, we had
9 a chance to see them at the dais. Which saccharin
10 products is PMC currently producing?

11 MR. MILLER: Our principal production is
12 focused on sodium saccharin. That is the predominant
13 product and we generally sell that in two physical
14 forms. One is a higher moisture content material and
15 one is a lower moisture content material.

16 VICE CHAIRMAN PEARSON: Is one in granular
17 form and another powder, or are they both available in
18 either form?

19 MR. MILLER: The higher moisture content is
20 typically a granular saccharin and then the finer
21 grain material, more of a powdered sugar consistency
22 is a lower moisture product.

23 VICE CHAIRMAN PEARSON: Is PMC intending to
24 produce other saccharin products using the new
25 methodology? Or for now you've just been focusing on

1 the calcium saccharin?

2 MR. MILLER: The sodium saccharin product --

3 VICE CHAIRMAN PEARSON: Sodium saccharin.

4 MR. MILLER: That's fine. The sodium
5 saccharin process is our primary focus. That's what
6 our customers buy more often than not.

7 Insoluble saccharin is a product we
8 certainly can produce. It's produced in the train of
9 operations that we have so it is something we can pull
10 out of that production train if we need to supply
11 that.

12 Calcium saccharin is a relatively simple
13 conversion from the sodium product to the calcium, so
14 we would be able to make that as well, but the market
15 as I best understand it, and Ms. Bouligaraki could
16 answer that, it's just not as large a market.

17 VICE CHAIRMAN PEARSON: Some of this gets
18 perhaps too much into business proprietary information
19 to discuss here in the open hearing, although if
20 you're comfortable responding, by all means, you're
21 the ones who get to decide whether it's sufficiently
22 proprietary.

23 But I'm wondering if you could provide,
24 either now or in the post-hearing, information on
25 recent sales that PMC Has made of saccharin, contracts

1 for future sales, current levels of inventories of the
2 feed stock chemical used to manufacture the saccharin,
3 contracts to purchase more of that feed stock
4 chemical, and I'd be happy to get that in the post-
5 hearing submission or --

6 MR. MILLER: I think in the post-hearing
7 submission we can certainly provide that. It would be
8 a better forum to provide that for you.

9 VICE CHAIRMAN PEARSON: I know that at times
10 Commission staff will do a verification trip between
11 the time of the hearing and the final vote, so I don't
12 know whether that would be something we would do in
13 this case, but I raise that as a possibility.

14 MR. MILLER: Okay.

15 MR. GORDON: I think it's safe to say that
16 we'd welcome the Commission staff at any time.

17 VICE CHAIRMAN PEARSON: Thank you.

18 What accounts for the change in average
19 capacity quantity that we see on this record,
20 particularly noticeable in the C table? Average
21 capacity quantity of the industry between the year
22 2005 and the year 2006. There's a noticeable change.

23 MR. KERWIN: You're talking about the
24 domestic industry, is that correct?

25 VICE CHAIRMAN PEARSON: Yeah, I'm talking

1 about the domestic industry capacity, sorry.

2 MR. GORDON: Vice Chairman Pearson, as we've
3 heard this morning the industry produced through the
4 middle of 2006 and then stopped production and did not
5 produce in '07. Maybe it's sort of a conceptual
6 debate about how you want to measure capacity in this
7 industry. We had a lengthy discussion on the plant
8 visit with the investigator about that. What is
9 capacity? If it's there and can be used, is it still
10 capacity?

11 So we have the capacity that had existed at
12 the time of the original investigation. And we
13 adjusted it downward in 2006 to reflect the cessation
14 of production in that period of time. We maintained
15 that number for 2007 being of the view that the
16 capacity was there and existed, could have been
17 started back up, and so that's kind of where we're
18 coming from on that.

19 We talked on the plant tour about what are
20 your bottlenecks, what's your capacity and all that,
21 so there was a little bit of a back and forth on that.
22 We were trying to reach sort of a reasonable commonly
23 shared understanding and approach to that question.

24 VICE CHAIRMAN PEARSON: I wasn't so
25 interested in this moment about what actually was

1 produced, but the capacity to produce it.

2 MR. GORDON: That's what I was speaking to.

3 VICE CHAIRMAN PEARSON: If in the post-
4 hearing you can explain anything more about what seems
5 to be the very nice mathematical relationship between
6 the two numbers and why there was that change I'd be
7 curious to know it.

8 MR. MILLER: Certainly.

9 VICE CHAIRMAN PEARSON: I'm going a little
10 bit out of order here, so you'll forgive me.

11 I was talking earlier asking for information
12 on sales contracts, that sort of thing. Along with
13 that you'd be able to supply the names of purchasers
14 and the quantities that they've been buying as you've
15 reengineered the process.

16 MR. GORDON: Yes.

17 VICE CHAIRMAN PEARSON: In the past, in
18 2005, 2006, PMC made a scope request and my question
19 is what processing was necessary to convert the
20 insoluble asset from China into subject saccharin?
21 This was the Israeli exercise, I think? I might be
22 confused.

23 Do you recall a scope request made in 2005,
24 2006?

25 MR. GORDON: Very clearly.

1 VICE CHAIRMAN PEARSON: What was going on
2 there?

3 MR. GORDON: There was a scope request made
4 by PMC. We presented it to Department of Commerce
5 concerning conversion in Israel. As you probably
6 know, that was subsequently withdrawn.

7 MS. BOULIGARAKI: I can tell you why we did,
8 because we just decided that we just need to place our
9 efforts and our money to engineer our process, and
10 instead of diluting our efforts and money to pursue
11 that case. So it was an internal decision at that
12 time. Again, financial. How you going to be spending
13 your money. We just decided no, we're going to
14 concentrate all our efforts on our USA production and
15 that was the reason. We just decided not to pursue
16 that.

17 VICE CHAIRMAN PEARSON: Thank you very much.

18 CHAIRMAN ARANOFF: Commissioner Okun?

19 COMMISSIONER OKUN: Thank you, Madame
20 Chairman, and I join my colleagues in welcoming you
21 here today. We very much appreciate your willingness
22 to answer our questions.

23 I wanted to just follow up on some of the
24 requests from the Chairman and the Vice Chairman on
25 information about the current state of production.

1 I'm mindful that you filled out questionnaires, you
2 put information in there, but I think Mr. Gordon and
3 Mr. Kerwin, be aware because one of the key questions
4 here looking forward is is this a viable domestic
5 producer. I do have some additional requests for
6 information past when you filled out your
7 questionnaire. So I'm mindful of the burden we put on
8 you, but I do think that the requests are reasonable
9 in this instance.

10 Along that line, you had on page 16 of the
11 brief and in your February 17th submission, you had
12 provided information on the company's projections for
13 first quarter '09 and also projections looking out.

14 Based on what I've heard you say this
15 morning about some of the problems you encountered, I
16 would like for post-hearing for you to update that
17 information with, well first, are your projections
18 different than what was in that submission?

19 MR. MILLER: I would suspect that we'll be a
20 little bit behind that but we can certainly update the
21 numbers per your request.

22 COMMISSIONER OKUN: If you could do that,
23 that would be very helpful.

24 When you were talking about the new process,
25 Mr. Miller, you had talked about some of the benefits

1 as you see it of this reengineering. I think you had
2 mentioned reduced labor and energy costs. So when
3 we're looking at what the likely pricing will be in
4 the reasonably foreseeable future, and we might be
5 able to glean some of this from current contracts, is
6 this a product that you will be able to sell? Is it a
7 process where you'll be able to sell it more cheaply
8 than you were before? Is it really going to be kind
9 of the same -- Will the purchasers perceive it as any
10 different, that it's going to be a better deal or it's
11 just the same product but better for the company to
12 produce?

13 MR. MILLER: The endeavor at reengineering
14 and the look at this whole push to produce saccharin
15 and be a viable producer has been predicated on the
16 world market prices that we've seen more traditionally
17 so we don't really expect our production costs to
18 change significantly, but we do fervently believe that
19 in a fair market situation we will be able to compete
20 with this new process. So we've looked at it very
21 carefully and that's why we do believe that with
22 fairly priced goods we know the world market, we know
23 world material prices, so we're very mindful of those
24 costs and we do believe we'll be able to compete.

25 COMMISSIONER OKUN: Based on the information

1 you've provided thus far, you're out there talking to
2 customers about being back in the market and regaining
3 customers you may have lost during this process. Tell
4 me a little bit about how you're marketing. Are you
5 saying look, we took this time off but we now have a
6 product that's going to compete? Again, it's not
7 confidential, but help me understand how you're in the
8 market --

9 MS. BOULIGARAKI: We have been very open
10 with our customers. So what has happened with PMC
11 Specialties Group has been no secret with our
12 customers. They have known all the steps of the way
13 what PMC Specialties Group has gone through the years.
14 So the customers, and we have a pretty stable customer
15 base. The USA market is pretty stable. This is our
16 market, these are our customers here. We have been
17 serving those customers, I have been with PMC for 20
18 years, but it has been 30-something years that we have
19 been servicing. So again, they're aware. Because we
20 have been producing small quantities of product here,
21 so we have been selling to those customers. We have
22 had production of made in USA product from Cincinnati
23 plant. So we have been supporting them.

24 Yes, they really want us to be in
25 production.

1 COMMISSIONER OKUN: And those customers I
2 presume also know if you were trying to keep them by
3 importing Chinese product, they were aware of that as
4 well.

5 MS. BOULIGARAKI: Yes, they were aware of it
6 and we had to do that because one of the things that
7 you learn in sales and marketing, if you lose your
8 customers it's very hard to get them back. If you
9 disappear from the market for a year or two years,
10 it's very hard to go back and say okay, I'm back now
11 again, come back. So communication with the customers
12 is very important because they understand what you're
13 going through.

14 So yes, we have had that communication for
15 the last couple of years with all of them.

16 COMMISSIONER OKUN: Our witness this
17 afternoon from Tianjin Changjie, in their submission
18 they had indicated that PMC has entered into a joint
19 venture with two substantial Chinese producers of
20 saccharin and has contributed funds for the
21 construction of a saccharin -- I'm obviously being
22 warned that that is not marked, but it's not going to
23 be testified to. All right.

24 Let me go to an open source.

25 In a web release of which I have a copy,

1 past President Michael Buchanon indicated in a speech,
2 "PMC's representative office was founded in Nanjing in
3 1996. In 2002 the first joint venture --" I'll skip
4 over some of these names, "-- was established followed
5 by a second joint venture. A third one is brewing in
6 Jiang Chingjain for saccharin production of 15,000
7 metric tons per year which is two-thirds the
8 consumption worldwide."

9 Can you comment on whether that relates to
10 this product or if you're aware of anything to do with
11 --

12 MR. GORDON: May I ask, is that on the
13 record? I don't believe I've seen that.

14 COMMISSIONER OKUN: I believe it's from a
15 web -- This is from web site www.PMCChina.com which I
16 will provide to you and you can respond.

17 MR. GORDON: That's fine. It just didn't
18 sound familiar from the record we have.

19 COMMISSIONER OKUN: Can you respond to that
20 without seeing it, or you would need to see it?

21 MS. BOULIGARAKI: If I can have one second
22 just to review I can respond.

23 COMMISSIONER OKUN: Okay.

24 (Pause.)

25 MS. BOULIGARAKI: For the record, PMC has

1 made no investment at any joint venture in China with
2 any saccharin producer.

3 COMMISSIONER OKUN: Okay, then just for
4 post-hearing, just to clear it up, if you can put
5 whatever information --

6 MS. BOULIGARAKI: I will have that --

7 COMMISSIONER OKUN: We'll make sure it's on
8 the record because it's already there and I appreciate
9 that response to that.

10 Related to that, you've talked about the
11 volume impact if the order were revoked, and as part
12 of that you have talked about the increase in imports
13 and I'll direct this at Dr. Kerwin, I think it was
14 part of your presentation. And that if we look at the
15 period of review, the fact that there was this big
16 increase indicates likely intent and ability of the
17 Chinese to reenter this market.

18 In other cases where domestic producers
19 account for a portion of those imports, I've sometimes
20 looked at that and thought is that really indicative
21 if the industry itself is bringing in those imports.
22 So I look at that for what their volume should be as
23 opposed to looking at just what is capacity in China
24 and where are the other markets. so maybe help me
25 understand why you think in this case it's

1 particularly indicative of Chinese ability and intent
2 if the order were lifted?

3 MR. KERWIN: I think that's a very valid
4 question, but I think if you look at the specifics of
5 the numbers in 2008, that PMC Specialties accounted
6 for a relatively small percentage of what was imported
7 from China during that year. It's a fairly simple
8 question and they are no longer importing, so I think
9 if you do the calculation of the percentage of what
10 came in 2008 that was accounted for by them, it is
11 much less than I've seen in certain other cases that
12 have been under review.

13 COMMISSIONER OKUN: And just so I understand
14 the '08 data, and if anything is confidential put it
15 in the post-hearing, but in '08 if PMC was not
16 importing to service its customers, or did it change
17 to a non-subject source to serve? How did you serve
18 your customers in '08?

19 MR. KERWIN: Well, PMC imported from both
20 subject and non-subject sources. But in terms of an
21 overall percentage of the imports, whether from China
22 or from non-subject sources, I think we actually did
23 that calculation on a pre-hearing brief and it is not
24 a major part of the imports.

25 COMMISSIONER OKUN: Okay. I did see that

1 argument. I just wanted to make sure that I
2 understood that about '08. It was just that it was a
3 decreasing amount as time went on, but not that there
4 was, well, I'll go back and look at that because it
5 sounds like you've answered that.

6 With my yellow light on I'll just wait for
7 my next round for another question.

8 CHAIRMAN ARANOFF: Commissioner Lane?

9 COMMISSIONER LANE: Good morning.

10 Mr. Miller, I would like to start with you
11 because I'm not sure that I understood your answer to
12 Vice Chairman Pearson's question as to whether or not
13 you were producing today. So let me ask the question
14 a little bit differently.

15 Are you producing today and capable and are
16 you actually selling the product on the commercial
17 market today?

18 MR. MILLER: Yes, ma'am. We are producing
19 today. We are selling that product today. We have
20 shipments of that product going out of our warehouse
21 today.

22 COMMISSIONER LANE: Thank you.

23 Now I know in your brief you talked about
24 what you expect to achieve in the way of production in
25 2009. I would like to know how that compares to what

1 you were originally producing during the pre-
2 engineering stage, and if that has to be post-hearing,
3 that will be fine.

4 MR. MILLER: Yes, ma'am. I think it's best
5 handled in the post-hearing response.

6 COMMISSIONER LANE: Okay.

7 I have a question about your reengineering.
8 As I understand it, you felt that the process that you
9 were using was hazardous and you decided to come up
10 with a different formula, and with that you are buying
11 product from China that is now your input and so you
12 can skip this hazardous type production at your
13 Cincinnati plant.

14 MR. MILLER: Yes, ma'am.

15 COMMISSIONER LANE: The input that you are
16 buying from China, is that still in China the same
17 hazardous type production process?

18 MR. MILLER: The Chinese producers do use
19 the maumee process, and though there are some variants
20 within the maumee process, yes, they would generally
21 be using those hazardous inputs.

22 COMMISSIONER LANE: I'm going to take a
23 different tack than some of the questions that have
24 been asked before. I have some questions about the
25 product itself.

1 Are there still health concerns about
2 products using saccharin?

3 MR. MILLER: No, ma'am. Those have been set
4 aside and Zetta may have a little bit more
5 information, but certainly it is not considered a
6 carcinogen today. That labeling has been removed from
7 all saccharin products, and the government has
8 approved that.

9 COMMISSIONER LANE: How does the consuming
10 public know that saccharin made in China and used in
11 products made in the United States are safe?

12 MR. MILLER: The safety of saccharin in
13 general, whether it be our manufacture or Chinese
14 manufacture, is predicated on the specifications of
15 the product. It is our customers purchase from us,
16 and when we have purchased internationally we purchase
17 on specification. So we meet USP specifications and
18 food grade additive specifications as those apply to
19 the product end uses.

20 COMMISSIONER LANE: Are any of those
21 products inspected for safety reasons or contaminants?

22 MR. MILLER: Yes, ma'am. Part of the
23 analytical process not only looks at the chemical
24 makeup but there is a test for extraneous materials
25 and things like that. So --

1 COMMISSIONER LANE: How can one determine if
2 the saccharin used in a U.S. product such as
3 toothpaste is manufactured in China or manufactured in
4 the United States?

5 MR. GORDON: If it's consumed in the actual
6 production of a different product and substantially
7 transformed, you won't, my understanding is at this
8 time at least you don't need to indicate the origin of
9 all those different inputs.

10 COMMISSIONER LANE: So there's really no way
11 of knowing whether your toothpaste that has saccharin
12 in it, whether it's a U.S. produced saccharin or a
13 Chinese or other production?

14 MR. GORDON: That's correct. The same with
15 your fountain drink syrups and that sort of thing.
16 But the structure has been to rely on the
17 certifications of the manufacturers that they're
18 producing to United States Pharmacopeia or Codex
19 specifications.

20 COMMISSIONER LANE: I want you to now
21 compare the demand for saccharin in the U.S. market as
22 opposed to Equal which has aspartame; Splenda which is
23 made from sucralose; and this new product called
24 Stevia.

25 How do you see all of these other products

1 which are sugar substitutes, affecting the demand for
2 saccharin?

3 MS. BOULIGARAKI: The demand for saccharin
4 is stable in, has been stable for many many years.
5 You don't see the increase of saccharin demand because
6 there is, as you know, all these new artificial
7 sweeteners. But they are very expensive sweeteners
8 and they have not really gone through a lot of testing
9 into the market.

10 So the customers that are using saccharin,
11 they have been using saccharin for the last 30 years,
12 they're going to be using saccharin for the next 30
13 years. It's stable. But saccharin is never going to
14 increase. It's a stable, very stable product line.

15 COMMISSIONER LANE: So are you saying that
16 the prices for, I'll use the brand names. So the
17 price for Sweet & Low is so low as compared to Equal,
18 Splenda and Stevia that you don't see any threat?

19 MS. BOULIGARAKI: Again, saccharin is the
20 most cost-effective sweetener in the market. That's
21 why it has been used. It's a very old sweetener.
22 It's the oldest sweetener and that's why it has been
23 used for so many years.

24 COMMISSIONER LANE: If someone has used
25 saccharin for its products for a number of years, how

1 easy would it be for that manufacturer to switch to
2 another sweetener like aspartame or sucralose?

3 MS. BOULIGARAKI: It's not very easy to
4 switch because the taste. Everyone is very sensitive
5 to the taste. Everyone is talking about sweeteners in
6 the market. But the taste is very very important. So
7 Coca Cola, which is using saccharin in the Diet Coke
8 market, the fountains at McDonalds, they're not going
9 to be switching easily because the taste is very
10 important to them. So the consumer is very very
11 sensitive to that.

12 MR. MILLER: I might add there are stability
13 issues with regard to the product as well.

14 Typically saccharin is used in fountain
15 syrups, and it's used in fountain syrups because of
16 the storage conditions that those fountain syrups may
17 see which could be related to higher temperatures in
18 storage and things like that before they're used.

19 As opposed to a grocery product, two liter
20 bottles and cans of a product sweetened with
21 Nutrasweet. It has a shelf stability life only about
22 90 days. So the stability of saccharin, saccharin is
23 chosen because of its stability in one form versus
24 another. So there are reformulation issues related to
25 this stability in processing.

1 COMMISSIONER LANE: Let me stick with that a
2 little bit.

3 So aside from the taste, that manufacturers
4 wouldn't want to switch because their customers would
5 realize that, are there chemical reasons that people
6 couldn't switch easily to use another type of
7 sweetener?

8 MR. MILLER: One of the easiest comparisons
9 is that, I don't know too much about sucralose and
10 maybe the other one, but between Nutrasweet and
11 saccharin, saccharin can be used in baked goods
12 because when you bake them they're subjected to higher
13 temperatures in the baking process, whereas Nutrasweet
14 will not survive the baking process.

15 COMMISSIONER LANE: What is Nutrasweet made
16 from?

17 MR. MILLER: That's aspartame.

18 COMMISSIONER LANE: Okay, thank you and I'll
19 wait until my next round. Thank you, Madame Chair.

20 CHAIRMAN ARANOFF: Commissioner Williamson?

21 COMMISSIONER WILLIAMSON: Thank you, Madame
22 Chairman. I do want to thank the witnesses for taking
23 time to come here and helping us learn about what I'm
24 going to substitute for sugar in cooking now.

25 I wanted to, there have been a lot of

1 questions about your reengineering and the process. I
2 was just wondering, does the new process require fewer
3 workers or more workers than the old process?

4 MR. MILLER: The new process does require
5 fewer workers. We had to handle the hazardous
6 materials and to handle all that front end, as we
7 called it, processing, there were more workers
8 involved.

9 COMMISSIONER WILLIAMSON: To the extent you
10 can do this, maybe tell us how much you've been
11 producing each month or each quarter as you've been
12 ramping up, the forecast. I don't know if that is
13 already on the record or not, that is post-hearing.

14 MR. MILLER: I think we can address that in
15 the post-hearing because those numbers we consider
16 confidential.

17 COMMISSIONER WILLIAMSON: Understood.

18 Also maybe the employment numbers too as
19 they relate to that construction buildup.

20 MR. MILLER: Okay.

21 COMMISSIONER WILLIAMSON: Thank you.

22 The workers, during the shutdown period,
23 were they working on other products, were they on
24 leave, or what happened to them?

25 MR. MILLER: I think what you have to look

1 at is when the plant shut down in mid 2006 saccharin
2 was but a portion of a much larger physical plant
3 operation. So the number of saccharin workers, there
4 were some furloughed, but there were many more
5 furloughed for these other production activities.

6 We are operating at a much reduced staffing
7 level at present, but as I'd indicated earlier, we
8 have about ten people committed right now to the
9 saccharin operation. We have added a shift as we have
10 ramped up. And we expect to be operating on a five
11 day, three shift scenario going forward in this
12 production process.

13 COMMISSIONER WILLIAMSON: I take it this
14 equipment is only used for saccharin?

15 MR. MILLER: Yes, sir.

16 COMMISSIONER WILLIAMSON: Are you still
17 producing other products at the plant?

18 MR. MILLER: We have other products at the
19 plant. They are in our anti-corrosive products
20 product line and some specialty chemicals, but their
21 volumes have been significantly reduced and they're
22 really formulations where we've been able to supply
23 our customers and it's not economically viable to
24 purchase those or make those elsewhere.

25 COMMISSIONER WILLIAMSON: You talked about

1 the demand for saccharin is very stable, but how do
2 you think the demand is going to be affected by the
3 recession?

4 MS. BOULIGARAKI: I think, again, 2008 it
5 was a very unusual year for the whole chemical
6 industry. And what you saw is, you saw panic in the
7 market. The customers were buying product before the
8 Olympics because nobody really knew what China is
9 going to do after the Olympics. So right now really
10 what we are facing in USA, the recession we are facing
11 is really because of 2008, what happened there,
12 because the warehouses are full. Everybody has full
13 warehouses because they were so afraid. That's why
14 the prices went up, not only on saccharin, on pretty
15 much every other chemical. Any chemical that you were
16 purchasing last year, there were major price
17 increases.

18 So do we see the effect of the recession
19 right now? Yes, we do. But it is because of last
20 year because customers have full warehouses. At some
21 point the levels will be reduced. But saccharin is
22 very stable. Toothpaste, people are always going to
23 use toothpaste to brush their teeth. They're going to
24 be drinking Diet Coke and Diet Sprite. So saccharin
25 is not really affected. If it was using to the

1 automotive industry I would say yes, we would see a
2 tremendous decrease. But right now our sales are
3 lower, but it is not because of the recession, it is
4 because of last year.

5 COMMISSIONER WILLIAMSON: In other words the
6 end uses are relatively recession proof to the extent
7 --

8 MS. BOULIGARAKI: Yes. I would say to you
9 no one is recession proof 100 percent. There is no
10 industry that is recession proof, but saccharin is
11 stable.

12 COMMISSIONER WILLIAMSON: Thank you for that
13 clarification.

14 I was wondering, if you haven't already done
15 so, any production plans, business plans that you had
16 before you actually started the reinvention that kind
17 of shows what you were expecting and all that. To the
18 extent this can be provided, unless you've already
19 done so.

20 MR. GORDON: Just to clarify, from before
21 the period? Because we have put projections on the
22 record concerning the current mode. So you're looking
23 for pre-shutdown.

24 COMMISSIONER WILLIAMSON: Fine.

25 MR. GORDON: Just to make sure we understand

1 --

2 COMMISSIONER WILLIAMSON: If there are any
3 internal documents, just to help make us feel
4 comfortable about understanding this is an ongoing,
5 viable business.

6 MR. GORDON: Okay.

7 COMMISSIONER WILLIAMSON: You've argued that
8 we shouldn't exclude PMC as a related party, but what
9 if we were to do that? How would we conduct our
10 volume price and impact analysis?

11 MR. GORDON: I think it would be a fairly
12 brief analysis. If you don't have a domestic industry
13 there is no risk of recurrence or continuation of
14 injury. I think you saw that in Sulfanilic Acid and
15 also, or Sebacic Acid, and also in the Indigo case.
16 But we are here today testifying to the state of
17 affairs. The company is producing. The staff
18 investigator and the industry specialists saw that
19 happening. The company is committed to reentering the
20 market with a more efficient process. So I would say
21 that's not an issue that you need to reach.

22 COMMISSIONER WILLIAMSON: Thank you.

23 MR. GORDON: If I had my way.

24 (Laughter.)

25 COMMISSIONER WILLIAMSON: Thank you.

1 I was wondering, when you were importing
2 subject and non-subject products to fill the gap from
3 the shutdown, did you indicate, customers expressed a
4 preference for having Chinese or non-subject product
5 or, was that an issue for many of your customers?

6 MS. BOULIGARAKI: The customers have
7 approved, that they are using again saccharin. Maybe
8 in some other parts of other plants that they have
9 around the world. So they were familiar with some
10 material from China.

11 Everybody was concerned, but they were
12 concerned too because of this "global shortage" which
13 was really an artificial global shortage of a
14 situation. It was not real. So customers, and as
15 long as, they have known us for a long time and they
16 knew that we have implemented the quality requirements
17 to make sure that the product that we have been
18 importing for them is passing all the quality
19 requirements.

20 So they were happy we were providing that
21 service for them.

22 COMMISSIONER WILLIAMSON: So you're saying
23 as long as you assured them that the quality was going
24 to be --

25 MS. BOULIGARAKI: The quality, yes. But

1 definitely they want to go back and purchase material
2 maybe in USA because it's a lot easier to visit
3 Cincinnati facility in Ohio for audits. We are ISO-
4 35, they can talk to our quality assurance people
5 instead of like trying to reach somebody in China.

6 So yes, everyone in the industry right now
7 is very concerned, very concerned about products
8 coming from China, India and other countries,
9 especially when it comes to human consumption.

10 COMMISSIONER WILLIAMSON: Okay.

11 Responses from purchasers indicate that
12 prices of non-subject imports tend to differ from
13 PMC's prices. The Table 2-7 sort of indicates that.
14 I was wondering, do you think this information is
15 accurate? And to what extent do imports from non-
16 subjects compete with PMC's products?

17 MR. GORDON: Well, Commissioner, as you'd
18 expect the two people best situated to respond to that
19 can't see those data, unfortunately. Perhaps Mr.
20 Kerwin and I, we'll do some further analysis and
21 respond to that in the post-hearing brief, unless Mr.
22 Kerwin has something he wants to add to that now.

23 MR. KERWIN: It would probably be best to
24 answer it in the brief.

25 COMMISSIONER WILLIAMSON: That's fine.

1 Thank you.

2 Since my time is expiring, thank you for the
3 answers.

4 CHAIRMAN ARANOFF: Commissioner Pinkert?

5 COMMISSIONER PINKERT: Thank you, Madame
6 Chairman, and I join my colleagues in thanking you all
7 for being here today and for helping us understand
8 what's going on in this industry.

9 Mr. Kerwin, the first question I have is for
10 you. Does the existence of the order provide a
11 competitive advantage for certain importing activities
12 as distinct from production activities in the United
13 States?

14 MR. KERWIN: Does the order -- To the extent
15 that U.S. pricing is higher because of the order, yes,
16 that would be beneficial to a domestic producer or an
17 importer of the product. To the extent that it's
18 higher than other global markets.

19 COMMISSIONER PINKERT: Perhaps this is a
20 question you can follow up on in the post-hearing, but
21 looking at all the submissions that we've received to
22 date, there is a question about a competitive
23 advantage issue, and I don't want to discuss it in any
24 detail in a public hearing but it may be something you
25 can comment on in the post-hearing.

1 MR. KERWIN: We'd be happy to do that.

2 COMMISSIONER PINKERT: Thank you.

3 We had received testimony in response to
4 earlier questions at this hearing concerning the
5 employees who are currently dedicated to producing
6 saccharin in the United States, but I wasn't clear
7 whether those ten employees are only focused on
8 producing saccharin or whether they're involved in
9 producing various products at the plant.

10 MR. MILLER: Those ten employees are focused
11 primarily on saccharin production and have been
12 dedicated to that operation. So we're focusing their
13 activities, there are days, there are operating times
14 where they are assigned to other things as the cycle
15 of the process may change, but their primary job and
16 the reason that they're there is dedicated on
17 saccharin. That's why we have moved back to a three
18 shift operation, to keep the saccharin operation. It
19 requires that kind of operating time schedule for best
20 efficiency and that's why we've moved back to that.

21 COMMISSIONER PINKERT: for the Post-Hearing
22 could we quantify the amount of time devoted by those
23 ten employees to saccharin as opposed to other
24 production activities?

25 MR. MILLER: yes, sir.

1 COMMISSIONER PINKERT: Thank you.

2 We've talked a little bit about the
3 projections that you have submitted to the ITC in this
4 case. Do you have any projections about continued
5 importation into the United States by your company
6 going forward over the next year, year and a half?

7 MS. BOULIGARAKI: For right now our primary
8 focus is to produce saccharin in our Cincinnati plant.
9 As you know from the records we have not imported any
10 material 2009 because, again, our effort is to
11 concentrate just on our USA production.

12 COMMISSIONER PINKERT: But do you have any
13 internal projections about importation in the future?

14 MS. BOULIGARAKI: We will try, we will do
15 our best to cover our needs for our customer base by
16 utilizing the plant in Cincinnati, Ohio. Our job is
17 to make sure we have customers, we have customers to
18 sell. That's our duty to our customers. So if we
19 think like later on we might need to have imported
20 saccharin we might do it, but for right now our
21 primary focus is USA production.

22 MR. GORDON: Commissioner Pinkert, if I may
23 add a bit of context. I think it would be important.
24 With respect to questions concerning business plans,
25 internal projections, internal analyses, things like

1 that, this is a very very small company who's been
2 going through an extremely difficult time. They do
3 not have the staff who are say running large SAP
4 programs to calculate the kind of internal cash flow
5 projections we all might like to have. I offer that
6 not as a point of being defensive but simply as a
7 point of context. I think in that respect this
8 company, this industry differs fundamentally from some
9 other industries that you may have seen before the
10 Commission, say steel industries who have gone through
11 multiple trade cases and who are quite large, that
12 sort of thing.

13 COMMISSIONER PINKERT: I understand that and
14 I appreciate that. If there's any information you can
15 provide on that issue in the post-hearing that would
16 be helpful.

17 Also in the context of making projections,
18 maybe reasonable projections, back of the envelope
19 projections, whatever it is that you're able to do, do
20 you make any assumptions about near term price
21 movements in raw material prices?

22 MR. MILLER: We're always very concerned
23 about raw material prices and in our efforts to
24 evaluate the key raw materials that we need for this
25 production process it has been a major point of

1 production, concern and consideration. We believe
2 we'll be able to secure material at an appropriate
3 price level and that's what we hope to do.

4 MS. BOULIGARAKI: To add to this, the whole
5 world is concerned about that. I mean nobody knows
6 what the oil is going to do six months from now or
7 three months from now. So all of us, we try to, when
8 we engineer the process we concentrate on things we
9 can control in your process. You need to have a
10 product that can sell and be cost effective. There
11 are things that you always might not have control
12 about. Those things you just try to deal as they
13 arrive.

14 But yes, you are absolutely correct. Raw
15 materials can go up or down. Things change into the
16 market. But the process is designed to be able to
17 produce saccharin less costly than what it was before
18 and that was our main focus, to be able to do this.
19 Because if you don't have the process there is no way
20 you can compete in the world market.

21 To us, we had a humongous plant, a huge
22 plant in Cincinnati, Ohio which you have seen, then we
23 had to kind of downsize the plant and concentrate to
24 be able to produce saccharin in smaller quantities,
25 and that was something very difficult because we had

1 been producing saccharin there for 30 years. The
2 people that had been involved into the process have
3 been involved for many many years. So it was
4 fundamentally we had to change a lot of things, how we
5 saw this whole operation. So it was not like an easy,
6 I know it took us a lot longer than we wanted, but it
7 was not an easy process to do that.

8 MR. MILLER: I will add one point on the raw
9 material prices. Chemical prices are all relative, so
10 the cost of our intermediate is relative to the cost
11 of the end product. If our raw materials are going
12 up, the basic raw materials used to make saccharin by
13 the older, heavier method are also going up.

14 Again, we are very sensitive to that and it
15 tends to be relative.

16 COMMISSIONER PINKERT: Is it fair to say
17 that your overall raw material cost is less sensitive
18 to the price of petroleum now than it was under the
19 earlier process?

20 MR. MILLER: I would answer that it's still
21 the same relative, as oil goes up the raw materials
22 are going to go up so I would say there's still the
23 same relative pricing concern and consideration.
24 Higher oil prices will mean higher organic raw
25 material prices. We've seen that time and time again

1 over the year.

2 MS. BOULIGARAKI: The process, the process
3 is more competitive today than it was before. So in
4 the saccharin, it's just not, the raw material will
5 affect your end cost but it's all the different steps
6 you have to undergo to produce your end products.
7 That's where you add your cost.

8 COMMISSIONER PINKERT: My follow-up question
9 on this is for Mr. Kerwin. That is, can this industry
10 cover increasing raw material costs if we assume that
11 they might increase over the next year or two, under
12 the assumption that the order continues?

13 MR. KERWIN: I don't think, as our witnesses
14 just mentioned, I don't think anyone has a clear
15 picture of where the price of oil is headed and
16 therefore where their costs of raw materials may be
17 headed. But I think it's a safe assumption that if
18 the order remains in place their ability to pass
19 through increased costs in their raw materials in the
20 form of the price of their finished product is going
21 to be certainly, have a much better chance of doing
22 that than without the order in place. We see a
23 tremendous amount of pricing out of China on various
24 products that appears to have very little relationship
25 to the actual costs involved in producing the item.

1 So that's one of the things that an antidumping duty
2 order is able to achieve is to make sure that those
3 costs as incurred by the Chinese will be reflected in
4 the price of the finished product.

5 COMMISSIONER PINKERT: Thank you.

6 Thank you, Madame Chairman.

7 CHAIRMAN ARANOFF: You've told us that your
8 reengineered production process uses a new
9 intermediate input and I wanted to ask some
10 information about that input and how you're obtaining
11 it. I recognize that some of that's going to be
12 confidential so whatever you can answer publicly will
13 be great and anything else confidentially post-
14 hearing.

15 In particular I'm interested in whether this
16 new input that you're using is a globally traded
17 product such that you had a choice of sources for
18 purchasing this input, and also whether there are
19 other saccharin producers around the world who use
20 this product as a starting point in their process.

21 MS. BOULIGARAKI: At present there is no USA
22 production of this starting raw material. The only
23 production that we are aware of is in China. To the
24 best of our knowledge no other producers of saccharin
25 in the world are using this raw material right now.

1 CHAIRMAN ARANOFF: Following up on the
2 questions that Commissioner Pinkert was asking
3 regarding petroleum prices and how that affects your
4 cost structure, and you may need to answer this post-
5 hearing, but what I'm trying to figure out is whether
6 you have a contract with your supplier of this input
7 or suppliers, I don't know if there's one or more,
8 which addresses fluctuations in oil prices, how that's
9 handled between you and your supplier of your
10 intermediate input. Whether there's a price term that
11 adjusts for oil prices, or whether you're just buying
12 at spot markets with each purchase, how that's
13 handled.

14 MS. BOULIGARAKI: Definitely we can address
15 that because some of this information could be
16 considered confidential. But yes, we do have some in
17 place to address oil prices going up and all that.
18 Yes, we do have. And there are multiple sources right
19 now.

20 At the beginning our concern was to figure
21 out the chemical process and be able to design that
22 for Cincinnati. Then the starting raw material, we
23 had a source. But we could source it from multiple
24 places right now.

25 CHAIRMAN ARANOFF: So when you respond

1 confidentially I'm obviously interested in hearing
2 about what the purchase terms are for this product,
3 how it accounts for petroleum prices, who the
4 potential suppliers are, and whether those suppliers
5 are saccharin producers in China or whether they're
6 other companies.

7 Okay, I'll look forward to those answers.

8 I wanted to go back to the issue of claims
9 that are made in your brief about circumvention of the
10 order. This is a situation that's come up in some
11 other reviews that we've done where there have been
12 assertions and there have been sort of anecdotal
13 evidence or sort of pieces of facts that might lead
14 one to reasonably believe that circumvention was
15 taking place, but the Commission as an agency doesn't
16 really have a legal ability to identify circumvention.
17 That's something that either the Commerce Department
18 or the Customs Service generally does.

19 In the past we basically acknowledged these
20 facts but not been able to rely upon them to support
21 our determination in a review because there weren't
22 any definitive findings from Commerce or Customs that
23 we could cite to and say it's definitely
24 circumvention. Is that the situation we're in here?

25 MR. GORDON: If I may respond to that, as

1 you know almost all of our discussion about the
2 company's work to deal with circumvention is
3 confidential. I will say, to answer your question, in
4 the very detailed discussion both in our February 17th
5 submission and also in our pre-hearing brief we
6 provide concrete evidence of what the company has been
7 doing to address circumvention. And also I think what
8 may be most pertinent for your purposes would be we
9 provide specific contact information for the
10 Commission to reach out to the agency or agencies with
11 which we've been working to obtain information that is
12 out there. We'll be happy to revisit this issue, but
13 I will note there's a lot of discussion on the record.

14 Understanding that it's maybe not an area
15 that's sort of ordinarily front and center in some of
16 these cases, I think you're going to see it more, in
17 more cases. We took pains to be as detailed and up
18 front about that as we could be so you could have as
19 much to work with as early in the process as you had.

20 CHAIRMAN ARANOFF: I understand what you're
21 saying. I guess what I'm telling you is as a legal
22 matter our response in the past has been to say unless
23 there's a finding by Commerce or Customs that's on the
24 public record or otherwise in front of us saying yes,
25 this is circumvention, we've basically not relied on

1 any of these allegations in the past. So if you can
2 make me a legal argument why we should handle it
3 differently here, and in fact I'm not aware that we've
4 ever gone and sent our staff to talk to staff at
5 Customs or Commerce and said how are you doing on that
6 circumvention investigation that you haven't published
7 any findings in, and I'm not sure that would be
8 legally permissible either.

9 So as a legal matter I'm interested in your
10 thoughts on that.

11 MR. GORDON: Firstly, with respect to any
12 findings, as we have discussed publicly the Department
13 of Commerce included an Indian company within the
14 scope of the order, in the course of the first
15 administrative review, an Indian company Beta Udyog.
16 We had included them in a review request given our
17 understanding that they were circumventing the order
18 by transshipping Chinese product.

19 Commerce sent them a questionnaire. They
20 did not respond. They failed to respond. The
21 Department of Commerce then appropriately, under the
22 statute, included the company as a matter of assigning
23 a total adverse facts available.

24 They had no information to go on so the
25 reasonable legal presumption was that had the company

1 not been circumventing they would have responded to
2 that effect.

3 And I will note that in other situations
4 where we have asked to have third country companies
5 examined, given concerns about circumvention, the
6 Department of Commerce's practice has been that they
7 will send them a questionnaire. A company can respond
8 to that by saying and certifying we are not
9 transshipping Chinese product. At that point the
10 burden shifts back to the domestic industry to provide
11 some evidence in fact to overcome that contention.

12 Here the Indians didn't show up at all.
13 There's no question about whether they received the
14 questionnaire and that kind of thing. That's never
15 been an issue.

16 So yes, there is a formal finding in the
17 course of the first administrative review.

18 With respect to efforts at other agencies, I
19 think it would be entirely appropriate for the
20 Commission staff within the purview of their duties as
21 an investigator, to reach out to a sort of a
22 coordinate government entity to seek information that
23 could be put on the record confidentially. I know of
24 no bar to that, I'll put it that way, within the
25 statute, and I think to the extent there are concerns

1 about this and it is a very relevant issue to this
2 review, I think it would be appropriate to do so.

3 CHAIRMAN ARANOFF: Okay. I appreciate those
4 responses. It gives me some things to think about.

5 I know some of my colleagues have asked this
6 question before so maybe I'm just going to turn around
7 and ask it another way just to make sure that I
8 understand the answer.

9 But my understanding is that PMC is not, in
10 2009, not importing product from China?

11 I'm seeing a nod with respect to that.

12 So if your production level isn't yet up to
13 what you intend or what you were producing before the
14 shutdown, how are you now bridging that gap between
15 your prior level of sales and your current ability to
16 produce in terms of serving your customers?

17 MS. BOULIGARAKI: Again, we have imported,
18 as you know from the record, material last year and
19 again, the recession, we have seen that, the slow down
20 of sales. All the customers, all the markets. So for
21 right now we have inventory in stock from last year we
22 are selling to our customers and we are producing
23 saccharin right now. So right now we have saccharin
24 produced made in USA so we are selling that saccharin
25 that we're producing too.

1 CHAIRMAN ARANOFF: So your current intention
2 is that by the time your inventories run out you're
3 going to have enough domestic production --

4 MS. BOULIGARAKI: Exactly. Exactly. We
5 will be able to do that.

6 CHAIRMAN ARANOFF: Let me ask you this, and
7 the answer may be confidential. As you made the
8 decision to reengineer your process, how did you
9 decide how much capacity to build? What were you
10 looking at in terms of how to decide what capacity,
11 what amount of saccharin you should be able to produce
12 at the end of the process as opposed to what you were
13 producing under your prior process?

14 MS. BOULIGARAKI: One of our focus was our
15 customer base. The customers that we have kept
16 through the years that they wanted to purchase
17 material made in USA product. So we looked a specific
18 group of customers and focused on those customers.

19 CHAIRMAN ARANOFF: So because you view the
20 demand profile for the product as stable you were
21 looking at basically, you have a pretty good idea of
22 how much demand is out there.

23 MS. BOULIGARAKI: Exactly. Again, we have
24 been into this market for many years, 30-something
25 years, so we do have a lot of data. We have known

1 those customers. So we concentrate with a specific
2 group of customers.

3 CHAIRMAN ARANOFF: Of course the customers,
4 there are obviously other purchasers in the U.S. who
5 are using imported product because you weren't at any
6 point serving the whole market.

7 MS. BOULIGARAKI: No, no.

8 CHAIRMAN ARANOFF: So you weren't planning
9 on winning those other customers over.

10 MS. BOULIGARAKI: Our plan was at the
11 beginning let's concentrate on this customer base, and
12 as we expand the process and we reduce our costs and
13 we become more familiar, yes, to expand too. So we're
14 not limited just to this specific area. But at the
15 beginning, step one is to go there. Then when you are
16 there, then you are thinking to move forward.

17 CHAIRMAN ARANOFF: So this new process that
18 you have, you have the capability to expand the
19 capacity beyond --

20 MS. BOULIGARAKI: Absolutely.

21 CHAIRMAN ARANOFF: -- sort of the current
22 projections that you --

23 MS. BOULIGARAKI: Yes, absolutely. We do.

24 CHAIRMAN ARANOFF: Okay.

25 Mr. Miller, you wanted to add something?

1 MR. MILLER: Yes, I would just simply add
2 yes, the old process design, simply put, there was a
3 front end process and a back end finishing process.
4 We're utilizing the back end finishing process which
5 by former capacity evaluations has a very huge
6 capacity of through-put. We're using a fraction of
7 that through-put right now, but the unit can run at a
8 higher production level. So we've kind of
9 artificially derated ourselves right now and just not
10 using that capacity, but that equipment has been
11 capable of producing significant amounts greater than
12 our current projection.

13 CHAIRMAN ARANOFF: But the new front end is
14 more limited, or that could be -- Would you need to
15 invest in new equipment to expand it?

16 MR. MILLER: We may need to de-bottleneck
17 some of the front end based upon how we're operating
18 in the new reengineered process, but the equipment is
19 not, I'll say it this way. It's fairly common
20 equipment and it's not particularly costly. There's a
21 device that's part of the back end operation that is
22 unique to our process and that is in place and it's
23 still operational and has greater capacity.

24 CHAIRMAN ARANOFF: Thank you very much, and
25 thank my colleagues for your patience because I know

1 my light's been on for a bit.

2 Vice Chairman Pearson?

3 VICE CHAIRMAN PEARSON: Not a problem,
4 Madame Chairman. You take fewer liberties with the
5 red light than some of us do.

6 Going back to the questioning about the
7 processing that had been taking place in Israel, I
8 think I'm correct to understand that that involved
9 insoluble acid that was coming from China and then
10 being further processed in Israel.

11 How does that process differ from the new
12 process that PMC is operating in Ohio?

13 MR. MILLER: The conversion of acid
14 saccharin to sodium saccharin, we have consistently
15 believed is not a substantial transformation of the
16 molecule and therefore we don't consider that as
17 changing the country of origin, for example, or
18 whatever. I think that U.S. Department of Commerce
19 requirements that we live under substantiate that.

20 Our new process is a substantial chemical
21 transformation of the intermediate to the final
22 product and I know that your reviewers have looked at
23 that carefully and we're very confident about that
24 transformation.

25 VICE CHAIRMAN PEARSON: Was there any

1 linkage between the scope requested, the decision to
2 withdraw the scope request and the decision to
3 implement a new process in Ohio?

4 MR. MILLER: I don't have information on
5 that.

6 MS. BOULIGARAKI: As I mentioned before, we
7 just decided to focus on our USA production facility,
8 the plant, and not to dilute our attentions or dollars
9 to that case. That was it.

10 VICE CHAIRMAN PEARSON: Thank you.

11 Mr. Miller, I know we keep going around
12 this, but is PMC currently producing what would be
13 considered to be commercial quantities of saccharin?

14 MR. MILLER: Yes. We have been producing
15 throughout the month. We produced some in February,
16 and that material is literally moving out of the
17 warehouse as we speak.

18 VICE CHAIRMAN PEARSON: The reason for
19 asking, it's been an interesting dialogue back and
20 forth with the commissioners and I'm trying to get a
21 clearer understanding of this business. Then I
22 realize, well I've been in various plans that had a
23 pilot plant or a laboratory scale plant to work on
24 changes in the process or whatever. So my question
25 specifically is, are you doing more than just running

1 a pilot plant currently?

2 MR. MILLER: Yes, sir. We are operating our
3 full capacity production equipment somewhat in a
4 piloting mode. I only hesitate because I'm not sure,
5 some of this is confidential and we're really prefer
6 in a public forum not to disclose it.

7 VICE CHAIRMAN PEARSON: Fair enough. I
8 would be pleased if you would explain it in your post-
9 hearing brief.

10 MR. MILLER: And I can tell you that we're
11 not operating a pilot scale operation. This is the
12 full production equipment in it's regular production
13 flow mode. So it's going through the equipment as if
14 it were the normal reengineered production process.
15 It's just operating at a lower level right now, at a
16 reduced throughput right now.

17 VICE CHAIRMAN PEARSON: Thank you for that
18 clarification.

19 In what form is the chemical feed stock
20 being imported? Does it come in as a liquid? As a
21 dry product?

22 MR. MILLER: It's a solid product, powder
23 form. Not actually a powder, it's a moisture wet
24 material but it's in a regular pourable form, solid
25 material.

1 VICE CHAIRMAN PEARSON: Is it coming in in
2 super sacks, in containers, in drums or --

3 MR. MILLER: Typically we handle it in 110
4 pound containers. Fiber drum containers.

5 VICE CHAIRMAN PEARSON: Okay. So those
6 would be packed into a container in China or into a
7 portion of a container.

8 MR. MILLER: Yes, sir. Brought in and
9 they're physically charged by our operators into the
10 production equipment.

11 VICE CHAIRMAN PEARSON: Okay.

12 The 2008 financial data for PMC indicate a
13 significant increase in the per unit raw material
14 costs. Can you discuss that? Why the reason for the
15 large increase? If that's a post-hearing issue I
16 would accept it then.

17 MR. MILLER: I'm sorry, I'm not quite sure I
18 understand your question, sir.

19 VICE CHAIRMAN PEARSON: My understanding of
20 the 2008 financial data indicated that there was a
21 significant increase in the raw material costs that
22 PMC has for producing saccharin that would perhaps be
23 related to shifting to this new input chemical. But
24 I'm wondering what you can tell us about that, and
25 would you expect the same type of costs through 2009?

1 MR. MILLER: I can say that the intermediate
2 chemical that we're using is a much higher cost raw
3 material than raw materials from the older process
4 where we started with very much more basic chemical
5 materials. So we are paying a much higher cost for
6 that intermediate raw material, and then finishing it.
7 But as I think I had mentioned earlier, we do believe
8 we are competitive in the market with an end sales
9 price based on that, though higher raw material cost,
10 the finished good can still be sold at a competitive
11 price.

12 MR. GORDON: If I can add to that briefly,
13 I think more to the point of your question, Vice
14 Chairman, Mr. Miller testified earlier about some very
15 unusual yield, aberrational yield experiences when
16 they were first going through the production startup
17 and I think you see the unusual problems flowing
18 through into the per unit cost.

19 VICE CHAIRMAN PEARSON: Oh, I see what
20 you're saying. That would have the effect of
21 artificially inflating the unit cost.

22 MR. GORDON: Yes, and as the company has
23 worked through those problems my understanding is the
24 yields have dramatically improved so --

25 MR. MILLER: You're right.

1 MR. GORDON: -- accordingly you'll see --

2 VICE CHAIRMAN PEARSON: Okay, so there is
3 the prospect of getting somewhere into financial
4 harmony here where there might be a profit at the end
5 of the day, that type of thing.

6 MR. MILLER: Absolutely.

7 VICE CHAIRMAN PEARSON: Mr. Kerwin, I think
8 you indicated earlier that you don't believe that PMC
9 accounted for a substantial share of imports from
10 China in 2008. Do you hold the same view if you look
11 at the combined volume of what PMC imported from China
12 and its purchases of product imported by other firms?

13 MR. KERWIN: I don't know the answer to that
14 right off the top of my head. I'd be happy to address
15 that in the brief.

16 VICE CHAIRMAN PEARSON: Okay. I'm just
17 trying to understand what's substantial in this.

18 MR. KERWIN: My recollection is I would
19 probably stand by that statement, but I really should
20 look at the numbers and be specific.

21 VICE CHAIRMAN PEARSON: Okay, I will look
22 forward to seeing that.

23 Madame Chairman, I may have other questions
24 but I can't find them right now, so let me pass.
25 Thank you.

1 CHAIRMAN ARANOFF: Commissioner Okun?

2 COMMISSIONER OKUN: Thank you, Madame
3 Chairman. And again, thank you for all the responses
4 we've had so far.

5 On the demand question, I've heard the
6 responses, the mature market and it looks stable going
7 forward. I'm not sure, is there anything that gives
8 projections for the next couple of years on saccharin
9 use in the United States that could be put on the
10 record? I understand the argument that you think '08
11 was an aberrational time, but again, just for
12 completeness of what we consider demand conditions
13 going forward, is there anything else you would have
14 us look to, or just what you've --

15 MR. GORDON: I don't think we've put
16 anything on the record at this time concerning that,
17 but I think there are materials in the record, in the
18 confidential record, that do speak to that. We'll be
19 happy to address that further in a --

20 COMMISSIONER OKUN: Okay, I understand your
21 argument about '08 and I understand what we heard from
22 purchasers, but just looking forward, I wasn't sure we
23 had the best information we could look at in terms of
24 demand.

25 I just wanted to go back to the discussion

1 about the conditions that allowed the company to have
2 this reengineering and what that means looking
3 forward. As I understood you, you thought the order
4 had a beneficial impact because of the ability to
5 increase market share, but that during that period the
6 company also was facing these raw material issues, the
7 reliability concerns, and that was why it took the
8 step of taking production off line in order to
9 reengineer.

10 I'm just trying to understand how you see
11 things now looking forward, I guess one looking back
12 part. How much did the circumvention or the presence
13 of non-subject imports contribute to that decision?
14 To shut down at that point and the need to reengineer.
15 How much of it was that versus the other things you've
16 talked about? Mr. Miller?

17 MR. MILLER: I alluded to this earlier, but
18 the product mix at our Cincinnati location in 2006 was
19 such that saccharin was not the predominant production
20 product at that point in time. It was clearly not as
21 important to us then as it is today.

22 Therefore, the decision to shut down was
23 predicated on looking at a much different product mix
24 where we had large commodity chemicals that we were
25 losing market share and could not competitively

1 produce and could be purchased from other sources. So
2 that was much more part of the decision to shut down
3 the total plant site in 2006 than anything that
4 specifically related to the saccharin market.

5 I hope that answers your question.

6 COMMISSIONER OKUN: So in looking forward
7 with the reengineered product, the other conditions
8 that you've talked about, and I think Mr. Kerwin
9 talked about conditions of competition in this market.
10 You've been asked questions about whether your new raw
11 material, what the contract will look like. So
12 whether you're better able to control raw material
13 prices going forward than maybe you were before.

14 Your competitiveness vis-a-vis the non-
15 subject imports. When you decided during this period
16 you were shut down that you needed to import and you
17 chose to use both non-subject and subject imports as
18 you've testified to. In the future, competing against
19 non-subject imports, how do you see your
20 competitiveness now? You said there were new entrants
21 in the market with saccharin. Do you see them
22 behaving differently in this market? Do you have any
23 sense of that? Are they lower priced, higher priced?

24 MS. BOULIGARAKI: With our new process we
25 will be able to compete with non-subject materials, so

1 yes, we are confident with the new process.

2 One of the things that I want to clarify for
3 you, Mark has been talking to you. The old process,
4 saccharin was a part of a very big process. So now
5 today we just produce saccharin. We don't care about
6 all the other chemicals that were part of a continuous
7 process. I think that's where we, our cost
8 effectiveness today versus before is because we
9 concentrate just on saccharin. So the other chemicals
10 we are not really, we took them out of the process.
11 That's where I think our advantage is today versus two
12 years ago or three years ago when we decided okay, we
13 have to shut it down, because where we were going, we
14 did not have a process capable of producing saccharin.
15 It was producing a lot of other things, saccharin
16 included in a continuous process.

17 COMMISSIONER OKUN: I understand that now.
18 So now by changing the process you now focus on --

19 MS. BOULIGARAKI: We concentrate on that,
20 yes.

21 COMMISSIONER OKUN: -- on saccharin. I know
22 there was a capacity question. I think it may be
23 there in part of the business plan that was submitted,
24 but if you can for post-hearing just make sure I
25 understand what the capacity and what the cost of

1 production are going forward, taking into account the
2 problems that have been encountered and how you'll
3 address them, just to update that information, to make
4 sure we're clear about that.

5 I guess I would just join the Chairman
6 requesting you to brief on the circumvention issue
7 because I know, I've been here a number of cases where
8 people have made the request. And I understand your
9 argument, Mr. Gordon, that we may not be barred from
10 asking another agency. I think it would be helpful
11 for you still to address, again, the agency looks to
12 information that is verifiable. We want the best
13 information on the record when we make a decision, and
14 help me understand why you think this might be
15 different than in some of the other cases where we've
16 had similar requests, where we would change the
17 approach the Commission has. I would appreciate
18 seeing that post-hearing.

19 MR. GORDON: We'll be happy to address that.

20 COMMISSIONER OKUN: I think with that I
21 don't have any further questions, but I do want to
22 thank you and I'll look forward to seeing the
23 information on post-hearing. I know it's been
24 difficult because a lot of this information is
25 proprietary, and again asking for information post the

1 questionnaire, but in this case I do think it's
2 particularly important for us to be able to evaluate
3 conditions going forward.

4 Thank you, Madame Chairman.

5 CHAIRMAN ARANOFF: Commissioner Lane?

6 COMMISSIONER LANE: Thank you.

7 Could you tell me what else you are
8 producing at your plant now in Cincinnati other than
9 the saccharin?

10 MR. MILLER: Yes, we continue to produce a
11 number of anti-corrosive compound formulations at our
12 production site. We also have some specialty
13 chemicals that we are producing.

14 COMMISSIONER LANE: And you plan to continue
15 producing those chemicals?

16 MR. MILLER: Yes, we do.

17 COMMISSIONER LANE: Would you be able to
18 place on the record post-hearing how much saccharin
19 you have actually sold in January, February and March
20 of this year?

21 MR. MILLER: Yes, we'll be able to do that.

22 COMMISSIONER LANE: You may have answered
23 this and I just didn't quite understand it. Could you
24 tell me, and perhaps you might have to do it post-
25 hearing. The cost to produce the input in the old

1 process versus the cost to import the input under the
2 new process.

3 MR. MILLER: We will certainly take a look
4 at that. I will only offer the caveat that in the old
5 process the input raw material was never quantitated,
6 simply put, we never put it in a drum, weighed it, and
7 had a cost associated with it so we may not have the
8 details of that calculation, but I understand your
9 question and we'll try to address that.

10 COMMISSIONER LANE: At some point wouldn't
11 you wonder whether it's more cost effective to be
12 importing the input as compared to what it was costing
13 you to produce under the old process?

14 MR. MILLER: Certainly, yes.

15 COMMISSIONER LANE: Thank you.

16 You mentioned in your pre-hearing brief that
17 the Chinese government stopped production of saccharin
18 to improve air quality in advance of the Olympics.
19 What types of emissions are there from saccharin
20 production facilities in China, and how do these
21 compare in types and quantities of emissions from your
22 reengineered maumee process?

23 MR. MILLER: The emissions from the old
24 maumee process are related to the uses of sulphur
25 dioxide, chlorine, anhydrous ammonia. There would be

1 emissions of methanol and particulate emissions.

2 In our process when it was operated these
3 emissions were controlled by air pollution control
4 devices such as scrubbers and bag houses and
5 associated devices to allow us to obtain and operate
6 our facility.

7 We expect that the Chinese process would
8 generate the same kinds of emissions prior to any
9 control devices, but I can't speak to the kind of
10 control measures that are required in the Chinese
11 facilities.

12 COMMISSIONER LANE: Also in your pre-hearing
13 report you referred to a possible reduction or
14 shutdown of production in China due to a serious
15 industrial accident. Are you aware of this accident
16 and could you describe it?

17 MS. BOULIGARAKI: This is information that
18 we obtained while we were in China that the
19 information, the chemical plant Suzhou, the largest
20 saccharin producer in China, had to shut down due to
21 an environmental and safety issue.

22 Personally I don't have a document saying
23 that, but the industry, everyone in China, every
24 saccharin producers, I'm sorry, the other saccharin
25 producers and customers that have been using

1 saccharin, they were just discussing that issue.

2 We do have the facility, the old Suzhou
3 facility had shut down. But what we do not know, if
4 they open again another plant somewhere else in China.

5 COMMISSIONER LANE: Could the same type of
6 accident occur in your facility here in the United
7 States?

8 MS. BOULIGARAKI: We have been producing
9 saccharin since 30-plus years, and we have not had
10 that safety accident. And that was one of the key
11 issues as we're engineering the process. Yes, raw
12 material cost is very important to make sure that you
13 control, but to have a safe process because you have
14 workers or in the community. We have houses and
15 neighbors. The environmental control of the process
16 for us is equally important than the raw material
17 costs. Not that the raw material costs, if you don't
18 have a process that is capable of doing this, yeah,
19 you cannot stay into the market. But you need to have
20 all three together when you start up.

21 And as Mark says, when we're starting right
22 now and we're slow, the reason we're taking those
23 steps is because we want to make sure, ensure that the
24 process is safe. And that we comply with all
25 environmental regulations, too.

1 As you know, this Clean Air Act that we have
2 to comply, Clean Water Act that we have to comply, I
3 mean the Metropolitan Sewer District that we have to
4 comply, so there's a lot of things that we have to
5 comply in the Cincinnati facility.

6 COMMISSIONER LANE: Thank you.

7 Mr. Gordon, this is a question for you. Are
8 you aware of any antidumping case where the Commission
9 has been faced with as significant a change in
10 domestic production during the period of review?

11 MR. GORDON: In terms of the significance of
12 the change in the production process, no. I can't say
13 that I am.

14 What it brings to mind is the Commission's
15 statement in the beginning of the Synthetic Indigo
16 case about a set of rare and unusual circumstances.

17 CHAIRMAN ARANOFF: Your mike.

18 MR. GORDON: Rewind that tape. Apologies.

19 With respect to the degree of change in the
20 production process, as I sit here now, no, I am not
21 aware of an analogous precedent. However, I think you
22 can look to some of the other cases where there have
23 been significant changes in the conditions of
24 competition. In the Indigo case, for example, which
25 we very much believe is distinguishable and other

1 cases like it, but no, I would not say I have seen a
2 case like it.

3 However, I would say that what this company
4 has done is exactly the kind of flexible and
5 innovative response that you would expect from a U.S.
6 industry facing the kind of conditions they have
7 faced. They took advantage of the benefits of the
8 order to reposition themselves in this market and to
9 come back into this market in a very meaningful way
10 with a focused commitment to producing this product.

11 COMMISSIONER LANE: Thank you. Let me stick
12 with you.

13 On pages two through five of your pre-
14 hearing brief you argue that the Commission should
15 draw adverse inferences against subject Chinese
16 producers.

17 Can you provide the Commission with examples
18 of where it has drawn adverse inferences in a prior
19 sunset review? And can you point to any decisions
20 from the Court of International Trade in support of
21 your argument on adverse inferences?

22 MR. GORDON: We have cited several cases in
23 our pre-hearing brief where an adverse inference was
24 applied. The Polychloroprene Rubber from Japan case
25 is one. Extruded Rubber Thread from Malaysia is

1 another. Even if those cases did not exist I would
2 say that the Commission has the statutory authority
3 and in fact under the statute has the obligation to
4 certainly resort to the facts available and where
5 appropriate draw an adverse inference. The
6 circumstances as we've discussed wholly support that
7 here.

8 And I think looking at it conversely, the
9 Commission as a matter of policy should be mindful of
10 the consequences of not drawing an adverse inference
11 in these kinds of situations.

12 I know that the Commission isn't as big a
13 user, if you will, of the adverse inference provision
14 as the Department of Commerce is, but I think that in
15 cases like this however sort of judicious you may want
16 to be with that application, this is a situation where
17 you should do it because if you don't do it, you think
18 about the message it sends. Well, you don't need to
19 cooperate because there's really no down side to you
20 and the commission can rely or will rely on incomplete
21 information on the record.

22 I also note that very recent submissions I
23 think support the use of an adverse inference on this
24 record when you compare some of the data.

25 COMMISSIONER LANE: Thank you. My light's

1 on, but thank you.

2 CHAIRMAN ARANOFF: Commissioner Williamson?

3 COMMISSIONER WILLIAMSON: Thank you, Madame
4 Chairman.

5 In post-hearing can you explain in more
6 detail the business relationship between PMC and the
7 company that you get your raw material input for the
8 new process from China with the timing? I know the
9 relationship involves not just supplying, but there
10 have been other relationships.

11 MR. MILLER: Yes, we can address that.

12 COMMISSIONER WILLIAMSON: Relationships with
13 contracts. Good. Thank you.

14 Mr. Kerwin, you noted that the entry into
15 the global market of non-subject producers such as
16 Israel, Taiwan and India, you discussed that. To what
17 extent has the increase in the number of non-subject
18 suppliers affected the ability of Chinese producers to
19 affect global prices?

20 MR. KERWIN: Even with those additional
21 producers the Chinese industry still accounts for over
22 80 percent of global production of saccharin so it's
23 pretty clear that they definitely do have the kind of
24 market power that can affect prices globally and
25 that's exactly what was displayed in the market in

1 2008, that they have the kind of system that the
2 government can command these producers to shut down or
3 turn back on, and to do so without, at a minute's
4 notice.

5 Clearly the impact of what went on, the
6 government actions in China in 2008 had a very
7 dramatic impact on pricing globally for saccharin.

8 COMMISSIONER WILLIAMSON: Non-subject
9 imports have increased in the U.S. over the period of
10 review. Are non-subject imports likely to continue to
11 increase irregardless of what we do with respect to
12 this order?

13 MR. KERWIN: I think that's a good
14 question. I would think that certainly PMC, you've
15 heard their intention to make domestic production
16 their real focus going forward. So certainly to the
17 extent that they have purchased or imported from non-
18 subject sources in the past it would be their
19 intention to replace that with domestic production.

20 I think there is an ongoing question of the
21 issue of circumvention. It does apply in some
22 respects to third country imports. So to the extent
23 that those matters are pursued going forward or there
24 are some conclusions reached by some of the government
25 agencies that are looking into that, that could have

1 an impact.

2 COMMISSIONER WILLIAMSON: On a related
3 topic, how should the Commission take the non-subject
4 imports into account in its volume price and impact
5 analysis in this case?

6 MR. KERWIN: I think we've seen that the
7 non-subject imports are not helpful. They are a
8 factor in the marketplace. They have more often than
9 not not been the price leaders that the Chinese have
10 been. So we have evidence from the cessionaire
11 responses that purchasers and importers have made
12 specific statements that if the order is revoked they
13 will feel that they have no option but to use the
14 price aggression from the Chinese to ratchet down
15 pricing from non-subject sources as well.

16 COMMISSIONER WILLIAMSON: Thank you.

17 Ms. Bouligaraki, to follow up on a question
18 the Chairman raised earlier, you mentioned that some
19 of your customers prefer to buy U.S.-produced
20 saccharin. Do these customers represent a particular
21 industry like soft drink or tooth paste? In other
22 words, are there some segments of your customer base
23 that prefer, more strongly prefer U.S. --

24 MS. BOULIGARAKI: Yes. All the
25 pharmaceutical companies in USA right now, they would

1 prefer saccharin made in the USA. Actually they would
2 prefer all the chemicals made in USA right now. Not
3 just saccharin.

4 COMMISSIONER WILLIAMSON: Is there another
5 industry segment that would most likely continue to
6 buy Chinese product?

7 MS. BOULIGARAKI: Again, saccharin is being
8 used in a variety of applications. One segment that I
9 would say they could still be using material from
10 China is the electroplating industry. You know, like
11 saccharin is being used as a nickel brightener too,
12 which is not a food application. So yes, there they
13 could just be using material as they call it,
14 technical grade. Potential technical grade material.
15 The quality requirements there are not very strict, so
16 yes, I could see that they could still be using the
17 material. But more customers in United States right
18 now when it comes to pharmaceutical applications or
19 food applications they would prefer to use chemicals
20 made in USA.

21 COMMISSIONER WILLIAMSON: Are there any
22 industry segments in the U.S. that are particularly
23 sensitive to the changes in price of saccharin?

24 MS. BOULIGARAKI: Anyone is sensitive to the
25 change of prices. There is no way, I mean everyone is

1 very concerned and sensitive. However, saccharin is a
2 very small part of their formulations. So it doesn't
3 really affect the cost in a drug. In the cough
4 medicine, in the tooth paste, it's a very small part
5 of the formulation.

6 COMMISSIONER WILLIAMSON: Thank you.

7 To the extent that you've maybe lost
8 customers, where are they getting their saccharin from
9 now? Are they primarily relying on Chinese or on non-
10 subject saccharin?

11 MS. BOULIGARAKI: Both.

12 COMMISSIONER WILLIAMSON: One other question
13 about the conversion, the reengineering. Would it
14 have been possible to continue using the old process
15 while the new process was being developed? You talked
16 about all the other products that were produced, and
17 maybe not, but I was just wondering if you could
18 address that question, Mr. Miller.

19 MR. MILLER: Some of the feed stocks into
20 the old maumee process were those other relatively
21 large commodity chemicals otherwise made in other
22 areas of the plant site. So I think the answer to the
23 question is no, not really. We would have had to
24 outsource and find those sources of those raw
25 materials that used to be integrated within our plant

1 to manufacture, and it just wasn't a reality for us.
2 That's why we tried to focus on other sources of
3 supply, getting away from the more hazardous chemistry
4 involved and those things that were formerly part of
5 the larger plant operation.

6 COMMISSIONER WILLIAMSON: The equipment that
7 is actually used to make the saccharin, was it a
8 matter of modifying that equipment or just replacing,
9 shifting out --

10 MR. MILLER: We made modifications to the
11 current, let me back up.

12 The reengineered process reconfigured
13 equipment that was largely in place from the old
14 process and was dedicated only to the saccharin in
15 manufacturing. So it's a replumbing, repiping,
16 reorganization of those vessels and equipment.

17 COMMISSIONER WILLIAMSON: Just out of
18 curiosity, I take it this is one of the first times
19 this has been done. I'm interested -- Is this
20 American innovation?

21 MR. MILLER: Certainly with the saccharin
22 process because we're the only ones, but it's not
23 uncommon to utilize your equipment as pots and pans in
24 a very common vernacular. But the saccharin unit had
25 been built as a purpose built unit in a very large

1 production building with a lot of equipment dedicated
2 solely to saccharin in a continuous operating mode.
3 That has largely been undone with this reengineering
4 and we'll be operating more in a batch type mode,
5 trying to feed our finishing equipment.

6 COMMISSIONER WILLIAMSON: Thank you.

7 Just one last question, Ms. Bouligaraki, you
8 said now there are other alternate suppliers. You
9 have available alternate suppliers of the primary
10 input now, is that correct?

11 MS. BOULIGARAKI: Correct. Yes. We're
12 doing preliminary work try to, that has multiple
13 sources for the key raw material, correct.

14 COMMISSIONER WILLIAMSON: Thank you. And I
15 want to thank you for the answers to all those
16 questions.

17 CHAIRMAN ARANOFF: Commissioner Pinkert?

18 COMMISSIONER PINKERT: Thank you, Madame
19 Chairman. I just have one or two additional
20 questions.

21 I was struck by something you said, Mr.
22 Kerwin, about how some of the non-subjects may in fact
23 not be from the country that they appear to be from.
24 I'm wondering what we should do with that for purposes
25 of analyzing the role of non-subjects in the market.

1 Maybe that's a question for Mr. Gordon, but I'm just
2 not sure what we ought to be doing with that.

3 MR. GORDON: I'm happy to let Mr. Kerwin
4 answer that.

5 (Laughter.)

6 MR. KERWIN: Thanks so much.

7 I think in our answer to the questions about
8 case precedent in terms of dealing with the
9 circumvention issue, I think we could certainly
10 address that there.

11 Yeah, it's a gray area. I can't even tell
12 you off the top of my head what's the percentage of
13 what's coming in from non-subject countries would be
14 legitimately produced in those countries and what
15 might be some form of transshipment. So it's
16 difficult to give you a precise answer on that, but I
17 think we'll try to grapple with that in the context of
18 the overall circumvention issue.

19 MR. GORDON: If I may add briefly to that.
20 That is a very good question and I think it's a
21 question concerning which the Commission could obtain
22 quite a great deal of important information for it to
23 avail itself of its ability to reach out to coordinate
24 governmental agencies and ask some questions about
25 this.

1 As we've suggested and indicated, it's
2 possible in our pre-hearing brief.

3 MR. KERWIN: Commissioner Pinkert, if I
4 could add one observation which is in some respects
5 you don't really even need to get to the issue of what
6 is circumvention and what is not because the imports
7 from China in 2007, 2008, the dramatic increase there
8 from, largely from producers still under order, is an
9 indication that the Chinese producers certainly still
10 have a tremendous interest in the U.S. market, and as
11 I think I mentioned in my testimony, the imports from
12 China in 2008 were already larger than in two of the
13 three years of the original period of investigation.

14 So given the current volumes of imports from
15 China and the level of excess capacity that the
16 industry has and the size of its capacity generally,
17 it's not a huge leap of faith to see that in the event
18 of revocation that the volumes that would enter from
19 China would certainly be well in excess of what was
20 seen at the time of the original investigation when
21 the Commission found material injury.

22 COMMISSIONER PINKERT: Just to clarify, Mr.
23 Gordon, my question was focused more on what we would
24 do with the information, assuming that information
25 existed, assuming we had it on the record, what is it

1 that you think we ought to be doing with that
2 information?

3 MR. GORDON: Sorry if I misinterpreted your
4 question.

5 We'll address that for you in the post-
6 hearing brief.

7 COMMISSIONER PINKERT: Thank you.

8 And just more generally, what is it that you
9 think we ought to be doing in the context of analyzing
10 the role of non-subject imports in the United States?
11 I know this has been an issue that's been featured in
12 some recent court decisions, but I'm just wondering if
13 you have a view of what we should be doing in a sunset
14 review in terms of looking at the role of non-subject
15 imports.

16 MR. GORDON: I think I would probably echo a
17 lot of what Mr. Kerwin just said which is that given
18 the dominance of the Chinese industry, the evidence on
19 the record concerning their capacity, the constraints
20 on sales, the quotes and those things. They are
21 accounting for over 80 percent of the world
22 production. They have huge incentives to return to
23 this market. I think like the U.S. industry, I think
24 non-subject imports would suffer and be pushed out of
25 the market very effectively, with the exception of the

1 other very large source of non-subject imports,
2 perhaps.

3 COMMISSIONER PINKERT: Thank you.

4 That ends my questions. I look forward to
5 the post-hearing submission.

6 Thank you, Madame Chairman.

7 CHAIRMAN ARANOFF: I understand that Vice
8 Chairman Pearson has found his missing questions so
9 I'll turn the microphone over to him.

10 VICE CHAIRMAN PEARSON: Thank you, Madame
11 Chairman. I have managed to get myself slightly more
12 organized now.

13 Commissioner Williamson asked a bit about
14 non-subject imports. I'm curious, what we have on the
15 record indicates that the average unit values of non-
16 subject imports really seem quite close to the average
17 unit values that we have for the subject imports from
18 China. And in general they appear to be competing
19 with each other at a price level below the average
20 unit values that we have for the U.S. produced
21 product.

22 I understand we have to be concerned when we
23 look at AUVs, they're not as good as head to head
24 price comparisons. Nonetheless, I look at this and I
25 know we're mostly talking about the sodium saccharin

1 form, okay? So how much product misdistortion we
2 could get into the pricing data I'm not sure, but
3 probably not too much.

4 In this context, if we revoke the order is
5 it actually going to be more likely than not that the
6 domestic industry would see a recurrence of material
7 injury from subject imports? If we get some trading
8 back and forth between subject and non-subject, what
9 difference does it make to the domestic industry?

10 MR. KERWIN: Could I point out one thing
11 that might factor into your analysis here? When we're
12 looking at the imports we're looking at the price, the
13 average unit values of saccharin that's entering
14 through Customs. That reflects no markup in the
15 marketplace between what the importer sells the
16 product for within the United States or the
17 distributor. Whereas the pricing that you're seeing
18 from PMC is a price to a customer, to an end user of
19 the product.

20 So the average unit values of imports are
21 not reflective of the markup within the U.S. market.
22 So it really isn't an apples to apples comparison in
23 that sense. I throw that out as an initial matter.

24 VICE CHAIRMAN PEARSON: Fair enough, but is
25 there some reason to think there would be a different

1 degree of markup on imported subject product versus
2 imported non-subject product?

3 MR. KERWIN: With the order in place or
4 without the order in place? To the extent that the
5 Chinese are offering a product that is sold out of
6 China at a lower average unit value, at a lower price
7 than what is offered out of say Korea or Taiwan, then
8 certainly that makes that product much more attractive
9 to the importer of the product in the United States.

10 MR. GORDON: If I may, the data on the
11 record, this may go more to the question of the
12 reliability of looking at AUVs in this context.

13 In the original investigation there was
14 universal underselling and the record of the period of
15 review shows continued underselling in a very large
16 number of cases when you're comparing the sales, so I
17 think that ultimately will be an important sort of
18 data point when considering how much to rely on AUVs
19 for that kind of analysis.

20 VICE CHAIRMAN PEARSON: We don't do Bratsk
21 quite the way we used to some months ago, but you look
22 at this case, basically talking a commodity product.
23 We're talking about availability from both subject and
24 non-subject sources. Very substantial availability on
25 the record of non-subject sources. If we lift the

1 order ar we really going to see things happening in
2 the marketplace that lead to a recurrence of material
3 injury?

4 MR. GORDON: I think in answer to that
5 question, we'll be happy to address that in our post-
6 hearing brief, but I will suggest that you look at
7 some of the most recent submission on the record
8 concerning the intent of parties and how they intend
9 to behave were the order to be revoked, I think it's
10 very instructive to look at some of the more recent
11 additions to the record on that.

12 VICE CHAIRMAN PEARSON: I'm slightly aware
13 of some of that, and I'll welcome your highlighting
14 the relevant material for us.

15 I think the last question along this line
16 is, as you're well aware, a significant producer in
17 China has a zero duty coming into the United States
18 under the discipline of the antidumping order. I'm
19 wondering is that a hole big enough to drive a Mack
20 truck through? I mean once you get a producer of that
21 size with basically unrestricted access to the U.S.
22 market does it make any difference whether the other
23 producers are still restricted under the order?

24 MR. GORDON: I think I would answer that by
25 saying that producer has been found as a matter of law

1 by the Department of Commerce to be fairly trading its
2 product. So while they are still under the order,
3 they have been found to be fairly trading their
4 product.

5 The possibility that that producer might
6 become a conduit, a hole big enough to drive a Mack
7 truck through, they can certainly ship increased
8 volumes of their own product at fairly traded prices.
9 To the extent they may consider engaging in any other
10 kind of shenanigans, they are subject to retroactive
11 administrative reviews on an annual basis.

12 VICE CHAIRMAN PEARSON: Oh, sure, I
13 understand that. But they apparently are managed well
14 enough so they've figured out how to price into the
15 United States in a way that the Department of Commerce
16 is comfortable with. Unless they lose that knowledge
17 suddenly they seem to be in an advantaged position to
18 continue to serve the U.S. market regardless of
19 whether or not there's an order in place.

20 I'm puzzled with this one. There are things
21 about this that just are not yet clear to me, so I
22 hope that in the post-hearing submissions you'll be
23 able to provide that clarity.

24 MR. GORDON: Certainly.

25 MS. KIM: Vice Chairman Pearson, I just

1 wanted to note that the producer that has received the
2 margin is not the largest producer in China. There
3 are other producers that have greater capacity levels
4 than that producer.

5 VICE CHAIRMAN PEARSON: Yes, I understand
6 that, but the U.S. market is only so large. We can
7 only absorb so much here regardless of where it comes
8 from. You get a bunch of sizeable players tussling
9 for this market, this consumption, they can still only
10 push so much product in here. They can't build
11 additional consumption by putting free product in St.
12 Louis. It's just not going to happen. People aren't
13 going to use it to pave roads or anything like that.

14 I'm sorry, Mr. Gordon?

15 MR. GORDON: Let me also add that, as I
16 noted, that company still is under the discipline of
17 the order. They have not been excluded, for example.
18 So if the order were to go away, with it would be
19 removed the discipline of the order. So how their
20 pricing practices may change is an open question.
21 Similarly, the total absence of the other producers in
22 the market were the strictures of the order removed I
23 think it's, we would fully expect to see them come
24 back into the market using some of their very very
25 significant excess capacity.

1 There are a lot of statements on the record
2 about what people's expectations would be with respect
3 to pricing in the market and volume, and I think that
4 supports a conclusion that they would be back in the
5 market in a very big way, prices would drop
6 significantly. That would have an affect obviously on
7 our client and I think certainly on the non-subject
8 imports as well.

9 VICE CHAIRMAN PEARSON: I just love counter-
10 factual analysis. The statute tells us to do it and
11 we're trying.

12 Madame Chairman, I think I better stop
13 there.

14 Thanks very much to all of you on the panel.
15 I appreciate your efforts to be with us today.

16 CHAIRMAN ARANOFF: Are there other questions
17 from Commissioners?

18 Commissioner Lane?

19 COMMISSIONER LANE: I just have two follow-
20 up questions. I've seen some press reports where the
21 Chinese government is imposing restrictions on the
22 production of saccharin. Are these press reports
23 true? And will that have an effect upon your ability
24 to purchase the input that you are using in this
25 process, in your new process?

1 MS. BOULIGARAKI: We do believe that, yes,
2 this information is correct about the saccharin
3 restrictions in China. We won't have any problem for
4 the raw material. It's not produced by saccharin
5 producers. The raw material we make in Cincinnati.
6 It's not produced from saccharin producers. So, no,
7 we believe that we will be able to get the raw
8 material.

9 COMMISSIONER: Okay. But if the reason, if
10 one of the reasons that the government in China is
11 imposing these restrictions are environmental hazards,
12 wouldn't that apply also to your intermediate process?

13 MS. BOULIGARAKI: What China did, they did
14 demand chemical plants to shut down all decreased
15 capacities prior to Olympics, and that's what you saw
16 last year in the United States. Everyone was very
17 concerned about how they're going to get chemicals, so
18 everybody was buying. That's why the prices went up.
19 Again, no one really knew what China was going to do
20 after the Olympics. But right now we see things in
21 China back to normal, the way they were before. Right
22 now the number one concern in China is to sell
23 products out of China.

24 COMMISSIONER LANE: Okay, one more question.
25 Are there end users of saccharin that use both the

1 U.S. product and product from China?

2 MS. BOULIGARAKI: Yes.

3 COMMISSIONER LANE: Okay, thank you. Madam
4 Chair -

5 MS. KIM: Commissioner Lane?

6 COMMISSIONER LANE: Yes?

7 MS. KIM: If I could just go back to your
8 previous question about the closures or the
9 restrictions that were due to the environmental
10 reasons. The primary reason for the restrictions in
11 the domestic production or the sales in the domestic
12 market in China is because the Chinese government is
13 trying to protect the Chinese sugar industry and not
14 so much because of the environmental concerns there.

15 COMMISSIONER LANE: Okay, thank you. Madam
16 Chair, that's all I have.

17 CHAIRMAN ARANOFF: Any other questions from
18 Commissioners?

19 (No response.)

20 CHAIRMAN ARANOFF: Do staff have any
21 questions for this panel?

22 MR. MCCLURE: Jim McClure, Office of
23 Investigations. Chairman Aranoff, staff has a few
24 questions, which it will submit to Mr. Gordon in
25 writing. Other than that, we have no questions.

1 CHAIRMAN ARANOFF: All right. It falls to
2 me to thank the panel for all of the time that you
3 have spent with us this morning and a small portion of
4 the afternoon. We appreciate you taking that time and
5 we look forward to receiving all of the information
6 that we've asked for in your post-hearing submission.
7 So, I will, I guess, ask you to relocate yourselves to
8 the other part of the room and we will bring forward
9 the second panel.

10 MR. BISHOP: Would the second panel, those
11 in opposition to continuation of the antidumping duty
12 order please come forward and be seated.

13 (Pause.)

14 CHAIRMAN ARANOFF: Mr. Secretary, are there
15 any preliminary matters with respect to this panel?

16 MR. BISHOP: Madam Chairman, I would note
17 that this witness has been sworn.

18 CHAIRMAN ARANOFF: Mr. Delaney, welcome to
19 the Commission. Please proceed.

20 MR. DELANEY: Thank you very much. Just
21 start off to say good morning, now good afternoon,
22 Madam Chairman, Vice Chairman, Commission, and the
23 Commission staff. Thank you for allowing me the five
24 minutes for the opportunity to present my comments.
25 My name is Dennis Delaney. I am here today

1 representing the Tianjin Changjie Chemical Co., the
2 Chinese producer of saccharin, and TR International.
3 It's a chemical trading company based in Seattle.

4 Our interest is to promote and sell the
5 Tianjin Changjie saccharin products into the U.S.,
6 which is currently prohibited due to the import duty
7 on this factory. We, hereby, request revocation of
8 the antidumping order on saccharin. Revocation of the
9 order will guarantee supply to meet USA demand and
10 provide reasonable pricing to USA consumers.

11 I personally have experience in the U.S.
12 saccharin market as a former employee of Alcan
13 International Network, who represents the Korean
14 saccharin producer, JMC. I am aware of the import
15 pricing before and after the antidumping order.
16 Pricing to U.S. consumers has increased by a
17 significant multiple.

18 The antidumping duty order established in
19 2003 was intended to protect the domestic producer, at
20 the time PMC. After protection was established, PMC
21 became an importer and we believe no longer deserves
22 protection.

23 Because my time for presentation is limited,
24 I would like to reference the May 13, 2008 document,
25 request for a changed circumstance review and

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1 revocation of the antidumping order, submitted on
2 behalf of Cumberland Packing Corporation and Helm, New
3 York. This request contains the fundamental reasons
4 this antidumping order should be revoked. I have a
5 copy of it, if anybody would like it.

6 Highlights of that May 13, 2008 document
7 concludes that PMC has ceased all or virtually all
8 domestic production. PMC imports large quantities of
9 saccharin from China and Korea and has entered into a
10 JV with two Chinese producers and contributed funds
11 for the construction of a factory. This is the
12 document that Commissioner Okun referred to and I
13 think there was the website copy. The business of PMC
14 is now an importer and distributor of saccharin.

15 In addition, since the implementation of the
16 antidumping order against saccharin, the import price
17 of saccharin from Korea has increased from less than
18 four dollars a kilo, to over \$20 a kilo. This is only
19 possible in a protected market. Prices outside the
20 U.S. have been much lower. Since 2003, Shanghai
21 Fortune via an administrative review has applied for
22 and received a reduction of duty to zero percent.
23 Since 2003, PMC has become a major importer of
24 saccharin from JMC in Korea and Shanghai Fortune in
25 China. Import data is well known and included in our

1 submission.

2 The penalized party here is the U.S.
3 consumer. They have paid significantly higher prices
4 since this antidumping duty order was put into place.
5 The majority of the profits from this artificially
6 high-priced product benefits JMC and Shanghai Fortune
7 at the expense of the U.S. consumer. Think of this as
8 an export of U.S. dollars. Cumberland and Helm have
9 withdrawn this request for the change circumstance
10 review and Helm is now importing from Shanghai
11 Fortune. Since 2003, JMC is selling to PMC. JMC is
12 selling to Alcan. Shanghai Fortune is selling to PMC
13 and Shanghai Fortune is selling to Helm. You can draw
14 your own conclusions from this business.

15 We believe that if the order is revoked, the
16 Chinese imports will not have a negative effect on the
17 U.S. domestic industry, given the absence of domestic
18 production. We, hereby, request revocation of the
19 antidumping order on saccharin and thank you, very
20 much.

21 CHAIRMAN ARANOFF: Thank you, Mr. Delaney,
22 for joining us today. We appreciate your prospective.
23 It's always better to have a hearing at which there
24 are two sides represented. We get to ask more
25 questions. We will begin the questioning with Vice

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1 Chairman Pearson.

2 VICE CHAIRMAN PEARSON: Thank you, Madam
3 Chairman. Mr. Delaney, permit me also to welcome you.
4 At one time, I worked for a firm and had an occasional
5 opportunity to appear in front of public tribunals for
6 that firm and I can imagine there are other places you
7 would rather be today than here. So, I really
8 appreciate that you have come forward to offer your
9 views.

10 MR. DELANEY: Thank you. But, I actually
11 appreciate being able to participate in a forum like
12 this. This is part of being an American and one of
13 the freedoms we enjoy. So, I appreciate it.

14 VICE CHAIRMAN PEARSON: Okay. Can you tell
15 me, are there any reasons that more Chinese firms
16 haven't worked with Commerce seeking administrative
17 reviews of their dumping duties to try to get them
18 lower?

19 MR. DELANEY: I don't know. My presence
20 here and my - I worked for Alcan, again working with
21 JMC. I left at the end of 2007 and I've initiated an
22 effort to try to qualify some Chinese plants and we've
23 chosen one that we believe would be a good trading
24 partner. So, I don't know why they hadn't proceeded
25 before.

1 VICE CHAIRMAN PEARSON: Okay. And just to
2 clarify, is Tianjin Changjie Chemical, is it a
3 producer or saccharin or is it a trader of saccharin?

4 MR. DELANEY: No, no. They're a producer.
5 Their capacity is about 4,000 tons a year -

6 VICE CHAIRMAN PEARSON: Okay.

7 MR. DELANEY: - in the Tianjin Province.

8 VICE CHAIRMAN PEARSON: And does your firm,
9 then, TR International buys - would buy directly from
10 Tianjin Changjie and be the importer of record, if the
11 order was lifted?

12 MR. DELANEY: Yes.

13 VICE CHAIRMAN PEARSON: But, you've
14 indicated it's currently prohibitive to do so.

15 MR. DELANEY: Right, because of the
16 antidumping duties.

17 VICE CHAIRMAN PEARSON: Right. Does TR
18 International export to any other country the
19 saccharin produced by Tianjin?

20 MR. DELANEY: No. We're just interested in
21 the U.S. market.

22 VICE CHAIRMAN PEARSON: Okay. And could you
23 tell me a little bit more about your business? Does
24 TR International deal with a variety of chemicals or
25 food products or sweeteners?

1 MR. DELANEY: Yes. It's a company that
2 started in the 1990s. It's owned by a single
3 individual. They've concentrated on what I would call
4 industrial chemicals, more commodity. Recently,
5 within the last few years, we've gotten into products
6 with the beverage industry and we want to increase our
7 offerings to the beverage industry, also selling into
8 the plating industry. And one of our focus is to
9 expand into the pharmaceutical industry. So, it's
10 part of our strategy to expand the overall business.

11 VICE CHAIRMAN PEARSON: Okay. And does TR
12 International produce any products or are you involved
13 as a trading company in importing and distributing?

14 MR. DELANEY: No production, only importing
15 - only buying and selling. We are also buying and
16 reselling domestic products.

17 VICE CHAIRMAN PEARSON: Okay. Fair enough.
18 And do you deal with other sweeteners or is saccharin
19 the only one?

20 MR. DELANEY: Saccharin is the only one that
21 we intend to deal with.

22 VICE CHAIRMAN PEARSON: Okay. You have some
23 experience int his marketplace obviously and we have,
24 I think, two different views between the first panel
25 and your panel as to what the effects would be in the

1 marketplace if the order was revoked. Why do you
2 think that this order could be lifted and it not have
3 the effect of doing material injury to the domestic
4 producer, if, indeed, we find that there is a domestic
5 producer?

6 MR. DELANEY: Well, I think - my
7 understanding is that this is an antidumping order,
8 which would refer to dumped products and dumping, I
9 believe, is selling below costs or having unfair
10 advantages. I believe that the last five years have
11 taught the Chinese manufacturers a big lesson.
12 They're not willing to go there. They're going to be
13 very careful in the pricing. They will sell based on
14 their costs, plus an acceptable margin. But, I
15 believe they've learned a lesson and they're not going
16 to sell below costs. Does that answer your question?

17 VICE CHAIRMAN PEARSON: Yes, it helps. Are
18 you familiar with the prices of imported saccharin
19 from other countries? Does TR International import
20 saccharin from any other country?

21 MR. DELANEY: No. I'm aware of price
22 quotations from other countries, but it isn't strictly
23 about price. It's also about quality, reliability.
24 It's about concerns about circumvention. So, there
25 are some risks that we don't want to take because of

1 what we don't know.

2 VICE CHAIRMAN PEARSON: In other words, you
3 would be reluctant to buy and import from another
4 country or a product being exported from another
5 country, if you thought that it might have had Chinese
6 origin and was being -

7 MR. DELANEY: Right.

8 VICE CHAIRMAN PEARSON: It was circumventing
9 the order by coming through a third country,
10 basically.

11 MR. DELANEY: Right. We would be adverse to
12 buying from Japan or Israel, if we thought - not if we
13 knew, even if we thought that there was saccharin acid
14 being converted or sodium saccharin being repacked.

15 VICE CHAIRMAN PEARSON: Okay. Have you seen
16 enough of what is happening in the marketplace to know
17 whether the non-subject saccharin is selling at
18 roughly the same price as Chinese saccharin in the
19 United States?

20 MR. DELANEY: Yes. My data points are only
21 the Korean material versus the Chinese material. It
22 seemed like prices of both were going up at the same
23 rate. Prices to the customers were going up at the
24 same rates.

25 VICE CHAIRMAN PEARSON: Okay. And were the

1 prices for the Chinese and Korean origin product
2 roughly at the same level or was the Korean product a
3 little more expensive?

4 MR. DELANEY: It was approximately the same.

5 VICE CHAIRMAN PEARSON: Okay. Well, let me
6 shift now and get to the other issue that you - or at
7 least one of the other issues that you touched on in
8 your statement. We have an industry in front of us in
9 the first panel that says, yes, they are producing.
10 You have the impression that they are not actually
11 producing. How would you suggest that we dig into
12 that, to try to figure out which side is the more
13 correct?

14 MR. DELANEY: I think you have to audit the
15 factory, audit the plant. Do they have a viable
16 manufacturing plant that can be competitive? I think
17 I heard this morning that a lot of progress has been
18 made in the last two weeks. They're running at pilot
19 rate throughputs. I don't - I think you have to
20 establish whether or not they have a viable plant.

21 VICE CHAIRMAN PEARSON: Are you aware of any
22 PMC product being sold recently in the U.S. market,
23 product that was manufactured in the United States?

24 MR. DELANEY: No, I'm not aware of it. But,
25 I wouldn't be aware or not be aware at this point.

1 VICE CHAIRMAN PEARSON: Okay, fair enough.
2 Madam Chairman, I think I will pass at that point.
3 Thank you, very much, Mr. Delaney.

4 MR. DELANEY: Thank you.

5 CHAIRMAN ARANOFF: Commissioner Okun?

6 COMMISSIONER OKUN: Thank you, Madam
7 Chairman, and thank you, Mr. Delaney, for appearing
8 here and your willingness to take our questions today.
9 The Vice Chairman had asked you about pricing in the
10 U.S. market. Do you have a sense of global pricing
11 for this product?

12 MR. DELANEY: We are aware that the pricing,
13 the European pricing is much lower than the U.S.
14 pricing.

15 COMMISSIONER OKUN: And you may have heard
16 some of the testimony this morning, we were talking
17 about during the period that we looked at, that 2008
18 was an aberrational year in terms of pricing. Are you
19 familiar with that, as well, and would you agree that
20 was driven primarily by what was happening in China or
21 do you think there were other factors influencing the
22 pricing?

23 MR. DELANEY: I can only render my opinion.

24 COMMISSIONER OKUN: It's more learned than
25 mine.

1 MR. DELANEY: My opinion is that, especially
2 the Koreans, they look at the U.S. market and if the
3 antidumping order is revoked, then prices are going to
4 come down substantially and they may not have a
5 business anymore. They may not be able to enter - the
6 Koreans may be out of this market. I think prices
7 were raised significantly because they could. There
8 is no U.S. production in 2008. It's only the Koreans
9 and Shanghai Fortune to the large extent. What do
10 they have to lose by raising their prices over \$20 a
11 kilo?

12 COMMISSIONER OKUN: And do you know that
13 whether prices in other markets during 2008 also went
14 up or was that , you know, as we have looked at some
15 data -

16 MR. DELANEY: In the U.S., in the -

17 COMMISSIONER OKUN: You're talking about the
18 U.S. But, do you know, in terms of global pricing for
19 saccharin during that period?

20 MR. DELANEY: Global pricing increased due
21 to petroleum costs, also, some perceived shortages,
22 but nothing to the extent that happened in the States.

23 COMMISSIONER OKUN: Okay. And then you
24 talked a little bit in your opening statement about
25 your view of the pricing in the market with the order

1 on. And just so that I understand your testimony, if
2 the duty were revoked, your testimony is that prices
3 in the U.S. would go down. Is that -

4 MR. DELANEY: Yes.

5 COMMISSIONER OKUN: And would go down
6 because the Chinese enter and then the Koreans and
7 other non-subjects would lower theirs, then, as well?

8 MR. DELANEY: Right. You would just have
9 more competition.

10 COMMISSIONER OKUN: And do you think that
11 other - are you aware of other producers and other
12 countries that might enter the market, or do you think
13 that they would also -

14 MR. DELANEY: I'm not aware of them.

15 COMMISSIONER OKUN: Okay. And you had
16 talked about you were looking for a partner that made
17 sense for you, that you would like to import from.
18 You know, one of the difficulties with this record is
19 we don't have current information from the Chinese
20 producers. They didn't respond to our questionnaires
21 that we have. We now have one partial response. Do
22 you have any information about other producers that
23 you talk to in China, that you could put on the record
24 for us, to give us any information about what you
25 think about relative sizes of the other producers or

1 other specific information?

2 MR. DELANEY: As long as I can qualify it as
3 rumor.

4 COMMISSIONER OKUN: Well, we prefer facts,
5 but whatever - if there is information that you have
6 from either traveling there or anything that could be
7 -

8 MR. DELANEY: We have an office in Shanghai,
9 who has been working on interviewing potential sources
10 of saccharin for us and what they understand. What
11 they've reported to us is that the Kaifeng plant and
12 the Suzhou plant are going to form a joint venture
13 with the Shanghai Fortune plant.

14 COMMISSIONER OKUN: And the last one you
15 mentioned, Suzhou, is this the same plant that were
16 discussed by the Petitioners this morning as one that
17 -

18 MR. DELANEY: Yes.

19 COMMISSIONER OKUN: - had shut down, but -
20 so, is it your understanding that it is producing?

21 MR. DELANEY: That's my understanding.

22 COMMISSIONER OKUN: Your understanding is
23 that. I mean, if there were communications between
24 your office and Shanghai with any other producers,
25 then I think that would be relevant information for us

1 to look at. Again, we have to decide what we give
2 weight to in a record, but -

3 MR. DELANEY: I have not confirmed that.
4 That's what they've said.

5 COMMISSIONER OKUN: Okay.

6 MR. DELANEY: So, and -

7 COMMISSIONER OKUN: If there's anything
8 specific -

9 MR. DELANEY: - and the reason for that is
10 because Shanghai Fortune enjoys a duty. So, the three
11 plants would form a new joint venture and import under
12 that brand.

13 COMMISSIONER OKUN: Okay. Okay, and again
14 we're an evidence-based tribunal and we do our best
15 and we always wish we had full participation by
16 everybody, because I think we can make a better
17 decision that way. But to the extent that there is
18 any information about this particular joint venture
19 from China, itself, from information that you've
20 collected, if you could supply it, I would greatly
21 appreciate looking at that.

22 MR. DELANEY: Okay. I will ask if we can
23 verify it.

24 COMMISSIONER OKUN: Okay. That would be
25 great. And then do you - we talked about the demand

1 for saccharin and the panel this morning had indicated
2 a mature market and didn't expect demand to increase
3 in the reasonably foreseeable future. Would that be
4 your impression of the saccharin market, as well?

5 MR. DELANEY: Yes.

6 COMMISSIONER OKUN: And do you have any
7 sense of whether there are any other sweeteners that
8 are likely to compete more directly with saccharin?
9 Or is it as we heard this morning, really, there are
10 different price points and they have different uses
11 because of stabilization in particular products?

12 MR. DELANEY: Well, they have different uses
13 from stabilization and from - I will say heat
14 stabilization, stabilization to ph and taste.

15 COMMISSIONER OKUN: Okay.

16 MR. DELANEY: So, it was alluded to, but not
17 specifically clear, the Diet Coke out of the fountains
18 that you get at a McDonald's use saccharin. The Diet
19 Coke in a can or two-liter bottle uses a different
20 sweetener. So, the tastes are similar, but they need
21 the stabilization factor of the saccharin in the
22 syrups for the soda fountains.

23 COMMISSIONER OKUN: Interesting. I, also,
24 saw a recent article about real Coke going back to
25 sugar from high fructose or there are some changes

1 going on in the other market, too.

2 MR. DELANEY: That's a whole different
3 market.

4 COMMISSIONER OKUN: A whole different
5 market, but, also, a taste driven one.

6 MR. DELANEY: And then one other comment.
7 The Splenda that you see, it's heat stable, so you can
8 bake with it.

9 COMMISSIONER OKUN: Right.

10 MR. DELANEY: So, saccharin doesn't have
11 heat stability.

12 COMMISSIONER OKUN: Okay. So, those are
13 different attributes of the products -

14 MR. DELANEY: Right.

15 COMMISSIONER OKUN: - the sweeteners. You
16 had referenced the change circumstance submission,
17 which we had also referenced and asked some questions
18 about this morning. I couldn't tell from your comment
19 after that, do you know why that was withdrawn?

20 MR. DELANEY: I don't know why and I've
21 asked one of the parties specifically and have not
22 gotten an answer.

23 COMMISSIONER OKUN: Okay. And I think with
24 that, Mr. Delaney, I appreciate those answer and look
25 forward to anything you could submit after the

1 hearing. Thank you.

2 MR. DELANEY: Thank you.

3 CHAIRMAN ARANOFF: Commissioner Lane:

4 COMMISSIONER LANE: Thank you and I, too,
5 thank you for being here. In your statement, you
6 mentioned Korean prices going up by a significant
7 amount. You, also, indicated that this was due to a
8 protected market. Could you expand some on the point
9 you are making? And are you suggesting that the
10 impact of orders is on an increase in prices and that
11 all sellers, including non-subjects, receive increased
12 prices?

13 MR. DELANEY: Yes, Commissioner Lane. In
14 2006, PMC stopped producing. Shanghai Fortune was
15 getting their zero duty status. So, the U.S. market
16 was relying on imports. These are very smart guys out
17 there. The president of JMC is a very smart guy. He
18 knows the U.S. market. He knows the antidumping
19 situation. There wasn't anything to stop him from
20 increasing prices.

21 COMMISSIONER LANE: Okay, thank you. Now,
22 in your statement, you also said that these duties
23 were resulting in an increase to consumers. Could you
24 quantify - let's take a toothpaste that uses
25 saccharin. How much is that saccharin going to really

1 be reflected in the cost of a tube of toothpaste?

2 MR. DELANEY: I don't know. I don't know
3 the concentration of saccharin in Diet Coke or the
4 concentration of saccharin in toothpaste or mouthwash.
5 But, you can imagine if the import costs of saccharin
6 goes, in 2003, when the antidumping duties were part
7 of it, the cost is less than four dollars a kilogram
8 and then it goes up to over 20. You've got a fivefold
9 increase in import costs. So, it may not have a huge
10 impact on the value of one toothpaste tube. But,
11 overall, when you look at the quantity imported, it's
12 a huge value.

13 COMMISSIONER LANE: Okay, thank you. Madam
14 Chair, that's all I have. Thank you.

15 CHAIRMAN ARANOFF: Commissioner Williamson?

16 COMMISSIONER WILLIAMSON: Thank you. Thank
17 you, Mr. Delaney and thank you also for coming to
18 testify. I was wondering if you - the Commission
19 staff reports shows that there are significant number
20 of presence of - I'm sorry, I think I've got my
21 questions mixed up here. There are a number of -
22 while China is an overwhelming producer in the world,
23 there is still significant producers such as South
24 Korea and Germany. Why, if the U.S. prices are so
25 much higher, haven't they been more present in this

1 market? You would think that these prices are much
2 higher than other places, why they wouldn't be coming
3 in.

4 MR. DELANEY: I don't know. It may be
5 related to my own concern of the circumvention issue.
6 It's also, if you look at quality of Indian saccharin,
7 there's concerns about quality, packing, reliability.
8 India is still a third-world producer of that product.
9 So, there's reasons why importers would want to stay
10 away from it and there are also reasons why consumers
11 would want to stay away from it.

12 COMMISSIONER WILLIAMSON: But, Germany - you
13 would think Germany and South Korea wouldn't have that
14 issue, would you?

15 MR. DELANEY: I don't know about that
16 production.

17 COMMISSIONER WILLIAMSON: You mentioned that
18 if the orders were lifted, you thought that the
19 Chinese producers had learned their lesson. But since
20 there are so many producers, wouldn't it be sort of
21 competition pressures? In other words, can you be
22 assured that all of them are going to exercise
23 discipline?

24 MR. DELANEY: Unfortunately, we don't have
25 any assurances of a lot of things, but commonsense

1 would tell me that they would have learned a lesson.

2 I don't know.

3 COMMISSIONER WILLIAMSON: Okay. I was just
4 wondering, because sometimes mentality.

5 MR. DELANEY: Right.

6 COMMISSIONER WILLIAMSON: Okay, thank you.
7 We received Tianjin's questionnaire response only a
8 few days ago. We have not heard from any other
9 subject producers. I was wondering, given the limited
10 information that we have, how would you suggest that
11 we conduct our analysis of the Chinese industry?

12 MR. DELANEY: Of the entire industry?

13 COMMISSIONER WILLIAMSON: Yes. Any thoughts
14 you can cite to on that?

15 MR. DELANEY: With regards to what aspect?

16 COMMISSIONER WILLIAMSON: What's going to
17 happen in the U.S. market if orders were to come off.

18 MR. DELANEY: I would have to think about
19 that one.

20 COMMISSIONER WILLIAMSON: Okay.

21 MR. DELANEY: I think you would go about it
22 the same way you did your analysis prior to executing
23 the antidumping order.

24 COMMISSIONER WILLIAMSON: Okay. Well, I
25 want to thank you for those responses. I have no

1 further questions, Madam Chairman.

2 MR. DELANEY: Thank you.

3 CHAIRMAN ARANOFF: Commissioner Pinkert?

4 COMMISSIONER PINKERT: Thank you, Madam
5 Chairman, and thank you, Mr. Delaney, for coming here
6 to testify today. I had a question that came to mind
7 during the questions that were asked by the other
8 Commissioners. Can you tell me whether the U.S.
9 customers of saccharin are very price sensitive, not
10 very price sensitive, not at all price sensitive? Can
11 you testify on that issue?

12 MR. DELANEY: I think it depends on
13 different markets. I think on the pharmaceutical
14 side, where margins are astronomical, they're less
15 price sensitive over a product that has a small
16 component to it. I think the nickel plating industry,
17 highly competitive, they're looking at every cost.
18 The beverage industry is highly competitive. They're
19 looking at all of their costs. I think overall, it's
20 going to be quite sensitive.

21 COMMISSIONER PINKERT: And in terms of
22 product safety issues, is there a concern among U.S.
23 customers about potential safety problems with Chinese
24 product?

25 MR. DELANEY: I think there is that concern

1 about anyone's product, about whether it's U.S.
2 produced or South African produced or Chinese
3 produced. They're all concerned with quality. It's
4 about - I think you would rate quality first, supply,
5 reliability second, pricing at least third.

6 COMMISSIONER PINKERT: And how would the
7 U.S. customer gain confidence or gain comfort about
8 safety issues with respect to the Chinese product?
9 After all, there is an ability to go on site in the
10 United States that may not exist with respect to
11 China.

12 MR. DELANEY: You want to make sure it's
13 melamine free.

14 COMMISSIONER PINKERT: Sorry, I couldn't
15 hear you there.

16 MR. DELANEY: You want to make sure that the
17 saccharine is melamine free. I think that the Chinese
18 producers - for all of the big companies that are
19 producing toothpaste, mouthwash, the pharmaceutical
20 companies, they all have the right to audit plants and
21 they do audit plants. And, also, saccharin is in the
22 food chain. It's regulated by the FDA, so the FDA is
23 also visiting and auditing and re-certifying plants.
24 So, all of the pedigree, I would say. It's the FDA
25 audits. It's the internal company audits. And then

1 along with that - and then we've got ISO requirements.
2 Along with that, then you've got the ability to test
3 materials. You've got sampling. You can get pre-
4 shipment samples. You can get verification of
5 analyses. I'm sure you've seen with the success of
6 the imports, which has caused this problem to begin
7 with, it's a very well and widely accepted product by
8 the pharma companies and by the beverage companies.
9 They have satisfied themselves that it's okay.

10 COMMISSIONER PINKERT: Thank you. Now, just
11 to understand the context here a little bit, would you
12 be aware of any interactions between Tianjin and PMC,
13 if they occurred?

14 MR. DELANEY: Meaning any contact?

15 COMMISSIONER PINKERT: Yes.

16 MR. DELANEY: I believe so.

17 COMMISSIONER PINKERT: And do you have any
18 testimony on that issue?

19 MR. DELANEY: No. Do I know that there is
20 no contact between those companies? I don't know
21 that. I don't think there is.

22 COMMISSIONER PINKERT: Okay. Finally, can
23 you testify about how the closing of the Suzhou
24 saccharin plant in China in October 2007 affected the
25 U.S. market, if at all?

1 MR. DELANEY: I don't know that. I'm not
2 aware of how that closing would impact the U.S.
3 market.

4 COMMISSIONER PINKERT: Thank you. I have no
5 further questions. Thank you, Madam Chairman.

6 CHAIRMAN ARANOFF: Do you have customers or
7 potential customers who are actually users of
8 saccharin at this time?

9 MR. DELANEY: We're not currently selling
10 saccharin, but we have many interested parties that
11 would like to buy saccharin at a more reasonable price
12 from a high-quality producer, yes.

13 CHAIRMAN ARANOFF: So based on your
14 conversations with them, one of the claims that the
15 domestic industry made this morning was that there are
16 some subset of purchasers in the U.S. market, who very
17 much want to have a domestic source for the product.
18 And, indeed, not only would like to have a domestic
19 source, but would like to source all of their
20 saccharin from a domestic source, if they could. Is
21 that your experience, that this subset exists, and are
22 there other substantial users in the U.S. market, who
23 don't really care one way or another, whether the
24 source is domestic?

25 MR. DELANEY: My opinion is the majority of

1 customers don't care whether it's domestic or not. I
2 think there's an element of consumers there that feel
3 the way I do about buying an automobile. I would
4 prefer to buy a Ford or an American-made vehicle; but
5 if the quality and pricing isn't right, I will look
6 elsewhere. But, we're in the business of importing
7 thousands of tons of products from overseas and,
8 again, what is important to the customer is whether
9 it's domestic or not domestic, it's about quality,
10 reliability, and pricing. So, I do not share that
11 same view that there are all these people out there
12 that just would - their primary focus is to buy U.S.-
13 produced material.

14 CHAIRMAN ARANOFF: Okay. Thank you for your
15 answer on that. Are there other questions from
16 Commissioners?

17 (No response.)

18 CHAIRMAN ARANOFF: Does the staff have any
19 questions for Mr. Delaney?

20 MR. MCCLURE: Jim McClure, Office of
21 Investigations. Chairman Aranoff, we have no
22 questions.

23 CHAIRMAN ARANOFF: Does Petitioner have any
24 questions for this witness?

25 MR. GORDON: We have no questions for this

1 witness.

2 CHAIRMAN ARANOFF: Thank you. All right.
3 Mr. Delaney, thank you, very much. We appreciate your
4 being here with us today. Please feel free to take
5 your seat in the back of the room, as we move into the
6 closing phase.

7 MR. DELANEY: Okay, thank you.

8 CHAIRMAN ARANOFF: Let me see, time
9 remaining for the domestic industry, 27 minutes
10 remaining from direct testimony, as well as five-
11 minute closing, for a total of 32 minutes. Mr.
12 Gordon, everyone's lunch is waiting, but you do have
13 32 minutes. So, please begin whenever you are ready.

14 MR. GORDON: Thank you, Chairman Aranoff. I
15 will not be using the balance of my time. My lunch is
16 waiting, too.

17 Let me begin by picking up on a couple of
18 comments that Mr. Delaney made. His presentation, in
19 many ways, was a complaint about pricing, and an
20 assertion that the market has been protected. Well,
21 in fact, it has been protected. It has been protected
22 from horrifically dumped Chinese imports. The record
23 shows that in the original investigation, Chinese
24 imports were coming into this country dumped at
25 staggering rates, up to 330 percent. This is a China

1 case, but even in a China case, those numbers are big.

2 He has complained that prices went up
3 because of the order. Well, in fact, that is true,
4 because pricing resumed fair levels. When you take
5 imports out of the market that are dumped up to 330
6 percent out, yes, prices will go back up and the U.S.
7 industry will regain market share.

8 It is also notable, his statement that the
9 Koreans, the single largest source of non-subject
10 imports, didn't think they could compete if the order
11 went away. So, I think in many ways, his testimony,
12 while I hear his complaints, is consistent with what
13 we have been telling the Commission in our submissions
14 and in testimony today.

15 Much of the testimony today, if not almost
16 all of it, has centered on the threshold issue of
17 whether our client really is committed to U.S.
18 production as its primary focus. Is it really a U.S.
19 producer? Is there a domestic industry? The answer,
20 as you have seen in our submission and as you've heard
21 in the testimony from Ms. Bouligaraki and Mr. Miller,
22 is yes. As we've discussed at length today, midway
23 through the period of review, PMC made the very
24 difficult decision to shut down and re-engineer its
25 plant to focus on saccharin production. Let me make

1 one observation in that regard. Had this temporary
2 shutdown been something that happened to one company
3 in an industry that was comprised of five or six or 10
4 producers, we suggest the Commission would view that
5 rightly as very good evidence that the industry as a
6 whole remains vulnerable to renewed injury or
7 continued injury if the order was revoked. The fact
8 that we are dealing with a one company industry should
9 not change this result.

10 Related to the company's temporary shutdown,
11 our client did, in fact, import significant volumes of
12 saccharin from China. This was a reasonable, if less
13 than ideal strategy that allowed our client to go
14 through the re-engineering process with some hope of
15 having some customers left at the end of the day. The
16 record shows that our client already has reduced its
17 level of imports and that they will continue to do so,
18 as they continue to ramp up production. These issues
19 certainly are important for the Commission to consider
20 and we submit that the record strongly supports a
21 determination in PMC Specialties Group favor.

22 Setting those issues aside for the moment, I
23 would like to comment briefly on the rest of the
24 record that is before the Commission. First, you have
25 a Chinese industry that has massive unused capacity,

1 that has restraints on its ability to sell saccharin
2 in China, that is subject to an antidumping duty order
3 in India, and that has a clear desire and incentive to
4 return to the U.S. market. You have a market here
5 that is price driven and where prices have fallen back
6 to the same competitive levels today that they saw
7 before the very unusual price spike caused by
8 government-imposed shutdowns in China. You have
9 continued underselling by Chinese imports in the U.S.
10 market even today.

11 We respectfully submit that this evidence
12 strongly supports a determination to continue the order
13 in this case. If the order is revoked, Chinese
14 imports will return in very large volumes, at very low
15 prices. The impact would be devastating to a company
16 that is in a transitional phase, as it completes the
17 process of re-engineering itself to be a focused
18 producer of saccharin. If the Commission decides to
19 revoke the order, it is all but certain that the U.S.
20 saccharin industry will cease to exist. The record
21 shows that PMC has made some hard decisions over the
22 past three years and rather than withdraw the order as
23 they are re-entering the market, the Commission should
24 continue the order and allow the company to complete
25 its work. They are producing saccharin today. And as

1 they have testified here today, they are committed to
2 U.S. production. In light of this and based on the
3 record as a whole, we submit that the Commission
4 should vote to continue this order. Thank you, very
5 much, for your attention this morning.

6 CHAIRMAN ARANOFF: Thank you, Mr. Gordon.
7 Post-hearing briefs, statements responsive to
8 questions and request of the Commission, and
9 corrections to the transcript must be filed by April
10 7, 2009. Closing of the record and final release of
11 data to parties will take place on April 29, 2009.
12 And final comments are due on May 1, 2009. I want to
13 thank again everyone, who participated in today's
14 hearing, including the staff, who have been hard at
15 work sorting out the facts in this challenging case.
16 And with that, this hearing is adjourned.

17 (Whereupon, at 1:00 p.m., the hearing in the
18 above-entitled matter was concluded.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Saccharin from China
INVESTIGATION NOS.: 731-TA-1013 (Review)
HEARING DATE: March 26, 2009
LOCATION: Washington, D.C.
NATURE OF HEARING: Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: March 26, 2009

SIGNED: LaShonne Robinson
Signature of the Contractor or the
Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

SIGNED: Rebecca McCrary
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

SIGNED: Mona McClellan
Signature of Court Reporter