

UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:)
)
CERTAIN COATED PAPER) Investigation Nos.:
SUITABLE FOR HIGH-QUALITY) 701-TA-470-471 and
PRINT GRAPHICS USING) 731-TA-1169-1170 (Final)
SHEET-FED PRESSES FROM)
CHINA AND INDONESIA)

Pages: 1 through 409

Place: Washington, D.C.

Date: September 16, 2010

HERITAGE REPORTING CORPORATION

Official Reporters

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Thursday,
 September 16, 2010

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

The hearing commenced, pursuant to notice, at
 9:30 a.m., before the Commissioners of the United States
 International Trade Commission, the Honorable DEANNA
 TANNER OKUN, Chairman, presiding.

APPEARANCES:

On behalf of the International Trade Commission:

Commissioners:

DEANNA TANNER OKUN, CHAIRMAN
 CHARLOTTE R. LANE, COMMISSIONER
 DANIEL R. PEARSON, COMMISSIONER
 SHARA L. ARANOFF, COMMISSIONER
 IRVING A. WILLIAMSON, COMMISSIONER
 DEAN A. PINKERT, COMMISSIONER

APPEARANCES: (Cont'd.)

Staff:

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 WILLIAM R. BISHOP, HEARINGS AND MEETINGS
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THE HONORABLE JOHN D. ROCKEFELLER IV, United
 States Senator, West Virginia
 THE HONORABLE HERB KOHL, United States Senator,
 Wisconsin
 THE HONORABLE RUSSELL D. FEINGOLD, United States
 Senator, Wisconsin
 THE HONORABLE OLYMPIA J. SNOWE, United States
 Senator, Maine
 THE HONORABLE SUSAN M. COLLINS, United States
 Senator, Maine
 THE HONORABLE DEBBIE STABENOW, United States
 Senator, Michigan
 THE HONORABLE AMY KLOBUCHAR, United States
 Senator, Minnesota
 THE HONORABLE SHERROD BROWN, United States
 Senator, Ohio
 THE HONORABLE AL FRANKEN, United States Senator,
 Minnesota

U.S. House of Representatives Appearances:

THE HONORABLE JAMES L. OBERSTAR, U.S.
 Representative, 8th District, Minnesota
 THE HONORABLE THOMAS E. PETRI, U.S.
 Representative, 6th District, Wisconsin
 THE HONORABLE ROSCOE G. BARTLETT, U.S.
 Representative, 6th District, Maryland
 THE HONORABLE BART STUPAK, U.S. Representative,
 1st District, Michigan

APPEARANCES: (Cont'd.)

U.S. House of Representative Appearances:

THE HONORABLE ED WHITFIELD, U.S. Representative,
2nd District, Kentucky
THE HONORABLE MIKE ROSS, U.S. Representative,
4th District, Arkansas
THE HONORABLE MICHAEL H. MICHAUD, U.S.
Representative, 2nd District, Maine
THE HONORABLE MICHAEL H. TURNER, U.S.
Representative, Ohio
THE HONORABLE STEVE L. KAGEN, U.S. Representative,
8th District, Wisconsin
THE HONORABLE CHELLIE PINGREE, U.S.
Representative, 1st District, Maine

State Government Appearance:

THE HONORABLE TED STRICKLAND, Governor of Ohio

In support of the Imposition of Antidumping and
Countervailing Duty Orders:

On behalf of Petitioners:

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STEVEN DEVOE, General Manager, Sheet and
Caliper, NewPage Corporation
MARK GARDNER, President and CEO, Sappi Fine
Paper North America
JENNIFER MILLER, Executive Vice President,
Strategic Marketing and Chief Sustainability
Officer, Sappi Fine Paper North America
ANNE AYER, Vice President, Corporate Development
and Chief Information Officer, Sappi Fine
Paper North America
SANDRA VAN ERT, President and CEO, Appleton
Coated LLC
JOHN CAPPY, Former CEO, Appleton Coated LLC
GREG SAVAGE, Vice President, Commercial Sales,
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United Steel, Paper and Forestry, Rubber,
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MIKE FREELAND, President, Field Paper Company
GEORGE SCHOEDINGER, Vice President, Universal
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MIKE MARCIAN, President, Corporate Press
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KEN HARRIS, Vice President of Operations and
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ANTHONY ATAMIMI, Sales Manager, Digital
Products, Global Paper Solutions
TERRY HUNLEY, Advisor, Global Paper Solutions
MARK DRAGOO, Vice President of Paperboard
Sales, Global Paper Solutions
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On behalf of APP-China, APP-Indonesia: (Cont'd)

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1 should be directed to the Secretary. I would note if
2 there's time that because of the large number of
3 congressional witnesses, as well as full participation
4 by parties for both the Petitioners and the
5 Respondents, we expect this to be a lengthy hearing.

6 I anticipate that we will take a break for
7 lunch and a break for dinner, but we will set the
8 times for those breaks later when we see how things
9 are moving. I would note for witnesses that, again,
10 we know it's going to be a lengthy day. If you need
11 to leave the hearing to stretch your legs, please do
12 so, but please be available for questions from
13 Commissioners. Speakers are reminded not to affirm
14 their remarks or answers to questions to business
15 proprietary information. Please speak clearly into
16 the microphones, state your name for the record for
17 the benefit of our court reporter. Finally, if you'll
18 be submitting documents that contain information you
19 wish classified as business confidential, your request
20 should comply with Commission Rule 201.6. I would now
21 like to turn to Commissioner Lane to welcome some
22 special guests from West Virginia.

23 COMMISSIONER LANE: Thank you, Madam Chair.
24 I would like to welcome to the Commission's hearing
25 today law students from the West Virginia University

1 College of Law and their professor, Professor Allison
2 Peck. They are students in the international trade
3 class, and so I would like for them to stand up so
4 that we can give them a warm welcome.

5 (Applause.)

6 COMMISSIONER LANE: We hope that you learn a
7 lot today. Thank you.

8 CHAIRMAN OKUN: Thank you, Commissioner
9 Lane, and again, welcome to all of you. We enjoy
10 having you here. Madam Secretary, are there any
11 preliminary matters?

12 MS. ABBOTT: Madam Chairman, there are no
13 preliminary matters.

14 CHAIRMAN OKUN: Very well. Will you please
15 announce our first congressional witness.

16 MS. ABBOTT: Our first witness is the
17 Honorable Olympia J. Snowe, United States Senator from
18 Maine.

19 CHAIRMAN OKUN: Welcome, Senator, and good
20 morning.

21 MS. SNOWE: Thank you. Thank you very much,
22 Madam Chairman. I appreciate very much the
23 opportunity that you've extended to me, and I want to
24 thank the members of the Commission as well for
25 providing me this opportunity to offer my input on the

1 exceptionally injurious effects of dumped and
2 subsidized coated paper imports from China and
3 Indonesia that we're witnessing with respect to the
4 American coated paper industry and the thousands of
5 jobs it supports across the United States. No one
6 understands the stakes involved better than the mill
7 workers in my own state of Maine, some of whom, I'm
8 proud to say, are joining us here this morning from
9 mills in Skowhegan and Rumford, Maine.

10 Their willingness to travel such long
11 distances and to take their own time to be here
12 demonstrates just how critical this issue is to their
13 livelihood, as well as to the financial well-being of
14 their families and their communities. Furthermore,
15 I'm very proud to say as well that the entire Maine
16 congressional delegation is here today that will
17 deliver testimony to the Commission. I think that's a
18 fact that speaks to the incredible significance of
19 these proceedings to the economic future of paper
20 production in our state. Today you've been asked to
21 consider whether imports of dumped and subsidized
22 coated paper from China and Indonesia have caused or
23 threatened material injury to our domestic coated
24 paper industry in accordance with your governing
25 statute.

1 You may hear testimony from foreign
2 producers or importers who will argue that the level
3 of coated paper imports from China and Indonesia is
4 fair and has little to do with mill closings or lay
5 offs within the American paper manufacturing industry.
6 They may point to other factors, such as rise in
7 electronic communications or the internet, or the
8 economic recession. However, as President John Adams
9 once said, facts are stubborn things. So let's
10 examine some of the evidence. In May of this year,
11 the Department of Commerce announced preliminary
12 determinations that the governments of China and
13 Indonesia are providing countervailable subsidies to
14 producers of coated paper and that imports from these
15 two countries are being dumped in the United States at
16 levels far below fair market value.

17 These foreign subsidies come in the form of
18 preferential lending from state-owned banks, income
19 and value added tax exemptions and privileged rates
20 for timber, pulp, electricity, coal and other
21 services. As a result, the Commerce Department
22 found that coated paper imports from China and
23 Indonesia are being unfairly subsidized at rates of 20
24 percent and 17 percent, respectively. Furthermore,
25 according to the Department's findings, in 2009,

1 imports of certain coated paper from China were
2 estimated to be valued at \$213.3 million and \$46.9
3 million of value of imports from Indonesia.

4 It's bad enough that our industry has been
5 forced to compete with dumped imports at margins of
6 approximately 10 percent since 2001, but now the
7 Department of Commerce has discovered that in some
8 cases these margins have skyrocketed to more than 90
9 percent less than the fair market value. There can be
10 no other reasonable explanation than the existence of
11 unfair trade distortions which no U.S. producer could
12 remotely be expected to overcome. Let there be no
13 question. This dramatic increase in subsidies in
14 dumped products since 2008 has served as an
15 accelerant, igniting market distortions and spurring
16 greater underutilization of capacity. This means lost
17 wages, more mill closures and contributing to job
18 losses of nearly 160,000 workers across the entire
19 American paper sector.

20 It would defy all logic to believe it is
21 mere coincidence that based on the ITC's prehearing
22 staff report between 2007 and the first six months of
23 2009 imports from China and Indonesia jumped from 14
24 percent of the U.S. market to more than 20 percent of
25 the U.S. market at a value of more than \$300 million.

1 Let's be clear. These imports have undersold U.S.
2 coated paper producers and depressed the value of U.S.
3 coated paper products by margins of 20 percent or
4 more, as I have heard from mill operators in my state.
5 In the State of Maine I can attest to the human toll
6 from these inequitable trade practices.

7 Statewide unemployment in Maine remains
8 above eight percent, which is slightly better than the
9 national average, but in Oxford and Somerset Counties
10 where Maine's impacted factories are located, that
11 rate rises to 10.6 percent and 10.7 percent,
12 respectively. In Maine, the paper production industry
13 is not just a major employer with nearly 10,000
14 Mainers working the pulp and paper industry, there are
15 35 manufacturing facilities and an annual payroll of
16 more than \$1 billion. The paper production is an
17 indispensable economic pillar of our state, as it is
18 across America. It is the very heart and soul, and it
19 is the lifeblood of our rural communities.

20 Maine is home to a large number of paper
21 manufacturers, including the NewPage Corporation and
22 Sappi Fine Paper North America, who are Petitioners in
23 these investigations. NewPage's mill in Rumford
24 currently employs approximately 980 people, down from
25 980 at the end of 2008. The company has informed me

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1 that the material injury it has suffered as a result
2 of unfairly traded imports has forced it to lay off
3 workers, idle several paper machines, as well as
4 closing several operations in several states,
5 resulting in a loss of more than 1,190 jobs in the
6 United States.

7 Likewise, in response to market distortions,
8 Sappi's Somerset mill, which is Somerset County's
9 largest employer with 800 people on the payroll, has
10 regrettably been compelled to reduce production at its
11 paper machines, meaning that in 2009 Sappi saw massive
12 curtailment at the mill equalling 70,000 to 80,000
13 tons in lost production and contributing to a loss of
14 50 jobs in Maine during that time period.

15 Collectively, the Petitioners in this case report that
16 about 6,000 production workers at 20 mills operating
17 in seven states have been materially injured by these
18 unfair market distorting trade practices.

19 Now, that's over and above the already
20 harmful effects from China's ongoing undervaluation of
21 its currency, the Yuan, at a rate of up to 40 percent
22 compared to U.S. dollar, according to leading
23 economists. In fact, this is an issue that the
24 Treasury Secretary will be addressing today. It's a
25 practice that already places U.S. businesses at a

1 severe disadvantage in competing globally. So what is
2 the net effect of these inequities on an America that
3 has the most efficient paper making industry in the
4 world and has ample access to raw materials? Well,
5 confoundingly, China, as of two years ago, has managed
6 to overtake the U.S. to become the world's leading and
7 largest producer of paper and paper products, so much
8 so that in 2009 it produced over 17 percent of the
9 world's total output. That's almost one-fifth of the
10 world's supply.

11 That begs the question how is this possible
12 when China has no natural competitive advantage in
13 paper making, when China lacks in natural resources to
14 propel its paper industry, given that its forest base
15 is among the smallest in the world and when China,
16 according to a recent study by the Economic Policy
17 Institute, spends three-fourths of its paper producing
18 costs just on raw materials alone, which it has to
19 import from countries, for example, like Brazil,
20 halfway across the globe. Yet with all of these
21 building challenges, our own Department of Commerce
22 reports that producers in China still sell the
23 finished product in some cases at rates of over 90
24 percent less -- 90 percent less -- than the fair
25 market value.

1 So how does this happen? Well, it happens
2 because of subsidies. In fact, according to the
3 Economic Policy Institute, since 2002, China's global
4 paper industry has been fueled by over \$33 billion in
5 cumulative government subsidies. It's undeniable the
6 rise of China's paper industry is less related to
7 market forces than to a decision by the country's
8 government to implement an industrial policy that
9 subsidizes and promotes domestic paper production.
10 Over the years, I have witnessed our state paper
11 manufacturers and their workers going to great lengths
12 working mightily to improve their competitiveness.

13 These are the types of companies that should
14 thrive in a global economy, but they cannot if the
15 foreign producers are playing with a proverbial
16 stacked deck. Neither the U.S. paper industry, nor
17 America itself can continue to countenance
18 destabilizing forces in the global trading system that
19 disadvantages the paper industry and its workers in
20 Maine and throughout the country. I urge the
21 Commission in the strongest terms possible to make a
22 prompt affirmative determination in these
23 investigations to rectify these egregious inequities
24 in our trading system. Thank you, Madam Chairman, and
25 members of the Commission.

1 CHAIRMAN OKUN: Thank you for your
2 testimony. Let me turn to my colleagues, see if there
3 are questions. Seeing none, we want to thank you
4 again.

5 MS. SNOWE: Thank you very much. I
6 appreciate it. Thank you.

7 MS. ABBOTT: Our next speaker is the
8 Honorable Herb Kohl, United States Senator, Wisconsin.

9 CHAIRMAN OKUN: Good morning, Senator Kohl.

10 MR. KOHL: Good morning. Thank you for
11 having me here today. Madam Chairman and fellow
12 Commissioners, I thank you very much for this
13 opportunity to appear today on behalf of two Wisconsin
14 paper companies in support of their case. For
15 generations, the paper industry has supported
16 Wisconsin's families and helped grow our middle-class.
17 A healthy paper industry is vital to Wisconsin's
18 economy, but they cannot compete against unfair trade
19 practices. The importance of paper to Wisconsin
20 cannot be understated. Wisconsin has 241 pulp and
21 paper facilities which employ approximately 35,000
22 people.

23 Together, NewPage Corporation and Appleton
24 Coated employs nearly 3,000 workers. Both NewPage and
25 Appleton have mills in my state that produce paper

1 that is the subject of your investigation. This case
2 means a lot to these companies, and, in particular, to
3 their workers, some of whom traveled here today from
4 Wisconsin to attend the hearing. My office received
5 hundreds of letters from employees at these companies
6 all with similar stories. These men and women, many
7 of them second and third generation paper workers,
8 have been with their companies for many years.
9 They're worried that they're going to lose their jobs,
10 not because they aren't working hard enough, but
11 because of unfair subsidies from countries, like
12 China, as well as Indonesia.

13 These people are worried because they've
14 seen job losses due to unfair competition for many
15 years. Two years ago, I testified before the ITC
16 regarding lightweight thermal paper. Unfortunately,
17 the story then is similar to the story today. In
18 2008, NewPage closed down mills in Kimberly and
19 Niagara, Wisconsin, and had to lay off about 1,000
20 people. Last year, Appleton Coated laid off nearly 80
21 people at its combined locks mill. These jobs have
22 been lost and they have a negative ripple effect.
23 Unemployment at a large employer is felt throughout
24 the supply chain, as well as all the other small
25 businesses dependent on consumer spending.

1 Unless action is taken, this story of unfair
2 competition and lost jobs here at home will continue,
3 but that's why we have this process. We must enforce
4 the laws on the books and discourage these unfair
5 trade practices from happening in the future.
6 Wisconsin paper producers are among the most
7 competitive in the world if they're allowed to play on
8 a level playing field. They have invested
9 continuously in technology upgrades and state of the
10 art equipment. They have a dedicated sales force
11 focused on customer service. Wisconsin paper
12 companies are intertwined with our abundant and
13 renewable forest resources.

14 I urge you to review carefully the evidence
15 you've gathered in this investigation. When you do,
16 I'm confident that your final determinations will find
17 that the dumping and subsidization of the coated paper
18 industry has resulted in material injury. We're
19 hopeful that the lost jobs return and future job
20 losses are stopped. Thank you again for the
21 opportunity to participate today and for your hard
22 work on behalf of workers all over the world. Thank
23 you so much.

24 CHAIRMAN OKUN: Thank you for your
25 testimony. Do my colleagues have questions? Thank

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1 you very much.

2 MS. ABBOTT: Our next speaker is the
3 Honorable Russell D. Feingold, United States Senator,
4 Wisconsin.

5 CHAIRMAN OKUN: Good morning, Senator
6 Feingold.

7 MR. FEINGOLD: Good morning, Chairwoman Okun
8 and members of the Commission. I certainly appreciate
9 the opportunity to testify today on behalf of
10 Petitioners NewPage Corporation, Appleton Coated, and
11 their workers represented by the United Steelworkers
12 union, which is also a co-Petitioner. The coated
13 paper sector is a significant employer in my state, as
14 is evident from the participation today by my other
15 colleagues from the Wisconsin congressional
16 delegation. It has provided thousands of families
17 supporting jobs in several communities for a long
18 time. The damage done to the industry by the unfair
19 trade practices that you are reviewing has been felt
20 throughout those communities, beyond just the affected
21 companies.

22 When a paper mill closes, it affects many
23 more than just those who work at the mills. The
24 grocer is selling fewer groceries, the clothing store
25 is selling fewer clothes, and the same is true of the

1 electronics store, the hardware store, and businesses
2 all around those communities. Anyone who has traveled
3 around my state can see the breadth of the devastation
4 that these closings have caused. NewPage Corporation
5 and Appleton Coated combined have nearly 3,000
6 workers, most of them members of the United
7 Steelworkers. Their Wisconsin mills provide good
8 paying, family supporting jobs for their workers, as
9 well as a significant amount of fiscal support for the
10 vital services provided by our state and local
11 governments.

12 Wisconsin is home to 241 pulp and paper
13 facilities that employ approximately 35,000 people,
14 and NewPage Corporation has more than 2,000 workers in
15 its mills located in Whiting, Stevens Point, Byron and
16 Wisconsin Rapids. Appleton Coated has 650 workers at
17 its Combined Locks facility. I understand NewPage
18 closed its paper mill at Kimberly and its pulp and
19 paper mill in Niagara. Nearly 1,000 of those workers
20 were laid off last year. Then Appleton Coated laid
21 off 70 workers in its Combined Locks facility. Those
22 closures rocked their communities and continue to do
23 so. They are a direct result of the unfair trade
24 practices you're examining in these investigations.
25 Generations of families have worked at these jobs and

1 are devastated by what is happening.

2 Instead of these mills expanding and
3 creating new jobs, workers look around and wonder
4 who's going to be the next person to lose their job.
5 The Wisconsin paper industry and its workers can
6 compete with anyone if they're given a level playing
7 field. They've stayed ahead of the curve when it
8 comes to technology and efficiency. Their competitive
9 shipping costs and shipping times, coupled with their
10 access to an abundance of wood fiber and water
11 resources put them in a strong position to do well
12 against their Chinese and Indonesian competitors, if
13 not for the unfair dumping and subsidizations. I say
14 that because China, I'm told, must turn to Latin
15 America for wood fiber and lacks sufficient access to
16 water.

17 Wisconsin paper producers also practice good
18 environmental stewardship and succeed in reducing
19 their environmental impact. The three petitioning
20 companies, NewPage, Apple Coated and Sappi, are being
21 battered by the unfairly traded imports of coated
22 paper from China and Indonesia. These imports
23 adversely affected their ability to price
24 competitively in the U.S. market. Commerce Department
25 has found preliminarily that these two subject

1 countries are both dumping and subsidizing these
2 imports. Wisconsin paper producers and their workers
3 are joining those in other states in providing the
4 facts that will provide the basis for this Commission
5 to set things straight.

6 The coated paper industry has experienced
7 capacity reductions and underutilization, resulting in
8 loss of jobs in communities all across the country.
9 These petitions, these companies and their workers,
10 have filed and the evidence being gathered in this
11 final phase in these investigations will show that
12 China and Indonesia are significant contributors to
13 these problems. Production workers at 20 paper mills
14 in seven states are affected. Their future and that
15 of their families, friends and communities depends on
16 the outcome of these investigations, so I urge you to
17 continue to carefully weigh the information you have
18 before you, as I'm sure you'll do, including today's
19 testimony. When you do, I'm confident that your final
20 determinations will find that the dumping and
21 subsidization of the coated paper industry has
22 resulted in material injury. So thank you so much for
23 the opportunity to participate today.

24 CHAIRMAN OKUN: Thank you for your
25 testimony. Any questions? Thank you.

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1 MS. ABBOTT: Our next speaker is the
2 Honorable Susan M. Collins, United States Senator,
3 Maine.

4 CHAIRMAN OKUN: Good morning, Senator.

5 MS. COLLINS: Good morning. Madam Chairman,
6 members of the Commission, I so appreciate the
7 opportunity to testify before you today about how
8 Chinese and Indonesian subsidies are injuring the
9 American paper industry. U.S. manufacturers and their
10 employees can compete against the best in the world,
11 but they cannot compete against foreign manufacturers
12 who receive huge government subsidies and other unfair
13 advantages. Time and time again I hear from Maine
14 manufacturers and workers whose efforts to compete in
15 the global economy are unsuccessful because Chinese
16 and Indonesian manufacturers enjoy advantages from
17 illegal pricing and subsidies.

18 The results of these unfair practices are
19 lost jobs, shuttered factories and decimated
20 communities. Since 2002, the U.S. paper sector has
21 lost an estimated 60,000 jobs. Over the past decade,
22 China has undergone a significant economic
23 transformation, and today its economy is no longer
24 controlled completely by the government.
25 Unfortunately, as China has become a key international

1 economic player, it has repeatedly refused to comply
2 with standard international trading rules and
3 practices. The use of subsidies and other economic
4 incentives that are designed to give its producers an
5 unfair competitive advantage is clearly in violation
6 of international rules.

7 In 2006 and 2007, the ITC conducted an
8 investigation on behalf of NewPage Corporation. This
9 investigation focused on unfair subsidies to the
10 coated paper industries in China, South Korea and
11 Indonesia, as well as injurious dumping by those
12 producers in those countries. Although the Department
13 of Commerce's investigation had shown that these
14 countries were engaged in unfair dumping practices and
15 receiving government subsidies, the ITC at that time
16 determined that U.S. manufacturers had not been
17 injured. Unfortunately, the Chinese and Indonesians
18 have viewed that determination as a green light to
19 increase their dumped and subsidized exports to the
20 U.S.

21 Between 2007 when the determination was made
22 and the first half of 2009, imports of coated paper
23 from China increased from 13 percent to 21 percent of
24 the U.S. market. In Maine I would tell you we have an
25 abundant supply of the primary renewable resource

1 timber which produces very high-quality pulp for paper
2 production. We also have ample hydroelectric power to
3 run our mills, and we're proud to have the best
4 trained, highest-skilled and most dedicated paper
5 workers in the world. I have a feeling you've heard
6 that from the representatives of the other states as
7 well. With this winning combination, American
8 producers should easily succeed in this market, but
9 instead, they've suffered losses in market shares to
10 countries like China that don't even produce their own
11 pulp.

12 The loss of market share is a direct result
13 of China subsidizing its domestic coated paper
14 industry. In addition to national and local income
15 tax exemptions, the Chinese government provides low
16 cost loans through government-owned banks, as well as
17 outright grants for the development of new capacity,
18 and tax breaks based on export performance and
19 domestic equipment purchases. These subsidies have
20 unfairly put American producers, like NewPage and
21 Sappi, at a competitive disadvantage. The Department
22 of Commerce found in its recent investigation that
23 China has used a number of subsidies deemed illegal
24 under WTO rules, including the loans to the paper
25 industry, the income tax redemptions, exemptions and

1 redemptions of local income taxes for foreign-invested
2 companies, value added tax rebates on purchases of
3 domestically produced equipment, tariff exemptions on
4 imported equipment and grants to state-owned
5 enterprises.

6 The Department found that the Indonesian
7 government was subsidizing its domestic paper industry
8 by providing timber below cost, forgiving government
9 loans and banning the export of logs. If that were
10 not enough, the Department of Commerce has also found
11 both nations guilty of dumping their paper. I was
12 disappointed that the Department of Commerce decided
13 earlier this month not to investigate as a potential
14 subsidy China's manipulation of its currency, which I
15 think is another critical waste of our nation's
16 competitiveness, but I realize that is beyond the
17 purview of the Commission. Unfair trade practices in
18 China and other countries have had a negative impact
19 on many industries in Maine. The pulp and paper
20 industry in Maine has often been called the backbone
21 of our economy and for good reason.

22 Last year, the industry put nearly \$900
23 million into the state's economy. In total, the pulp
24 and paper industry accounts for 22 percent of all
25 manufacturing wages in the state. It used to be much

1 higher, I would add. In some communities it is the
2 paper mill that is the only big employer. It's really
3 the engine of the community, and it can represent 60
4 to 80 percent of total local tax revenues for the
5 community. When machines or mills are shut down it is
6 devastating. In 2009, NewPage's mill in Rumford,
7 Maine, was forced to take an extended unscheduled down
8 time due to market conditions.

9 The lost wages associated with these machine
10 shut downs hurts our communities in so many ways.
11 According to PricewaterhouseCoopers, each paper making
12 job in Maine creates 3.28 additional direct jobs --
13 direct jobs -- for suppliers and contractors. When
14 logging transportation, retail and other fields are
15 taken into account, each job at a Maine paper mill
16 created six additional jobs in the community. Five
17 Maine mills produce coated paper: NewPage's mill in
18 Rumford, the Verso Paper mills in Bucksport and Jay,
19 and the Sappi Fine Paper mills in Westbrook and
20 Skowhegan. These mills are efficient, they're up-to-
21 date, they employ sustainable forestry practices that
22 help ensure a viable supply long-term of timber while
23 protecting our environment.

24 Altogether, some 4,000 workers in Maine
25 derive their employment from the production of coated

1 paper. These workers are highly-skilled with average
2 salaries of \$60,000, so these are good jobs. Some of
3 the best jobs that we have in Maine. Nevertheless, I
4 am deeply worried. Some of Maine's mills and paper
5 machines have been idle for weeks or months at a time,
6 leaving these workers without a steady paycheck, and
7 the ripple effect throughout the community is
8 significant. These shut downs, even if they're
9 temporary, can cause lasting damage to communities.
10 Mills in the United States need to have a healthy rate
11 of return not only to allow them to stay in business,
12 but also to be able to invest in upgrades and the
13 latest production technologies.

14 In a capital intensive industry, like the
15 paper industry, continued investment is critical.
16 These workers and their communities rely on the
17 economic benefits of these mills. Given these
18 circumstances, I respectfully urge the Commission to
19 consider the record carefully, as I know you will do,
20 as I believe that clear violations of the
21 international trading rules and practices exist. If
22 these violations are not remedied, Maine's proud
23 tradition of producing pulp and paper could be lost
24 forever to foreign manufacturers who have benefitted
25 from unfair government subsidies and assistance. All

1 we're asking is for a level playing field. Thank you
2 very much for the opportunity to appear before you
3 today, and thank you for the seriousness with which
4 you take on your considerable responsibilities. Thank
5 you.

6 CHAIRMAN OKUN: Thank you for your
7 testimony. Any questions for the Senator? Thank you.

8 MS. COLLINS: Thanks.

9 MS. ABBOTT: Our next speaker is the
10 Honorable Ted Strickland, Governor of Ohio.

11 CHAIRMAN OKUN: Good morning, Governor.

12 MR. STRICKLAND: Good morning. It's good to
13 be back, Chairman Okun, and members of the Commission.
14 I appreciate the opportunity to appear before you
15 today. I've come to Washington to add my voice to
16 those who sought a remedy from the injury to the U.S.
17 coated paper manufacturers being inflicted by dumped
18 and unfairly subsidized imports from China and
19 Indonesia. The issue here is basic economics, but
20 what's at stake is beyond that. You know, we teach
21 our children in Ohio and across this great country
22 that working hard and making a quality product will be
23 rewarded, and yet, the lives and the livelihoods of
24 hard working Ohioans are threatened by a huge system
25 that rewards product subsidies over product substance.

1 Some people think that we can't make things
2 in America anymore, but we know that's not true.
3 Manufacturing is just not some figment of our past,
4 it's a foundation for our future. In fact, Ohio is
5 third among the 50 states in manufacturing job growth
6 this past year, and we're proud of that. But there
7 are sectors within our manufacturing base that are
8 being left behind, sacrificed to overseas competitors
9 that employ aggressive, unfair production and sales
10 tactics that depend upon government subsidies and that
11 dump products into the U.S. market at artificially low
12 prices. In fact, I would respectfully argue that a
13 significant portion of manufacturing job losses that
14 we've seen come at the hands of anticompetitive
15 trading practices from overseas.

16 Ohio is home to over 26,000 jobs in the pulp
17 and paper industry. NewPage is a Petitioner in this
18 case. They are headquartered in Miamisburg, Ohio.
19 SMART Papers has both its headquarters and its
20 production facility in Hamilton, Ohio. NewPage has
21 about 350 employees in Ohio, and SMART has about 250
22 employees. NewPage is the largest producer of coated
23 paper in the United States. SMART produces premium
24 coated and uncoated papers with a broad range of
25 applications in the graphic art, label and packaging

1 and specialty converting markets. No company can make
2 new investments in its technology, assemble a skilled
3 workforce and maintain an unwavering commitment to the
4 pursuit of market opportunities while sustaining the
5 types of losses being dealt to the coated paper
6 industry in today's marketplace.

7 Given this, we in Ohio are concerned because
8 absent direct efforts by the federal government to put
9 a halt to artificially low priced and subsidized
10 imports of coated paper, Ohio companies will not have
11 a fair chance to compete. We can ill afford to wait
12 and see what further damage would come if we leave our
13 paper producers to fend for themselves against illegal
14 competition. In Ohio, we surely cannot afford
15 business contraction and job losses, and our paper
16 sector should not be asked to bear the burden of a
17 biased system. On behalf of the State of Ohio, I
18 respectfully urge the Commission to uphold the dumping
19 and illegal subsidy findings issued last week by the
20 Commerce Department because paper is a strong and
21 great industry in Ohio that has thrived here for
22 generations. If NewPage, SMART Papers and the rest of
23 the domestic industry are to survive, we must give
24 these companies, their workers and the communities
25 which rely upon them a fair chance. The companies

1 have done their part. They have reinvested in their
2 workers and mills in order to stay competitive. Now
3 we must do our part as a government. I ask that the
4 Commission reinstate balance to the marketplace to
5 give American companies every reasonable chance to
6 succeed. Today, I ask that you consider the
7 compelling facts in this case, as well as the
8 tremendous cost to the nation of inaction. I hope
9 that the Commission will make a resounding affirmative
10 decision in the final stage of this important
11 investigation, and I thank you for giving me the
12 privilege of appearing before you this morning.

13 CHAIRMAN OKUN: Thank you for your
14 testimony. Any questions for the Governor? Thank you
15 very much.

16 MR. STRICKLAND: Thank you.

17 MS. ABBOTT: The next speaker is the
18 Honorable Bart Stupak, United States Representative,
19 1st District, Michigan.

20 CHAIRMAN OKUN: Good morning, Congressman
21 Stupak.

22 MR. STUPAK: Good morning, thank you for
23 having me here. In my 18 years I think it's been five
24 or six times I've appeared here. That's because I
25 represent northern Michigan and we in northern

1 Michigan rely heavily on our natural resources for
2 economic vitality. And this petition here which I'm
3 pleased to support follows up really on a previous
4 petition we had in 2008 with the coated paper
5 industry.

6 In 2008 the Department of Commerce had
7 actually put tariffs or a finding there should be
8 tariffs for China for unfair dumping in the coated
9 paper industry, I and others testified in support.
10 It's my understanding after the hearing in 2008 the
11 ITC ruled that, it's my understanding, well yes there
12 was a violation, there was dumping, but the impact on
13 the U.S. economy wasn't that great and therefore no
14 tariffs or anything were put forward. And thus you
15 see we're back here again because China and others
16 have continued to dump illegally in our country.

17 2008 I testified because Niagara, Wisconsin,
18 which is a border to Michigan, we lost 340 workers.
19 The more that move from the 340 workers we lost our
20 communities. In my district these are one-mill towns.
21 340 workers, half from Michigan half from Wisconsin,
22 which made up the Niagara mill, in the communities
23 they lost their identity, they lost their school
24 system. They've lost so much that you can't replace.

25 So while we look at the economic impact,

1 let's also look at the impact to our small towns and
2 communities. So here we are now two years later, and
3 I'm from Michigan where our unemployment is over 14
4 percent, highest in the nation. And now we're being
5 threatened, NewPage and Escanaba which has 1,100
6 employees. Escanaba's been a paper mill town for many
7 many years. So are we once again seeing a decision,
8 which I pray it won't happen, that the ITC somehow
9 finds that, well it may be a violation but doesn't
10 have enough of an impact upon our economy and
11 therefore we can ignore the illegal practices of China
12 and others?

13 So what it does for all of us who are policy
14 makers who've appeared here so far this morning, it's
15 hard for us to go back and say we have to have trade,
16 there has to be freight freezes, fair trade. Because
17 when you lose one worker or 340 at Niagara or 1,100 at
18 Escanaba, you not only lose these workers and put them
19 out of business, you kill small communities in
20 districts like mine. So I ask that you take a look at
21 this petition, uphold the Department of Commerce
22 ruling because these workers and these communities
23 have so much at stake.

24 And for myself as a policy maker we always
25 say everyone's going to play by the same rules, we'll

1 have fair trade. But whether it's one job, a thousand
2 jobs, or a million jobs, a violation's a violation. I
3 think you have to uphold this petition to uphold the
4 integrity of the trade laws, uphold the integrity of
5 the American worker, uphold the integrity of our
6 communities that we all represent.

7 So I ask you to take a close look at this
8 petition, uphold the findings of the Department of
9 Commerce, and restore integrity back to the trade laws
10 which, where I stand and where I go home every
11 weekend, more and more people complain all the time
12 that the laws aren't there to help us anymore and they
13 are just for economic advantages. And in this setting
14 and this global economy one country can't have an
15 advantage over another. It's more than just
16 countries, it's one worker with an advantage over
17 another worker, small town in China having advantage
18 over us here in the United States. So I ask that you
19 uphold the Department of Commerce ruling, and again
20 thank you for having me here today.

21 CHAIRMAN OKUN: Thank you for your testimony
22 this morning. Any questions?

23 (No response.)

24 CHAIRMAN OKUN: Thank you.

25 MR. STUPAK: Thank you.

1 MS. ABBOTT: Our next speaker is the
2 Honorable Michael H. Michaud, United States
3 Representative, 2nd District, Maine.

4 CHAIRMAN OKUN: Good morning and welcome.

5 MR. MICHAUD: Good morning. I would like to
6 thank you, Chairwoman Okun and all of the members of
7 the Commission, for allowing me to testify before you
8 today on these very important antidumping and
9 countervailing cases on certain coated paper from
10 China and Indonesia. I also want to thank you for
11 your work on this and other trade enforcement issues,
12 which is critical to ensuring that our workers and
13 companies compete on a level playing field in this
14 area as well as other areas.

15 As you may know, I worked in a paper mill in
16 East Millinocket, Maine, for nearly 30 years, and
17 watched my hometown decline when the paper mill shut
18 down the same year I was sworn in as a Member of
19 Congress. Once the paper mill shut down, the town
20 didn't know if it would have enough money to keep the
21 school running and the senior class didn't know if it
22 would be able to graduate or not because the mill
23 accounted for over 80 percent of East Millinocket's
24 tax base.

25 All of this goes to show that the economic

1 impact of these subsidies are real, especially in
2 small communities such as East Millinocket, which has
3 faced over a 32 percent unemployment rate after the
4 mill closed. And while the good people of the
5 Katahdin Region are hardworking and are resilient as
6 ever, no one can deny that the community was changed
7 for the worse when the mill shut its doors. But my
8 hometown is not the only one that has suffered from
9 this fate, which is why we are all here today.

10 The impact of Chinese and Indonesian coated
11 paper imports on American producers has been
12 significant. Some estimate that 6,000 production
13 workers represented by the United Steel Workers Union
14 at 20 paper mills operating in seven states are
15 affected. Our companies simply cannot compete against
16 the Chinese and Indonesia subsidies. These subsidies
17 are not only unfair but also illegal, and they
18 disadvantage our American businesses and put our
19 fellow citizens out of work.

20 In fact, the last two years trade adjustment
21 assistance has been given to laid off Maine workers
22 from both Sappi Fine and NewPage as a result of
23 increased foreign imports. That is why I'm pleased
24 that the preliminary decision in this case has
25 indicated that there has been material injury to the

1 U.S. coated paper industry. And I strongly support
2 the findings that the China wide dumping margin is 135
3 percent and subsidies rates range as high as nearly 13
4 percent.

5 This preliminary decision underscores just
6 how much China's high levels of dumping and enormous
7 subsidies harm our industry. And to the paper mill
8 employees in Maine and around the country there is
9 much needed relief. In 2008 China surpassed the
10 United States and became a new leading global producer
11 of paper and paper products, all because of their
12 subsidies. This unfair trade advantage has come at
13 the risk of our own industry and we must respond.

14 I urge you to continue your efforts to
15 evaluate the negative effects of China's and
16 Indonesia's subsidies on our U.S. paper industry and
17 ensure that our manufacturers and our workers are able
18 to compete on a level playing field in the global
19 economy. I also would be remiss if I did not point
20 out in Washington there's been a lot of partisan
21 arguments going on.

22 As you will see that you have the entire
23 Maine delegation, Republicans and Democrats, House and
24 Senate here today to encourage you to look at what's
25 happening with China and Indonesia and the subsidies

1 that they're receiving. So I want to thank you for
2 allowing me to participate in today's proceeding, look
3 forward to your outcome of this hearing today, so
4 thank you very much.

5 CHAIRMAN OKUN: Thank you for your
6 testimony. Any questions?

7 (No response.)

8 CHAIRMAN OKUN: Thank you.

9 MR. MICHAUD: Thank you.

10 MS. ABBOTT: Our next speaker is the
11 Honorable Shelley Pingree, United States
12 Representative, 1st District, Maine.

13 CHAIRMAN OKUN: Good morning, welcome.

14 MS. PINGREE: Good morning, thank you very
15 much. Madam Chairman, Commissioners, thank you for
16 allowing me the opportunity to speak on behalf of
17 NewPage Corporation, Sappi Fine Paper, and their
18 workers in Maine and across the country today. As I
19 think you can see, I'm the fourth member of the Maine
20 delegation, that means all of us as Congressman
21 Michaud said, Republicans and Democrats, House and
22 Senate, have been before you today and we're very
23 pleased to be here.

24 I too am deeply concerned about the
25 subsidized and dumped imports of coated paper from

1 China and Indonesia. In recent years coated paper
2 mills in my state have been forced to slow down
3 production and lay off many of their employees. As
4 you can imagine this has a serious effect on the
5 communities around the mill. As you may know, Maine
6 has always been a leader in the manufacturing of paper
7 products. We need to keep these high quality good
8 paying manufacturing jobs in Maine. There simply are
9 no replacements for Maine's paper industry jobs.

10 Keeping and creating good jobs across the
11 state is the number one issue I hear about wherever I
12 travel in Maine. But Maine is looking at an 8 percent
13 unemployment rate, the worst in years. From December
14 2007 to December 2009 Maine lost a staggering 6,000
15 manufacturing jobs. That would be like the largest
16 employer in my state, Bath Iron Works, just packing up
17 and leaving the state completely.

18 When it comes down to it, coated paper
19 companies such as Sappi and NewPage can choose to be
20 anywhere, but they choose Maine. We have the history,
21 the infrastructure, the natural resources, and are
22 close to North American customers. But without a
23 level playing field that is not always enough. Take a
24 look at China. Chinese producers do not have the
25 natural resources or the proximity to the U.S. market,

1 but what they do have is the ability to dump into the
2 U.S. market and a government who provides them with
3 significant and distorted subsidies, causing severe
4 material injury to U.S. producers.

5 The move by Chinese coated paper producers
6 into the U.S. market clearly was not the result of a
7 market based decision making process. The surge that
8 took place a couple of years ago in low priced coated
9 paper imports from China and Indonesia caused U.S.
10 prices to bottom out at a time when the economic
11 recession softened demand, and yet the imports
12 continued to flow.

13 In addition fuel costs became prohibitively
14 expensive. Asia is a long way away to ship in order
15 to sell products for well below the prevailing market
16 price, especially since the major raw materials have
17 to be shipped from elsewhere to get to the paper mills
18 in China. To me this looks more like a government
19 industrial policy than individual market forces. I am
20 a long time supporter of Maine's coated paper industry
21 and the dedicated men and women who work so hard to
22 create the kind of high quality products that Maine is
23 known for.

24 Not only am I proud of Maine's paper making
25 tradition, which has been around for over 100 years, I

1 am also proud of its sustainable forest practices
2 ensuring that these resources will be around for
3 generations to come. The industry should not be asked
4 to continue to compete on the unlevel playing field
5 that China has constructed through heavy subsidization
6 of domestic production.

7 This is important work that you have before
8 you and I urge the Commission to examine the facts
9 carefully. An affirmative determination by the
10 Commission in these investigations will ensure that
11 this important sector of the U.S. coated paper
12 industry has the ability to compete now and in the
13 future. I thank the Commission for giving me the
14 opportunity to appear today in support of Maine coated
15 paper industry and its workers.

16 CHAIRMAN OKUN: Thank you for your
17 testimony. Any questions?

18 (No response.)

19 CHAIRMAN OKUN: Thank you.

20 MS. PINGREE: Thank you very much.

21 MS. ABBOTT: Our next speaker is the
22 Honorable Thomas E. Petri, United States
23 Representative, 6th District, Wisconsin.

24 CHAIRMAN OKUN: Good morning and welcome.
25 Just hit the button.

1 MR. PETRI: Good, good morning.

2 CHAIRMAN OKUN: Good morning.

3 MR. PETRI: Thank you again for having this
4 important session and giving me the opportunity to
5 testify at it. It's a pleasure to speak on behalf of
6 Wisconsin's paper mill workers and their employees at
7 Appleton Coated and NewPage Corporation. As I'm sure
8 you've heard from some of the others who have or will
9 testify, paper making has a long history in our state
10 and the industry is an important component of our
11 manufacturing environment.

12 For those of us in Wisconsin, numbers are
13 not necessary to explain paper making's central role
14 in our economy. Paper mills, pulp mills, lumber
15 trucks, expansive forests are so visible that we learn
16 early that paper is being made nearby and that many of
17 our friends and neighbors are employed in the
18 industry. Numbers, however, can help in painting the
19 picture for those who are not entirely familiar with
20 our section of our nation.

21 Recent study published by the alliance for
22 American manufacturing citing Census Bureau data on
23 employment in the paper industry showed Wisconsin as
24 the nation's leader in paper industry jobs with
25 approximately 8 percent of the national paper and

1 paper product workforce. By Congressional Districts,
2 the 6th of Wisconsin which I represent was second in
3 terms of paper industry employment, behind only our
4 neighbors in the 8th Congressional District in
5 northeast Wisconsin.

6 Well as you know today's hearing concerns
7 the importation of coated paper from China and from
8 Indonesia. The Department of Commerce has already
9 announced a preliminary finding of subsidization and
10 issued a preliminary determination that coated paper
11 from these countries has been dumped in the United
12 States. You will determine whether the domestic
13 coated paper industry, both employees and employers,
14 have been harmed by this dumping, and I urge you to do
15 so.

16 I believe that the pattern of subsidization
17 and dumping found by the Department of Commerce has
18 had a significant and negative impact on paper
19 industry employment. For the past decade paper
20 employment has been falling nationwide. According to
21 the Bureau of Labor Statistics, as recently as
22 November 20th the industry employed more than 600,000
23 workers. By October 2009, nine years later, paper
24 sector jobs had fallen below 400,000. Where did they
25 go?

1 Well an example was provided in 2008 when
2 NewPage in Kaukauna in Kimberly in my district was
3 closed, putting more than 500 experienced paper makers
4 out of work. Unaddressed dumped paper from China was
5 an important factor in the decision to close that
6 mill. For more than a century Kimberly's mill stood
7 at the heart of the community's economy. In a town
8 where the high school athletics teams are called the
9 Papermakers, the mill was central to its culture as
10 well.

11 The Kimberly mill was a modern, state-of-
12 the-art facility with a dedicated and experienced
13 workforce. The mill offered quality products and was
14 competitive in the coated paper market. No mill,
15 however, can compete successfully against subsidized
16 producers, and Kimberly's mill was shut down a
17 casualty of unfair trade and unenforced trade laws.
18 The paper industry faces many challenges including a
19 decline in demand for the high quality coated paper
20 that's the subject of today's hearing.

21 This decline, however, should not be allowed
22 to divert attention from a deliberate and persistent
23 policy of subsidizing the production of coated paper
24 for export to the United States by China and by
25 Indonesia. Rather, shrinking demand should be

1 considered in concert with these subsidies because as
2 the market gets smaller it should be fair competition
3 that determines the winner. Today we have an
4 opportunity to take a step towards such fair
5 competition.

6 I've generally supported keeping our markets
7 open in a phase for new overseas opportunities for
8 American companies to create confidence that our
9 companies and our workers can compete with the best in
10 the world. However, we cannot be foolish enough to
11 think that pursuing fair and free trade is enough to
12 make it happen. It's imperative that our laws
13 prohibiting dumping be enforced and safeguards be put
14 in place to defend those in harm's way.

15 So in closing I'd urge you to consider
16 carefully the testimony given today and to study the
17 record developed by these proceedings. Having taken
18 these steps I believe you will conclude that the
19 subsidization and dumping of coated paper that have
20 been substantiated by the Department of Commerce
21 cannot help but bring material harm to the domestic
22 coated paper industry in Wisconsin and throughout the
23 United States. Thank you for letting me appear before
24 you today.

25 CHAIRMAN OKUN: Thank you for your

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1 testimony. Do colleagues have any questions?

2 (No response.)

3 CHAIRMAN OKUN: Thank you.

4 MS. ABBOTT: Our next speaker is the
5 Honorable Michael R. Turner, United States
6 Representative, 3rd District, Ohio.

7 CHAIRMAN OKUN: Good morning and welcome.

8 MR. TURNER: Good morning. Good morning,
9 Chairman Okun and members of the Commission. I
10 appreciate the opportunity to testify before the
11 Commission today regarding the important investigation
12 concerning the imports of coated paper from Indonesia
13 and China. Madam Chairman, in 2008 I testified before
14 the ITC on behalf of paper producers in my
15 Congressional District. Ohio and paper manufacturers
16 are closely linked, as well as labor organizations
17 which represent the paper producing workforce in Ohio.

18 NewPage Corporation is headquartered in
19 Miamisburg, Ohio, employs 350 workers at this
20 facility. And SMART Paper is located in Hamilton,
21 Ohio, right outside of my district, produces coated
22 paper, and employs about 220 workers. Additionally,
23 Appleton Papers has a facility in West Carrollton,
24 Ohio, which employs approximately 500 Ohioans. A good
25 number of coated paper employees are represented by

1 United Steel Workers, a Petitioner in this action. I
2 would like to recognize those employees of NewPage who
3 have traveled to be here today to attend this
4 proceeding.

5 NewPage is an important employer now only in
6 my Congressional District, which is the 3rd
7 Congressional District in Ohio, but also in the
8 districts of my fellow Members of Congress. Last year
9 I was able to visit NewPage's facility in my district
10 to hear directly about the issues such as overseas
11 competition that are negatively impacting the domestic
12 paper industry.

13 Today's hearing is of extreme importance.
14 Part of the challenge Ohio is facing with the current
15 recession is unfair competition by foreign
16 manufacturers. Ohio manufacturers and those
17 throughout the United States find themselves in an
18 uphill battle with foreign producers who are unfairly
19 subsidizing. We need to level the playing field for
20 domestic manufacturers and to ensure that foreign
21 manufacturers are held accountable when they break the
22 rules, rules that they have already agreed to abide
23 by.

24 I have learned that the volume of coated
25 paper imports from China and Indonesia grew

1 significantly in the last few years. Additionally I
2 understand that imports from these countries undersold
3 U.S. producers' prices and that this has resulted in
4 significant number of lost jobs and lost sales for
5 domestic companies. In Montgomery County, Ohio, where
6 NewPage is located, the unemployment rate is 11.5
7 percent, which is higher than the national average.

8 We cannot allow foreign manufacturers to
9 continue to illegally undercut our manufacturers.
10 This issue today goes straight to our ability to
11 support and defend our economy from those who are
12 acting unfairly. The Department of Commerce has made
13 a preliminary determination that coated paper imports
14 from these two countries are being dumped into the
15 U.S. market and that the Chinese and Indonesian
16 governments are providing significant subsidies to
17 their coated paper producers.

18 It is imperative that the ITC also make a
19 final determination that both the dumping and the
20 illegal subsidies cause material harm to the United
21 States industry and that the Department of Commerce
22 apply duties accordingly. This determination will
23 help eliminate the unfair advantage that these
24 practices give Chinese and Indonesian producers.

25 Coated paper imports from China and

1 Indonesia surged as high as 40 percent in the first
2 half of 2009 in the face of decreased demand caused by
3 the recession. The imports flooded the U.S. market so
4 deeply that the U.S. coated paper companies had to
5 close facilities, curtail production, lay off workers,
6 and put a stop to additional investment plans to add
7 capacity and to install upgrades. Without relief,
8 NewPage's presence as a U.S. coated paper manufacturer
9 is in jeopardy.

10 Madam Chairman and members of this
11 Commission, when the playing field is level,
12 workforces like the ones at NewPage and SMART Paper
13 can thrive and compete globally. We cannot allow
14 these unfair trade practices to continue, and I urge
15 you to make an affirmative decision in these
16 investigations. And I thank you so much for your
17 dedication to what is an incredibly important task.
18 Thank you.

19 CHAIRMAN OKUN: Thank you for your
20 testimony, Congressman. Any questions?

21 (No response.)

22 CHAIRMAN OKUN: Thank you. Madam Secretary,
23 I understand that there are no further Congressional
24 witnesses at this time?

25 MS. ABBOTT: That is correct, Madam

1 Chairman.

2 CHAIRMAN OKUN: Then let's start with our
3 opening statements.

4 MS. ABBOTT: Opening remarks on behalf of
5 Petitioners will be by Terence P. Stewart of Stewart &
6 Stewart.

7 CHAIRMAN OKUN: Good morning, welcome.

8 MR. STEWART: Good morning, Madam Chairman,
9 Commissioners, and Commission staff. We are co-
10 counsel with King & Spalding for the Petitioners in
11 these investigations. The record before the
12 Commission presents a compelling case of material
13 injury to the domestic industry and its workers
14 producing certain coated paper, what we will call
15 coated sheet industry, by reason of imports from China
16 and Indonesia.

17 While the period of investigation includes
18 the recent recession, which reduced demand overall,
19 the record before you confirms that starting in the
20 latter part of 2008 the prices of subject imports
21 declined precipitously. When U.S. producers responded
22 to the price aggression by reducing prices to try and
23 hold volume, the reduction in prices resulted in
24 compressed margins, operating losses, and other
25 negative effects.

1 Significant margin compression in such
2 circumstances is a classic example of material injury
3 by reason of subject imports. The record also
4 demonstrates that when domestic producers deeply
5 discounted the economy grade sheet to compete with the
6 bulk of the imports, the resulting depressed pricing
7 structure on economy sheets dragged down the prices on
8 the higher brightness grades as well. Thus imports
9 adversely affected the entire domestic product
10 offering.

11 Since purchasers typically view the quality
12 of subject imports as comparable to domestic product,
13 price has been and is a critical determinant of sales.
14 The staff report reviews that the majority of
15 purchasers view subject imports as lower priced than
16 domestic product. While domestic producers may be
17 perceived as price leaders in terms of price
18 increases, the record makes clear that subject imports
19 were the price leaders on the down side during the
20 period of investigation.

21 The pricing comparisons showed underselling
22 by subject imports in 48 of 58 quarters with margins
23 of underselling up to 25 percent. Moreover, there was
24 a near unanimous view by purchasers contacted about
25 lost sales and lost revenues that domestic producers

1 lowered prices during the period of investigation to
2 compete with subject imports. In short, you have
3 before you a compelling record of subject imports
4 leading prices down with consequent injury to the
5 domestic industry.

6 Petitioners believe that the Commission's
7 preliminary determination on various threshold issues,
8 including like product, domestic industry,
9 negligibility, and accumulation are equally supported
10 in this final investigation based on the record before
11 you. Subject imports have increased absolutely,
12 relative to apparent consumption and to domestic
13 production, while domestic producers suffered
14 significant decreases in most factors considered by
15 the Commission.

16 Price leadership on the down side by subject
17 imports and the domestic industry's effort to maintain
18 volume by lowering prices to compete with the subject
19 imports provides the necessary causation. While those
20 opposing relief have raised a seemingly endless series
21 of alleged reasons for the problems experienced by the
22 domestic industry during the period of investigation,
23 in the end the issues raised are without merit and
24 often are simply in error.

25 The price aggression of the dumped and

1 subsidized imports from China and Indonesia are the
2 direct and immediate cause of the margin compression
3 suffered by the domestic industry. The recession
4 obviously reduced demand, making the industry more
5 vulnerable to material injury from imports during this
6 period. We have included as an exhibit to our
7 prehearing brief a report by our economist that
8 debunks the claim that the recession is the cause of
9 the margin compression suffered by the domestic
10 industry.

11 Finally, while Petitioners believe the
12 record on material injury is compelling, we have also
13 reviewed in our brief why on the facts before you
14 there is a threat of material injury that is both real
15 and imminent even with the partial withdrawal by the
16 subject imports from the market in interim 2010.
17 Accordingly the Petitioners urge the Commission to
18 render affirmative determination in these four
19 investigations, consistent with the record before you,
20 and provide the domestic industry and its workers the
21 relief they so urgently need. Thank you very much.

22 CHAIRMAN OKUN: Thank you.

23 MS. ABBOTT: Opening remarks on behalf of
24 Respondents will be by James P. Durling of Winston &
25 Strawn.

1 CHAIRMAN OKUN: Good morning and welcome.

2 MR. DURLING: Thank you, Chairman Okun.

3 Good morning. My name is James Durling with the law
4 firm of Winston & Strawn appearing today on behalf of
5 Respondents. It will be a long time before the
6 Commission hears from us again today, so let me offer
7 you a few key points that we believe distinguish this
8 case. First, subject imports have not surged. They
9 have remained flat and then declined in 2010. This
10 fact alone distinguishes this case from so many before
11 the Commission.

12 Moreover, the domestic industry gained more
13 than 5 percentage points of market share. Total
14 imports fell. These volume trends explain why
15 Petitioner's case focuses so heavily on the allegation
16 that low priced subject imports somehow drove down
17 prices. But that theory is just wrong. Everyone in
18 this industry knows the truth as evidenced by the
19 contemporaneous business communication that was
20 provided in Petitioner's prehearing brief.

21 As this email from xedx to Sun Paper shows,
22 one of the key events was the recession in late 2008
23 that triggered an unexpected and sharp drop in demand.
24 The collapse in demand led to severe inventory
25 adjustments. Many customers like xpedx simply stopped

1 ordering coated paper in early 2009. The other key
2 event in 2009 relates to costs. Pulp prices declined,
3 which combined with the collapse in demand pushed down
4 prices.

5 Pulp prices declined in large part because
6 of the Black Liquor Tax Credit. As these quotes from
7 NewPage demonstrate, this tax credit became a direct
8 passthrough leading to lower prices for coated paper.
9 This point bears repetition. The largest Petitioner
10 in this case has told the investment community
11 repeatedly that Black Liquor subsidies drove down
12 market prices in 2009. And they did. Taken together
13 these demand and supply factors explain prices over
14 the entire period.

15 This slide shows indexed domestic prices for
16 both coated sheets and coated web rolls. Both follow
17 the same trend because both are reacting to the same
18 economic forces, which drove prices up prior to 2009
19 and drove prices down during 2009. Demand changed in
20 2009, falling sharply. Merchant inventories dropped
21 in 2009 as merchants worked through their inventory
22 and reduced purchases.

23 Pulp costs declined and the Black Liquor Tax
24 Credits further offset costs. Subject imports of
25 coated sheets could not and did not drive down the

1 prices of web rolls, yet both sheets and web rolls saw
2 the same trends in 2009. Petitioner's theory of
3 adverse price effects simply is not supported by the
4 evidence. The Black Liquor Tax Credits are important
5 for a second reason, they dramatically changed the
6 financial performance of the domestic industry.

7 Given that NewPage admits that the Black
8 Liquor Credits operated as a direct offset to raw
9 material costs, the Commission should add the Black
10 Liquor Credits to the industry operating performance
11 when analyzing the profitability of the industry.
12 Adding the Black Liquor Tax Credits back to operating
13 income better portrays the true performance of the
14 industry. The weak 2009 financial results are
15 transformed into record breaking performance.

16 The strategy of lowering price to chase
17 volume and earn more tax credits proved quite
18 successful in 2009. But this business strategy had
19 nothing to do with subject imports. Nor is there any
20 threat from future imports. Markets other than the
21 U.S. have consistently absorbed more than 90 percent
22 of Chinese exports. Historically imports have been
23 flat, not increasing. There's no evidence to suggest
24 there will be any future surge in imports.

25 Consumption in China for all types of coated

1 paper will grow dramatically. Combined with strong
2 growth in other Asian markets, this new consumption in
3 China will absorb any actual increasing capacity.
4 Extensive and detailed questionnaire responses from
5 virtually all of the Chinese exporters eliminates the
6 need to rely on any press speculation about capacity.
7 Commissioners, we ask you to consider this evidence as
8 you listen to the presentation by Petitioners today.
9 Press them on this evidence. As Senator Snowe
10 reminded us this morning, facts are stubborn things.
11 Petitioner's theory cannot survive careful scrutiny in
12 light of the facts that are on this records. Thank
13 you.

14 CHAIRMAN OKUN: Thank you. Madam Secretary,
15 I understand we have Congressional witnesses here?

16 MS. ABBOTT: That is correct, Madam
17 Chairman. Our next speaker will be the Honorable Ed
18 Whitfield, United States Representative, 2nd District,
19 Kentucky.

20 CHAIRMAN OKUN: Good morning and welcome.

21 MR. WHITFIELD: Well thank you very much for
22 giving me the opportunity to be here today. I know
23 you all are excited to hear from, what, fifteen
24 Members of Congress and the Senate, so I'm sure it's a
25 stimulating day for you. I'm delighted to be here,

1 and I certainly appreciate the opportunity to appear
2 on behalf of my constituents and NewPage Corporation
3 and its employees. I know that we have some of the
4 employees here today, it's my understanding that Dale
5 Lovett is here today, who's one of the maintenance
6 mechanics and is also a USW member from local 680.

7 NewPage has, its Wickliffe mill is located
8 in western Kentucky. The mill has 480 employees and
9 has a total payroll of over \$38 million, which is
10 vitally important particularly at this time of our
11 very weak economy. And Kentucky does have an
12 unemployment rate now of over 10 percent. Not only
13 does it provide a payroll of over \$38 million but it
14 provides \$83 million in the purchase of additional
15 resources in the region to run the mill.

16 I might also say that the average wage at
17 NewPage is almost \$80,000 a year, which is 91 percent
18 higher than the average wage for the entire state of
19 Kentucky. This as a matter of fact translates into an
20 hourly wage of about \$30 per hour. I know that you
21 agree with me that we do have a responsibility as
22 government officials to protect our American companies
23 so that they do compete in an impartial environment.

24 It is my opinion from the evidence that I've
25 seen and articles that I've read that China and

1 Indonesia are participating in unfair trade imports.
2 We all believe in free and open markets, but predatory
3 pricing and government subsidies tilt the playing
4 field in favor of companies and governments that
5 engage in these practices. China and Indonesia are
6 both members of the WTO and have agreed to abide by
7 the rules of that organization governing global trade.

8 In the case of Indonesia the government
9 provides below market timber prices for its paper
10 products, it has a ban on logged exports which creates
11 an even cheaper material for coated paper products.

12 In the case of China, the Chinese government has
13 provided subsidized loans to build its plants and it's
14 my understanding that they have four new coated paper
15 mills coming online within the next year or two with a
16 total capacity of between 2 and 3 million tons per
17 year.

18 Chinese producers also receive
19 extraordinarily liberal income tax breaks, and they do
20 not pay import duties or VAT taxes when they import
21 their capital equipment. These subsidies give them a
22 tremendous advantage, an unfair advantage over their
23 American counterparts, and that, it's my
24 understanding, is totally impermissible under the WTO
25 rules.

1 I hope that you all will consider closely
2 all of the data that you've collected on this
3 important subject, this investigation. We appreciate
4 the tremendous job that you do and the responsibility
5 that you have, and I hope that you will protect U.S.
6 coated paper producers and make sure that they do not
7 continue to be hurt by unfair trade practices of China
8 and Indonesia. Thank you very much.

9 CHAIRMAN OKUN: And thank you for your
10 testimony. Any questions?

11 (No response.)

12 CHAIRMAN OKUN: Thank you.

13 MR. WHITFIELD: Thank you.

14 MS. ABBOTT: The next speaker is the
15 Honorable Roscoe G. Bartlett, United States
16 Representative, 6th District, Maryland.

17 CHAIRMAN OKUN: Good morning and welcome.

18 MR. BARTLETT: Good morning. Madam
19 Chairman, members of the Commission, thank you for
20 your invitation to testify at today's very important
21 hearing regarding China and Indonesia's price dumping
22 into the coated paper market. I am honored to
23 represent the 6th District of Maryland, which has been
24 the home of NewPage Corporation's Luke Mill since
25 1888. The Luke Mill is located in Allegany and

1 Garrett Counties and is the heart of the local economy
2 dominated by the small towns of Luke and Wester Port
3 in Maryland and Piedmont in West Virginia, as well as
4 the small Maryland cities of Frostburg, Cumberland,
5 and Oakland.

6 Most of these jobs are represented by United
7 Steel Workers's local chapter 676 and the
8 International Brotherhood of Electrical Workers's
9 local chapter 1653. They have maintained a tradition
10 of cooperation and collaboration with management. I
11 am here not only to represent Luke Mill but also the
12 communities that are dependent upon it. Luke Mill
13 provides good jobs which support a great number of
14 families in my district.

15 In fact the average income for workers at
16 Luke Mill is about \$61,000, which is 62 percent higher
17 than the average income elsewhere in the area. These
18 jobs help fund schools, public safety, and other
19 social services. The direct economic impact from Luke
20 Mill is \$200 million a year. Further, Luke Mill
21 represents a renewable and sustainable use of
22 America's natural resources and committed stewardship
23 of our beautiful mountainous environment. These
24 values and contributions should be protected.

25 Right now Luke Mill employs approximately

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1 970 people but it is currently bracing for another
2 round of layoffs to take place by the end of this year
3 which will account for nearly 10 percent reduction in
4 jobs. Luke Mill has already lost over 450 jobs in the
5 last few years. It is our responsibility to fight to
6 make certain that these jobs do not continue to be
7 lost due to unfair imports from China and Indonesia.

8 Coated paper imports from China and
9 Indonesia have recently skyrocketed according to the
10 Wall Street Journal. From the beginning of 2008 to
11 the beginning of 2009 the market share of U.S. paper
12 consumption produced by China and Indonesia have
13 doubled, while U.S. produced products have lost at
14 least 15 percent of the market share. The Commission
15 should take note of these dramatic shifts and the
16 causes for them.

17 It is because Chinese and Indonesian imports
18 are coming into the U.S. market at prices below the
19 cost of production. That is because they are
20 benefitting heavily from Chinese and Indonesian
21 government subsidies. Due to these internationally
22 condemned practices, U.S. coated paper producers have
23 lost significant business resulting in lost income.

24 The domestic industry went from an operating
25 income of \$107 million in 2007 to an operating loss of

1 \$68 million in 2009, at a time when Chinese and
2 Indonesian imports were surging into the U.S. In 2009
3 NewPage's Luke Mill had to take production downtime,
4 temporarily shut down a paper machine, and close the
5 entire mill during various parts of the year. During
6 these scattered shutdowns, Luke Mill's employees were
7 were required to either use vacation time or take
8 unpaid leave.

9 This lost income in a small rural community
10 has had adverse effects throughout the region. City
11 and county governments rely on local tax revenues from
12 small businesses and small businesses rely on a strong
13 local economy. These most recent announcements of
14 upcoming layoffs put western Maryland's precarious
15 situation at even greater risk. I believe in fair
16 trade. I do not support trade barriers because they
17 damage the relationship between countries and reduce
18 economic well being compared to an open trade
19 relationship.

20 What China and Indonesia are doing is wrong.
21 Robust trade brings benefits to this country and other
22 citizens that are not just economic, they can also
23 serve to build strong partnerships with our trading
24 partners. In 2001 China agreed to a rules based
25 international trading regime when it joined the World

1 Trade Organization. It is in the United States's best
2 interest to keep global trade flowing. In time that
3 trade will provide opportunities for our country. But
4 we should always expect our trading partners to play
5 by the rules. That is clearly not happening in this
6 situation, and that is why I'm here today.

7 When another country fails to comply with
8 the rules the U.S. must enforce the rules on behalf of
9 American companies and American workers through the
10 global trading system. The system must remain honest.
11 I am very concerned that the Chinese and Indonesian
12 governments are heavily subsidizing their products of
13 coated paper and thus exporting these products into
14 the United States. Without applying the remedies
15 available under U.S. law and the WTO, the U.S. coated
16 paper industry and communities like those around the
17 Luke Mill face substantial and lasting harm.

18 Unfair trade practices should not be
19 tolerated by the U.S. government. I am confident this
20 Commission will take the appropriate time to consider
21 carefully the facts in this investigation. Thank you
22 for the opportunity to testify today on behalf of
23 NewPage Corporation and the millers who work at the
24 Luke Mill with whom I am entrusted to represent in the
25 Congress. Thank you very much.

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1 CHAIRMAN OKUN: And thank you for your
2 testimony. Any questions?

3 (No response.)

4 CHAIRMAN OKUN: Thank you.

5 MS. ABBOTT: Our next speaker is the
6 Honorable Mike Ross, United States Representative, 4th
7 District, Arkansas.

8 CHAIRMAN OKUN: Good morning and welcome.

9 MR. ROSS: Good morning, and thank you all
10 for the opportunity to testify before the Commission
11 today in support of the hardworking men and women in
12 Arkansas's paper and wood products industry. I
13 represent Arkansas's 4th Congressional District where
14 the paper products industry is critical to the
15 sustainability and growth of our economy. I know that
16 the outcome of these investigations will greatly
17 impact the jobs of workers in my district, many of
18 whom are members of the United Steel Workers Union, a
19 Petitioner in these investigations.

20 Last year labor and management joined
21 together to fight against the unfair and predatory
22 trade practices utilized by Chinese and Indonesian
23 coated paper producers that have injured our U.S.
24 industry and its workers. At each stage of the
25 process both at this Commission and at the U.S.

1 Department of Commerce their allegations have been
2 confirmed and preliminary dumping and countervailing
3 duties have been authorized. But the battle
4 continues, and that is why I'm here today to urge that
5 the process that has started out well ends well.

6 I appreciate the time and focus the
7 Commission has given to the interest of this very
8 important industry. The people and the communities
9 that have had to compete against these unfair trade
10 practices urgently need this resolved. I appear
11 before you today to urge that you prevent our domestic
12 coated paper industry from disappearing as a result of
13 unfair trading practices employed by certain Chinese
14 and Indonesian manufacturers aided and abetted by the
15 unfair subsidies granted by their governments.

16 For generations manufacturing has been the
17 backbone of our economy here in the United States.
18 The paper industry is an important part of not only
19 Arkansas's economy but the U.S. economy. Over the
20 past ten years, however, we have lost more than
21 200,000 paper industry jobs in the United States, with
22 many of our great assets and unique strengths. The
23 coated paper industry has witnessed some very serious
24 economic challenges and struggled to survive.

25 Increasing quantities of low priced, heavily

1 subsidized imports of coated paper from China and
2 Indonesia have eroded our domestic producers' share of
3 their own market, causing severe injury to these
4 companies, their workers, and the people in their
5 communities. The same set of rules should be equally
6 applied to China and Indonesia, not just to us here at
7 home in America.

8 Instead, today U.S. manufacturers have been
9 forced to play by a different set of rules than their
10 competitors. The results are not only lost revenues
11 but also lost jobs, 200,000 jobs, and a loss of
12 economic security for American workers, their
13 families, and their communities. I believe it would
14 be unfair to allow our manufacturers to fall prey to
15 the illegal pricing strategies of global competitors
16 who refuse to compete on fair terms. I am a supporter
17 of U.S. trade laws that will maintain the strength of
18 the coated paper industry for workers today and
19 protect our resources to create more of these jobs in
20 the future.

21 I for one welcome U.S. manufacturing jobs
22 because I know they provide good paying jobs. I also
23 believe that the purpose of the trade laws is to
24 ensure that industries such as the coated paper
25 industry are not made extinct by a flood of dumped and

1 subsidized imports. Unfair trade practices from China
2 and Indonesia should not be tolerated. It is my hope
3 that this Commission will review all the facts on the
4 record and make affirmative final determinations in
5 these investigations. Thank you for affording me the
6 opportunity to testify before you today.

7 CHAIRMAN OKUN: Thank you for your
8 testimony. Any questions?

9 (No response.)

10 CHAIRMAN OKUN: Thank you.

11 MS. ABBOTT: The next speaker is the
12 Honorable Steve L. Kagen, United States
13 Representative, 8th District, Wisconsin.

14 MR. KAGEN: Since I know who I am, I'll put
15 this down.

16 CHAIRMAN OKUN: Good morning and welcome.

17 MR. KAGEN: Chairwoman, thank you for the
18 kindness of allowing me to be with you this morning.
19 I would ordinarily say it's good to be back with you.
20 I can't say that today. I wish I didn't have to be
21 here. But I certainly appreciate your taking the time
22 and your serious consideration reviewing the case,
23 particularly of Appleton Coated Paper. I grew up in
24 Appleton, Wisconsin, which is the heart of what we
25 know as Paper Valley. There's a whole chain of cities

1 along the Fox River where we didn't invent paper
2 making but we took advantage of it, we developed the
3 science and technology.

4 Menasha, Neenah Menasha, you heard of
5 Kimberly, Kimberly Clark, you heard of Kleenex, you
6 heard of Proctor and Gamble. We have 22 different
7 paper companies from Neenah Menasha along a 25-mile
8 stretch of the Fox River to Green Bay. We developed
9 paper making because we had access to timber, and we
10 had a lot of logging going on. We had access to
11 hydroelectric power. We had the very first in the
12 world home to be lit by hydroelectric power because we
13 have a dropoff of 350 feet going from Appleton, my
14 hometown, to Green Bay.

15 So we had cheap energy, raw materials, and
16 the science and technology and we invested very
17 heavily in not just developing the science and
18 technology of paper but also in educating the
19 workforce which over the years has become known as the
20 premier source of paper making throughout the world.
21 Back in 2008 I appeared before this body to testify on
22 behalf of Appleton, a coated paper operation owned by
23 its employees, during investigations involving
24 lightweight thermal paper from China.

25 In the case of Appleton you ruled correctly,

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1 six to nothing, that China had illegally dumped their
2 products into the United States and now they're paying
3 a fine. I trust you will come to the same conclusion
4 and find that China is cheating again and stealing our
5 jobs, our homes and our future, by dumping their
6 illegal paper into our domestic markets. I am here
7 not to review the facts with you because you have them
8 before you and you've taken the time to consider all
9 the facts, but I'm mostly here to testify on behalf of
10 one of the families you see in this blowup picture
11 here before you.

12 This is Mr. Tony Swanningson along with his
13 wife Sherry, his teenage son Corey, and his daughter
14 Kayla. They're in front of their home, and they're
15 just like everybody else I represent. They go to
16 work, they like to work hard, in addition to working
17 hard they like to have a living wage, a wage that
18 allows them to educate themselves and their children
19 to come. But they want to stay in their own home,
20 that's their American dream and that's really what's
21 at stake.

22 I also submitted for the record Mr. Tony
23 Swanningson's handwritten letter to me. I'd like to
24 share it with you and with everybody else in the
25 audience. And it reads and I quote, "Congressman

1 Kagen, I've been a paper maker for eighteen years.
2 I'm grateful for the opportunity to provide for my
3 family that the industry has given me. In 2009 I lost
4 my job through no fault of my own and through no fault
5 of my company, Appleton Coated. My job was stolen
6 because somebody broke the law, and that's not right."

7 "The dumping of foreign paper into the
8 United States from companies that are subsidized by
9 their own governments creates a marketplace that
10 seriously threatens my family and countless other
11 families throughout the United States. The ability to
12 sell paper at a price that is less than the cost to
13 produce it places our companies and families at a
14 severe disadvantage."

15 "This kind of cheating hurts people like me
16 and my family. It hurts the production workers on the
17 floor and it hurts our managers too. I have survived
18 four layoffs. Sometimes sales are bad and machines
19 get shut down. I can live with that. But the illegal
20 dumping of paper into the United States and capacity
21 that it steals is something that my union brothers and
22 sisters and I throughout the United States cannot
23 survive. Signed Anthony Swanningson."

24 Tony's not alone, and he faces other
25 challenges in his family with the health condition not

1 just of his family but also of his -- I'll just leave
2 it at that. Since I am a physician there are certain
3 rules I will respect with regard to HIPA. In
4 Wisconsin we want a level playing field, because we
5 can compete and we can win against anybody and any
6 corporation in the world when the rules are fair and
7 the ground is level.

8 We know that no corporation can defeat a
9 government that manipulates the value of its currency,
10 subsidizes its industries with cheap labor, has no
11 environmental standards, no social safety nets, and
12 offers free raw materials and energy. No company
13 anywhere can succeed and grow the jobs that we need
14 now when the deck is stacked against them as it is now
15 with Appleton Coated Paper.

16 Simply put, China and Indonesia have cheated
17 and won. They've stolen our jobs, and the Swanningson
18 family that you're looking at here cannot afford to
19 have that continue. China and Indonesia have caused
20 real damages to real people and every area business
21 surrounding the affected paper companies as these
22 businesses try to survive these tough economic times.
23 You have the numbers in your report and I'd urge you
24 to do what is right, level the playing field and
25 punish those who have not been playing fair.

1 Appleton Coated Paper employs over 600
2 people and helps the nearby area to thrive. In 2009
3 Appleton Coated Paper laid off 63 workers at combined
4 locks alone. Such layoffs have very lasting effects
5 on our small tightly knit communities all throughout
6 the Fox Valley. In 2008 you may recall that NewPage
7 closed its mill in Kimberly and its pulp and paper
8 mill in Niagara.

9 Almost 1,000 workers were laid off in these
10 two plants. Highly skilled and experienced paper
11 workers were forced to accept lower paying positions
12 elsewhere, changing not only their lives and the lives
13 of their families but the small businesses and the
14 communities in which they had lived and grown and
15 developed for over 100 years of paper making. When a
16 paper mill closes, it's like a death.

17 I know in medicine that once the patient is
18 gone there's no do-over, there's no coming back.
19 Small businesses and these paper mills when they're
20 gone is really really hard on the community. It's
21 personal when you lose your identity and your friends
22 that you've been working with alongside for decades
23 and it devastates the entire community. For the first
24 time in over 120 years the Kimberly mill is silent.

25 In Kimberly, if you go to high school there,

1 you wear a shirt, you go out to play basketball or
2 soccer, you're the Papermakers. Well that moniker
3 doesn't work anymore, that emblem doesn't work because
4 they're not making paper today in Kimberly. The paper
5 mill in Kimberly was profitable, it was the major
6 employer in the community and paper making jobs that
7 provided the necessary revenues to provide for our
8 school and the education of our children is gone. And
9 without that revenue the entire community is
10 suffering.

11 In Wisconsin we grow timber. In addition we
12 have some really great rivers. I'm proud to represent
13 more surface area in water than most any other member
14 in Congress. I've got Door County, I've got the Great
15 Lakes, I've got lakes galore. You ought to come and
16 visit us, stimulate our economy. I've seen your
17 financial reports, you're doing okay, you can afford a
18 vacation.

19 But these are some of the reasons why we've
20 been successful. We've got a hardworking ethic, we've
21 got raw materials, and we've got fresh water that we
22 are now cleaning up. When I grew up along the Fox
23 River, the color of the water and the bubbles that
24 would form depended upon what they were running in the
25 paper mill. It could be purple, could be yellow,

1 could be green. You couldn't catch fish. And we've
2 changed that.

3 We've invested in the technology to clean
4 our water and clean our air. We want a level playing
5 field. We want to make sure that our values are
6 shipped overseas, not our jobs. The facts show that
7 Indonesian and Chinese coated paper producers are not
8 playing by the rules, and neither are their
9 governments. It's past time to level the playing
10 field, and I have faith that you'll rule in favor of
11 the Swanningson family here before you and their
12 coworkers who wish to be able to live in their own
13 homes and enjoy the fruits of their labor.

14 I'm also convinced, I'm also convinced we're
15 going to make it in America when you decide to level
16 the playing field and make China play by our rules,
17 not theirs. They should adopt our values instead of
18 taking our jobs. I thank you for your time and your
19 serious consideration. And please never forget these
20 faces you're looking at. They need your help now and
21 they can't afford for you to get this case wrong.
22 Thank you so much.

23 CHAIRMAN OKUN: Thank you for your
24 testimony.

25 (Pause.)

1 CHAIRMAN OKUN: Madam Secretary, can you
2 please announce our first panel?

3 MS. ABBOTT: Will the first panel in support
4 of the imposition of antidumping and countervailing
5 duty orders please come forward and be seated. Madam
6 Chairman, all members of this panel have been sworn.

7 CHAIRMAN OKUN: Mr. Stewart, I think your
8 panel is seated. You may proceed.

9 MR. STEWART: Thank you. We're largely
10 here, Madam Chairman. Thank you very much. We'd like
11 to go through an opening presentation before our
12 witnesses. On the preliminary issues, as I mentioned
13 in my opening the record in the final investigation
14 supports the same decisions by the Commission that it
15 made in the preliminary on a whole host of important
16 threshold issues for you, and Gil is going to walk
17 through like product and domestic industry.

18 MR. GILBERT KAPLAN: Let me just say briefly
19 we agree with your decisions on like product and
20 domestic industry. We are neutral as to the inclusion
21 of sheeter rolls, we don't think that affects the
22 ultimate outcome. Web rolls are not part of the
23 domestic industry -- rather, the domestic like
24 product. You made the right decision on that at the
25 preliminary, you found they serve a different market,

1 have different physical characteristics and different
2 prices, and we agree with that. And on domestic
3 industry we agree with your decisions on domestic
4 industry and have no objection to your decisions on
5 converters or related parties.

6 MR. STEWART: When you look at the major
7 statutory criteria, all of them are met in terms of
8 the record that you have in front of you. First,
9 import volume increased absolutely, certainly during
10 the recessionary period which you see in this slide,
11 and increased relative to production and apparent
12 consumption where imports increased 4 to 5 percentage
13 points up to 34 percent from their base. At the same
14 time as I reviewed there has been significant price
15 underselling, as confirmed by the quarterly price
16 comparisons, 48 of 58 that you have show underselling,
17 average margin about 11 percent up to 25 percent.

18 And what is clear is that the domestic
19 producers in response to that price aggression reduced
20 their prices to compete, and that's not only the
21 statement of the producers but that's identified by
22 virtually every purchaser who was asked the question.
23 Not surprisingly, domestic industry has seen a large -
24 - excuse me. So that resulted in margin compression,
25 as you can see in 2009 with a significant increase in

1 the COP as a percent of sales.

2 At the same time the domestic industry has
3 seen virtually every factor that you look at decline,
4 most cases very large amounts. And the industry went
5 from net operating profits to net operating losses,
6 from a net income to a net loss, during the period of
7 investigation. The Commission has often reviewed in
8 its decisions that when confronted with this type of
9 price aggression domestic producers have two options.
10 One is to try to hold on to their margins with the
11 inevitable loss of market share, and the other is to
12 lower their prices in the hope of maintaining volume.
13 What you see in this case is the latter situation.

14 The record also shows that the products are
15 highly substitutable and that in fact price is an
16 important factor in the purchasing decision. As
17 witnesses testified at the preliminary staff
18 conference and as they will testify here today, the
19 effect of the imports while concentrated in the
20 economy grade had the effect of reducing prices across
21 the board, and you can see that in the price series
22 that the staff has collected in the questionnaire
23 responses.

24 Finally with regard to other conditions of
25 competition, looking at the recession, while it

1 obviously affected demand it doesn't detract from the
2 material injury that was caused by the subject
3 imports, particularly the price of the margin
4 compression that has occurred. And the economic
5 analysis in our prehearing brief goes through that in
6 significant detail. Gil on that?

7 MR. GILBERT KAPLAN: Thank you. We believe
8 the industry is injured by imports, as Mr. Stewart
9 says, but we believe there is also very strong legal
10 justification for finding threat of injury. Without
11 going through each of the factors which obviously are
12 in our brief and will be in our posthearing
13 submission, we'd like to point out that heavily
14 subsidized industry in both China and Indonesia has
15 led to a real big buildup of capacities.

16 The RISI prediction of capacity increases in
17 China are 30 percent in the near term, greatly
18 exceeding likely demand growth. At least four major
19 new mills are coming online in China within the next
20 year, including APP's mill on Hainan Island, Shandong
21 Chenming has a new mill coming on, Oji Paper and
22 Shandong Huatai. And the capacity of these four mills
23 is about 2.5 million metric tons, which is much larger
24 than the entire capacity of the United States
25 industry.

1 The situation in Indonesia is comparable
2 with RISI predicting a 16 percent increase in
3 capacity. I'd also say that the other factors
4 regarding threat are met. There's a significant
5 increase of subject imports in the immediate prior
6 period. As a percent of import quantity China's share
7 increased 47 percent and Indonesia's increased 74
8 percent from 2007 to 2009.

9 The imports are at very low prices, as we
10 noted underselling was found in 48 of 58 instances by
11 a margin of up to 25 percent. Both APP and Sun Paper
12 have established sophisticated distribution networks
13 in the United States, and in particular there is a
14 significant degree of significant danger of market and
15 product shifting, particularly given the E.U. case on
16 coated paper started earlier this year. Thank you.

17 CHAIRMAN OKUN: Mr. Kaplan, just before we
18 turn to industry witnesses we have a Congressional
19 witness that we will accommodate. Good morning and
20 welcome.

21 MR. OBERSTAR: Good morning, Madam Chair.
22 Thank you for the opportunity to participate in this
23 morning's hearings on coated paper. And I've been
24 here so often over the years on steel and iron ore
25 this feels like home and I greatly appreciate the

1 opportunity to present here. And I was just fumbling
2 with my Blackberry to shut off the sounds, we're going
3 to have votes in a few minutes in the House. So I
4 heard the previous testimony and read a great deal of
5 what has been submitted to the Commissioners on this
6 unique issue.

7 In the northern part of my district, which
8 stretches from the Canadian border to the twin cities,
9 iron ore mining and processing and wood fiber products
10 account for 55 percent of the gross regional product.
11 They have been the mainstay, the backbone of our
12 economy for over 100 years. I have traveled to China
13 at least seven times on aviation issues, I've spoken
14 at aviation conferences, I've traveled to see their
15 infrastructure investments. I am immensely impressed
16 with the extraordinary advances the Chinese economy
17 has made.

18 In 1987 China had 167 miles of interstate
19 quality freeway. Today they have 25,000 miles of
20 interstate quality freeway, six-lane, access divided,
21 controlled superhighways. They have invested 9 and a
22 half percent of their gross domestic product in their
23 infrastructure needs and in doubling the capacity of
24 their ports from Guangzhou, Shanghai, Qingdao to
25 smaller ports. They have modernized 35 existing

1 airports, they've built six new airports with 12,500-
2 foot runways.

3 They're building 47 airports in the interior
4 of the country. They're developing high-speed
5 passenger rail. They'll be able to connect, this fall
6 I think you'll be able to ride from Beijing to
7 Shanghai, 820 miles, in four hours on a 220-mile-an-
8 hour train. That's the distance from Boston to
9 Richmond on the east coast of the United States. But
10 what I don't appreciate about the Chinese economy is
11 the level of subsidy that the government has put into
12 these products that they have developed for export
13 purposes.

14 We have enormous trade imbalance with China.
15 A great deal of that is our own doing. We're buying
16 enormous amounts from China, not shipping very much
17 back. In fact the first seven months of last year we
18 developed a new export product, used road machinery
19 equipment, because our economy was in the dumps. But
20 this practice of subsidy of the export of coated paper
21 goes right to, strikes at the heart of the economy of
22 the area that I represent.

23 I have seen this in 1982 in Japan with steel
24 when the Bank of Japan enormously subsidized the
25 production, processing, manufacture, and export of

1 steel so that in the end the Bank of Japan was paying
2 Japanese steel makers to export product. This
3 Commission acted then. You've acted subsequently on
4 South Korea, on other steel manufacturers who are
5 subsidizing, dumping their product in the U.S.
6 marketplace, including members of the European Union,
7 Germany, France, and Belgium, all of which, and Spain,
8 all of which were engaged in dumping practices in the
9 1980s.

10 What we're seeing today with China is
11 literally taking a page out of the steel dumping
12 practices and applying it to paper. This was bound to
13 happen when the world economy crashed. China built up
14 this enormous production capability, and when,
15 principally for export but also for more than half of
16 their production was domestic. And we just knew that
17 this excess capacity would be flooding the world
18 marketplace when we had an economic downturn.

19 And I'd just throw out a cautionary note,
20 China last year produced 546 million tons of raw
21 steel. The United States produced 46 million tons.
22 China last month produced 57 million tons of raw
23 steel, that was equal to the amount that Canada, the
24 U.S., Mexico, South America, and the European Union
25 together produced. That excess steel production, I

1 mean that production will soon become excess steel
2 they'll be dumping down on the world market just as
3 they're dumping coated paper.

4 Now it's not just the paper mills of Duluth
5 and Cloquet, my district, and I've submitted written
6 testimony to cover this issue, it's the logger in the
7 woods. That third generation, fourth generation
8 Maturi, Art Maturi or John Raleigh, who are logging
9 under sustainable forestry practices, the woods,
10 forests of northern Minnesota, and logging on cut
11 selected areas that their father and grandfather
12 logged previously.

13 I assure you that the forestry products
14 being used to produce paper in China are not coming
15 from sustainable forestry practices. It is cut, rip,
16 and run. I know, I've seen it. And then you add to
17 that the governmental subsidy, which in effect means
18 they're taking the revenues from products we're buying
19 from China, subsidizing the industry, dumping that
20 product in the United States to compete against our
21 domestic industries and our workers.

22 You've seen the facts, you have the
23 documentation, 18 to 20 percent amount of subsidy to
24 drop that price below world market prices. A classic
25 dumping case, I've seen it time and again in the steel

1 sector, in iron ore, and now we're seeing it again
2 here in paper. That's the essence of my testimony.
3 You have the facts, I urge you to act on a
4 countervailing duties request and I'll be happy to
5 answer any question you might have.

6 CHAIRMAN OKUN: Thank you for your
7 testimony. See if my colleagues have any questions.
8 Commissioner Pearson?

9 COMMISSIONER PEARSON: Congressman Oberstar,
10 I just want to greet you again. I don't believe we've
11 had anyone from the 8th District of Minnesota in front
12 of us since you last were here so it's a pleasure to
13 have you. I also would report that I recently was
14 involved in an investigation of the walleye market in
15 the 8th District, and I can report that the supply of
16 walleyes was somewhat less than the demand, however
17 the smallmouths went the other way. So I drove
18 through Cloquet on September 5th, the breeze was from
19 a direction that you couldn't observe that there was a
20 paper mill there just by driving through. But it's
21 good to have you here again, we very much appreciate
22 it.

23 MR. OBERSTAR: Well the decline in the
24 walleye population is due to the cormirinth, it's not
25 due to subsidies of any kind, I assure you.

1 COMMISSIONER PEARSON: I understand.

2 MR. OBERSTAR: It is not due to expert
3 fishermen like this witness before you. The walleye
4 population was safe for fifty years, I haven't caught
5 one.

6 CHAIRMAN OKUN: Thank you. Any other
7 questions?

8 (No response.)

9 CHAIRMAN OKUN: Thank you very much.

10 MR. OBERSTAR: Thank you. Thank you for
11 your service and for the duty you perform on behalf of
12 all of our coworkers.

13 CHAIRMAN OKUN: Thank you.

14 MS. ABBOTT: If the witnesses would like to
15 be reseated.

16 CHAIRMAN OKUN: You may proceed.

17 MR. MARTIN: Chairman Okun, Commissioners,
18 Commission staff, good morning. I am George Martin,
19 President and CEO of NewPage Corporation, the
20 country's largest producer of coated sheets. I am
21 accompanied this morning by our Senior Vice President
22 of Sales, Barry Nelson, and our General Manager for
23 Sheets and Caliber, Steve DeVoe. Our company has five
24 mills that produce or have capacity to produce coated
25 sheets located in Michigan, Maryland, Maine, Kentucky,

1 and Wisconsin. I am pleased to have representatives
2 from all five of those mills in the audience today.
3 The mills in Maryland and Wisconsin also have sheeting
4 equipment to convert sheeter rolls into sheets.

5 I have worked for NewPage and its
6 predecessor companies for 27 years, first as a
7 research chemist, and then in the coated paper
8 business, specifically in the company's mills. I have
9 extensive experience in the production side of the
10 business, having been responsible not only for the
11 five mills that produce coated sheets but also for our
12 other five mills that produce other paper products.
13 Indeed, prior to becoming President and CEO earlier
14 this year I was the Senior Vice President of
15 Operations since 2005.

16 We together with Sappi, Appleton Coated, and
17 the Steel Workers are here today because of the
18 enormous harm that dumped and subsidized imports of
19 certain coated paper from China and Indonesia have
20 caused to the domestic industry. As the public
21 prehearing staff report confirms, importers of the
22 subject merchandise offered these products throughout
23 the period of investigation at prices far below
24 domestic producers' prices. In more than 80 percent
25 of pricing comparisons, subject imports undersold

1 domestic product by margins ranging up to 25 percent.

2 As a consequence, the subject imports were
3 successful in buying the substantial share of the
4 market at the very time that the market experienced
5 significant contraction due to the recession. All
6 this has had significant consequences for NewPage.
7 First it puts significant pressure on our pricing
8 structure, and Barry will address that in more detail.
9 Second, the combination of a sharp decline in demand
10 and increasing subject imports meant that we had more
11 capacity than we could fill.

12 As you know, this industry is highly capital
13 intensive, which means we must run our mills as close
14 to full capacity as possible to cover our fixed costs.
15 After we acquired Stora Enso North America, it became
16 clear that we would have to shut down at least one of
17 our mills to take out excess capacity. Initially we
18 shut down the number 11 paper machine in our Rumford,
19 Maine, plant, and then number 95 machine in our mill
20 in Kimberly, Wisconsin.

21 When it became apparent that we still had to
22 take out more capacity we made the very painful
23 decision to close the Kimberly mill entirely,
24 resulting in the loss of hundreds of jobs. You will
25 hear more about that from Leo Gerard. And we also

1 took out significant production in 2009. I understand
2 that counsel for APP contends that the closing of the
3 Kimberly mill was simply part of NewPage's
4 restructuring and it had nothing to do with subject
5 imports. Nothing could be further from the truth.

6 We have every reason to keep Kimberly
7 operating. Prior to our acquisition of Stora Enso in
8 2007, which included the Kimberly mill, Stora had
9 invested tens of millions of dollars in the mill's
10 state-of-the-art paper machines. The decision to shut
11 down Kimberly was due directly and unmistakably to the
12 pricing pressures from the subject imports and the
13 loss of millions of dollars in sales and revenues. In
14 fact the news release announcing the closures that APP
15 included in its prebriefing hearing says so.

16 Our decision to close the mill is the result
17 of a weak economy, the continued effects of low priced
18 import products, and skyrocketing costs. A copy of
19 the news release with the language underscored is
20 attached to my statement. Relative to our other mills
21 Kimberly was more costly to operate, but that was only
22 because Kimberly did not produce its own pulp.
23 Consequently, when pulp prices increased the
24 combination of high pulp prices and drastically low
25 priced imports of certain coated paper from China and

1 Indonesia made it unfeasible to price certain coated
2 paper produced at Kimberly at the level that would now
3 cover NewPage's production cost.

4 But for the pricing pressures coming from
5 the subject imports there is no doubt in my mind that
6 we would have kept Kimberly up and running. In 2009
7 as demand fell and subject imports increased further,
8 we took out thousands of tons of production as our
9 commercial shipments continued to decline. We also
10 closed our sheeting facility in Chillicothe, Ohio,
11 which meant the loss of additional jobs.

12 Another consequence flowing from the impact
13 of subject imports on NewPage is that we have been
14 unable to make the kinds of capital investments in our
15 plants and equipment that we need to make to remain
16 globally competitive. As our questionnaire response
17 indicates, the rate of depreciation of our assets
18 greatly exceeds our capital expenditure levels. That
19 is simply not sustainable for any extended period of
20 time.

21 Happily, since we've filed our petitions
22 last September and the Department of Commerce issued
23 its preliminary affirmative determinations last
24 spring, imports of certain coated paper from China and
25 Indonesia have nearly disappeared from the market. As

1 the public prehearing staff report shows, their
2 combined share of the market fell by more than two
3 thirds in the first half of 2010 compared with the
4 same period in 2009.

5 And make no mistake about it, that decline
6 is due directly to the preliminary antidumping and
7 countervailing duties. Don't take my word for it. As
8 Mr. Terry Hunley from Global Paper Solutions stated
9 last March, it, speaking of the preliminary duties,
10 "is damaging to us. We will take product and put it
11 into different markets." The domestic industry has
12 greatly benefit from this departure from the market.
13 In the first six months of 2010 the industry's market
14 share was 61 percent compared to 50.9 percent during
15 the same period in 2009, and NewPage has seen some
16 recovery in our prices.

17 However, we saw much the same thing happen
18 in 2006 and 2007 when NewPage filed its petition on
19 coated free-sheet. Following affirmative preliminary
20 decisions by the Department of Commerce, imports from
21 China and Indonesia fell off as those producers
22 withdrew from the market. After the Commission issued
23 its negative determination the imports came right back
24 in. I urge you not to let that happen again. The
25 record in this case strongly supports affirmative

1 determinations that grant badly needed relief to the
2 domestic industry from the harmful effects of dumped
3 and subsidized imports. Thank you.

4 MR. GARDNER: Good morning. Good morning,
5 Chairman Okun, Commissioners, and Commission staff. I
6 am Mark Gardner, President and CEO of Sappi Fine Paper
7 North America. I am accompanied this morning by
8 Jennifer Miller, our Executive Vice President of
9 Strategic Marketing and Chief Sustainability Officer,
10 and Anne Ayer, our Vice President of Corporate
11 Development and Chief Information Officer.

12 I have worked in the paper industry for
13 nearly 30 years, joining in 1981 Sappi. I have worked
14 in the coated paper part of the industry for nearly 25
15 years, both in my experiences on the production side
16 of the business, including paper mill manager at our
17 Somerset mill in Skowhegan, Maine, and managing
18 director of our Muskegon, Michigan, mill which we
19 closed in August of 2009.

20 Speaking on behalf of all of our employees
21 and our two remaining coated paper mills in Cloquet,
22 Minnesota, and Skowhegan, Maine, I want to thank you
23 for providing for this opportunity to tell you first
24 hand about the economic harm that the imports of
25 unfairly dumped and subsidized coated paper from China

1 and Indonesia have inflicted on Sappi over the last
2 several years.

3 The most direct evidence of that harm was
4 the fact that we were finally forced to close our mill
5 in Muskegon, Michigan, last year. Having worked in
6 that mill for a number of years, that decision was
7 especially painful for me because of many friends and
8 colleagues that lost their jobs. The Muskegon mill,
9 largely a sheet mill, had been the pillar of the local
10 economy on the eastern shore of Lake Michigan for more
11 than 100 years.

12 Sappi purchased the mill in 1994 and we have
13 invested over \$100 million in capital over the last
14 ten years to make that mill a state-of-the-art
15 facility. As recently as 2005 the mill employed more
16 than 550 workers, but imports from coated paper from
17 China and Indonesia were taking their toll. In 2005
18 we were forced to cease production on one of the
19 mill's paper machines, and as a consequence close the
20 pulp plant.

21 This in turn resulted in 365 workers losing
22 their jobs. Thereafter the mill continued to operate
23 with one paper machine, but it struggled to compete
24 with the low priced imports from China and Indonesia.
25 The dramatic jump in imports in the first half of 2009

1 right when demand was falling was the final death blow
2 for that mill. Early in 2009 we appealed to our
3 merchant customers for new programs that would
4 increase their purchase of Sappi coated paper and in
5 order to keep the paper mill at Muskegon open.

6 Regrettably, the Chinese and Indonesians
7 were selling cheap product to the merchant customers
8 or their competitors at extremely low price. At that
9 point it became clear we were not going to be able to
10 sell the Muskegon product at a sustainable margin, so
11 we had to make the very painful decision to close the
12 mill. We announced the closure of Muskegon on August
13 26, 2009. 190 workers, many of whom had worked for
14 the mill for decades, lost their jobs.

15 While we were able to work closely with the
16 union to ease the burden on these workers and their
17 families, including through obtaining certification
18 for trade adjustment assistance, the devastation the
19 closure has is undeniable. It is also important to
20 point out that the damage to Sappi from low priced
21 Chinese and Indonesian product goes well beyond
22 Muskegon. It disrupts our ability to make the kind of
23 investments that are needed to remain globally
24 competitive producer of coated paper.

25 Reinvestment pressures in this industry are

1 enormous. Paper machines require periodic rebuilds
2 which cost tens of millions of dollars. Moreover, as
3 noted in our questionnaire response, Sappi had given
4 long and serious consideration to building a new paper
5 machine for our mill in Cloquet, Minnesota. That
6 machine would not have required any new pulping
7 operations since we currently produce more pulp than
8 our mill can consume. The new machine would have been
9 supplied with our excess pulp, enabling us to produce
10 product with much more value added than just the pulp.

11 We went even so far as to get the
12 environmental assessments and permits for the project.
13 However, the amount of capital needed for this
14 investment could not be justified given the pricing
15 conditions we were encountering in the market from
16 dumped and subsidized Chinese and Indonesian coated
17 paper. Simply put, the prices were so depressed by
18 the imports that we had, it made little economic sense
19 to invest even in the most advanced and efficient new
20 paper machines.

21 Sappi's condition has improved since the
22 Commerce Department imposed preliminary duties on the
23 Chinese and Indonesian imports, leading to their
24 retreat from the U.S. market. In May of this year we
25 announced a price increase of \$1.50 per hundred on our

1 Flo folio sheets and sheeter rolls. Flo is our
2 economy coated sheet. That increase went through and
3 we announced another \$1 increase per hundred weight
4 earlier this week.

5 Our sales volume in the first half of 2010
6 have grown more than 30 percent higher compared to the
7 same period in 2009, and what was an operating loss in
8 the first half of 2009 is once again a positive
9 operating profit with margin improvement by almost 14
10 percent. In closing there is no doubt in my mind that
11 under the conditions of fair trade Sappi Paper North
12 America will continue to compete successfully with any
13 other producer of coated paper whether domestic or
14 foreign.

15 Our customers know that we produce a high
16 quality that fully meets the needs of the commercial
17 sheet fed printer and businesses for which they
18 produce annual reports, advertising brochures, direct
19 mail and the like. Our customers also know that we
20 manufacture our product with firm commitment to worker
21 and consumer safety and with consistent, sound
22 environmental practices. Ladies and gentlemen of the
23 Commission, by making an affirmative determination in
24 these investigations you can help ensure that we will
25 continue to compete and flourish in a level playing

1 field. Thank you.

2 CHAIRMAN OKUN: Thank you. And before we
3 turn to your next industry witness we'll accommodate a
4 Congressional witness. Madame Secretary, if you can
5 please announce -- I believe she's going to use the
6 podium, you don't need to move. thank you.

7 MS. ABBOTT: Our next speaker is the
8 Honorable Debbie Stabenow, United States Senator from
9 Michigan.

10 CHAIRMAN OKUN: Good morning and welcome to
11 the Commission.

12 MS. STABENOW: Good morning. I appreciate
13 having the opportunity to share my thoughts with you
14 and also for your courtesy in allowing me since I will
15 be leaving immediately to go back to a vote I
16 appreciate the other witnesses allowing me to have an
17 opportunity to speak as well. And, Madam Chairman I
18 first a thank you to you for your years of service to
19 the International Trade Commission, to all the
20 Commissioners, appreciate the work that you do and the
21 opportunity to be here to talk about the great state
22 of Michigan and the fact that we have been injured by
23 unfair trade practices as it relates to coated paper
24 products.

25 Since 1901 there has been a paper mill in

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1 the lake shore area of Muskegon, Michigan. It's a
2 beautiful location right on the water, we welcome you
3 to come and visit any time, connected by rail and by
4 port to markets around the world. For over 100 years
5 they've made paper at that plant and they did a great
6 job. It was a bustling center of activity in west
7 Michigan with thousands of workers producing hundreds
8 of thousands of metric tons of paper every year.

9 But today the railroad is overgrown, there
10 are no more ships coming to load up the paper. Sappi
11 Paper Company which owned the plant was forced to
12 close it in 2009, ending 109 years of paper making in
13 Muskegon, Michigan. It wasn't because we couldn't
14 keep up with the competition. According to company
15 executives the plant achieved record productivity and
16 safety performance in its last year of operations.
17 But even record productivity can't keep up with unfair
18 trade practices in countries like China and Indonesia.

19 Mark Evans was one of the employees who was
20 injured by the closing of the Muskegon plant and he
21 said, the Asian companies can sell the paper cheaply
22 than we can make it. This is foreign competition
23 killing the American worker again. But it's not just
24 competition. In my judgment it's cheating. China and
25 Indonesia are giving huge subsidies to their paper

1 industries so they can dump their products in U.S.
2 markets at artificially lower prices.

3 The truth is we in the United States have a
4 significant competitive advantage over China in the
5 production of coated paper. American paper producers
6 have access to abundant raw materials such as virgin
7 fiber that the Chinese don't have. In fact Chinese
8 companies have to import their raw materials from as
9 far away as Latin America. We have great workers.
10 Again the plant in Muskegon was setting productivity
11 and safety records. And our workers are highly
12 skilled and experienced.

13 American paper mills pay lower shipping
14 costs and get their products to customers faster than
15 Chinese companies. There is no economic reason by
16 imports of coated paper from China and Indonesia
17 should be able to underprice American producers by
18 such significant margins. The only explanation is the
19 huge subsidies they receive from their government
20 which allow them to dump into our market.

21 NewPage Corporation, I understand we have
22 folks here from Escanaba, Michigan, today, another
23 very important employer from Michigan, was also forced
24 to close their factory in Niagara, Wisconsin, in 2008.
25 The facility which lies right on the border between

1 Wisconsin and Michigan's upper peninsula employed
2 nearly half of its workforce from Michigan. Without
3 the mill the communities in Michigan and Wisconsin are
4 wondering how many more losses they can take before
5 the communities can no longer survive.

6 Another NewPage facility in Escanaba,
7 Michigan, was forced to take significant downtime due
8 to bad market conditions in 2009, affecting workforce
9 of about 1,100 people, 1,100 families. There's always
10 the fear that if the market conditions continue to
11 worsen that these jobs may be lost as well. Workers
12 in Michigan whether they're in Muskegon or Escanaba or
13 anywhere else can compete with anyone in the world if
14 the playing field is level.

15 But it's not free or fair trade when they
16 have to compete against outright dumping of paper
17 subsidized by the Chinese and Indonesian government.
18 Communities in Michigan and across America are being
19 devastated from the surge in low priced coated paper
20 from these countries. Applying antidumping and
21 countervailing duties is one way, important way, we
22 can help deter this unfair and illegal behavior that
23 is injuring Michigan workers and businesses.

24 I very much appreciate the opportunity to be
25 here today. I urge you to investigate thoroughly the

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1 unfair trade practices that have led to the closures
2 in Michigan and led to the Sappi facilities in
3 Michigan being closed and NewPage being closed and so
4 many other facilities across the country. Let me just
5 stress again, Madam Chair, that we can compete with
6 anybody in the world if it's fair, and that's all that
7 we are asking for in America.

8 We're in a global economy where our
9 companies now are competing with countries, and those
10 countries better be held to fair practices and they'd
11 better be required to follow the rules just like we
12 do. We are in a global competition, we can meet and
13 beat that competition but it matters what the rules
14 are and it matters about the work that you're doing.
15 Thank you very much.

16 CHAIRMAN OKUN: Thank you for your
17 testimony.

18 MS. ABBOTT: Our next speaker is the
19 Honorable John D. Rockefeller IV, United States
20 Senator, West Virginia.

21 CHAIRMAN OKUN: Good morning and welcome
22 back, Senator.

23 MR. ROCKEFELLER: Thank you very very much.
24 It's a little, it's a tiny bit awkward because there
25 are a number of Senators who want to speak and we have

1 a 12:00 vote, which I don't think presents a problem
2 for me since I'll be speaking now but it could for
3 later, so I should try to be brief, which I rarely am.
4 Madam Chairwoman and members of the Commission, I
5 appreciate the opportunity to be here. A couple of
6 years ago in 2009 I wrote you a letter on a similar, a
7 very similar case, and I didn't come myself, this time
8 I decided I had to come myself.

9 I think you know about my very strong
10 feelings about the steel industry and about fair trade
11 practices. To the members of the Commission, I think
12 that that is not a secret, I hope it's not a secret.
13 But I'm also deeply committed to preserving paper
14 jobs, because paper jobs are jobs, and in our case
15 they're a lot of jobs. In this case it's the Luke
16 mill which employs lots and lots of people. Right
17 across the border from, it's actually in Maryland but
18 Maryland and West Virginia become one and the same
19 state in an instant so a lot of our people work there.

20 I'm here to urge you to impose the requested
21 antidumping and countervailing duties that orders on
22 certain coated papers from China and Indonesia. The
23 sustained increase in imports from these countries are
24 as well as the price undercutting from these imports
25 warrants I think in my judgment an affirmative

1 finding. Most important this unlawful dumping has
2 resulted in the loss of hundreds of American jobs and
3 will result in more.

4 You've heard me many times before, and I
5 apologize for that. I believe the United States
6 International Trade Commission exists to enforce the
7 United States's trade laws, and it seems to me that
8 each time I testify before you I reassert this
9 fundamental belief of mine. I mean it's not idle chit
10 chat, I mean it's the way the government's meant to
11 work, and certain people make the laws, other people
12 carry out the laws if they choose to, and if they
13 don't obviously it's a matter of concern.

14 I've been paying a lot of attention to
15 international trade for a very long time, and I have
16 to tell you that this is not just a question that's
17 the subject at hand but it's a question I think of
18 generally the American attitude towards trade. I've
19 never seen it worse in Congress. Don't ever expect to
20 get any trade agreement passed in Congress, it will
21 not happen.

22 And it will not happen because Congress has
23 suddenly changed, it's because the American people
24 have a resolute fear that any arrangement that we make
25 with a foreign country is going to end up costing us

1 jobs. They believe it deeply, they believe it at
2 every strata of life, and it's a daily topic of
3 discussion in living rooms and around dinner tables in
4 West Virginia and on a nationwide basis.

5 That has not always been true because trade
6 is a very obscure issue. It's a huge issue but it's
7 obscure issue. No longer. No longer. Now it's seen
8 as a threat. Too many families know too well the
9 rapid changes in the nature of our economy have had a
10 devastating impact on the manufacturing sector, which
11 is not to say that the changes in the economy are
12 responsible for what's happened here. The facts speak
13 for themselves here quite apart from the economy.

14 This fact along with China's unprecedented
15 economic development and its currency manipulation has
16 led to increased anxiety that is spreading throughout
17 our society, I cannot emphasize that enough. I feel
18 it myself. You know, can I trust trade agreements?
19 Can I trust -- I said in the Finance Committee, I'm
20 number two in the Finance Committee, we don't do that
21 anymore, we just don't do that, don't bring up a trade
22 agreement, it's not going to go anywhere. And we're
23 not reflecting just our own feelings but obviously
24 reflecting the views of our constituencies.

25 To me this is obviously an issue that is far

1 beyond the reach of the case that you are considering
2 today, and I express that. But I raise this broader
3 theme because part of the cure for this pervasive
4 increase in the enforcement of effective trade laws
5 that the American people and domestic industries can
6 trust and count on for years to come, in other words
7 it's only as we do, as we enforce what we have done in
8 Congress that people begin perhaps to trust.

9 I don't see that happening, frankly, almost
10 irrespective of what anybody does, because trade is
11 now considered to be somehow a giveaway to other
12 countries and the loss of American jobs. That's part
13 of the psychology of when a country gets down on
14 itself economically, but it's also backed up I think
15 by very clear facts here. We in Congress do enact
16 statutes from time to time regarding trade
17 enforcement. And in my humble opinion it's up to you
18 to give those trade laws meaning.

19 This case provides you with another
20 opportunity to be part of the rebuilding of Americans
21 faith in the fairness of the international trading
22 system if indeed that is possible. But if it is not
23 possible that does not change the nature of our
24 responsibilities in Congress and your responsibilities
25 here. The statement of where are we headed is really

1 irrelevant in this case. It's powerful but it's
2 irrelevant to the facts of this case in my judgment.

3 The Department of Commerce has already
4 preliminarily determined that dumped and subsidized
5 trade of certain coated paper has occurred in this
6 case. Now you have to ask yourselves whether or not
7 this unfair trade is likely to materially injure the
8 U.S. paper industry. Often history is our best guide.
9 In this case recent history has shown that unfair
10 trade practices for certain coated papers have had a
11 terrible impact on the U.S. paper industry and on
12 American jobs. That is fact.

13 In October of 2007 this Commission took up a
14 similar case with some of the same parties. In those
15 cases you determined that the U.S. paper industry
16 would neither be materially injured nor threatened
17 with material injury by imports of coated free sheet,
18 the fact that, that comes from China and Indonesia and
19 the Republic of Korea, despite the fact that the
20 Department of Commerce had determined that these
21 imports were subsidized and said so clearly and sold
22 at the United States at less than fair market value.

23 That decision plays a role in why we are
24 here today. And again last time I sent a letter, this
25 time I'm not going to do that. I wanted to be here

1 myself because I feel so strongly about it.
2 Subsequent to that decision more paper mills have been
3 closed and countless American jobs have been lost. I
4 submitted testimony as I said the last time, today I
5 have to be here because so many jobs and livelihoods
6 are on the line.

7 West Virginia and the part of Maryland in
8 which Luke is located are not wealthy, and we fight
9 for every single job that we can. And we have to,
10 that's our duty, it's our duty. People can't fight
11 for themselves in this case, they have to have those
12 in government who represent them, and that's all of us
13 here, they have to look to us, that's their only
14 place.

15 So NewPage Corporation, they have a mill as
16 I said in Luke, Maryland, that provides over 900 jobs
17 to citizens living in Mineral County, West Virginia.
18 That's not Maryland, it's West Virginia, but it's all
19 the same. We're surrounded by five different states,
20 and so on the borders a lot of things are shared and
21 jobs go back and forth. The region used to be home to
22 a wide variety of manufacturing facilities because up
23 there at least there's a lot of flat land, that's not
24 typical of West Virginia.

25 But dumping has resulted in the loss of many

1 of the area's manufacturing companies and with that
2 the loss of a great many jobs, yet the Luke facility
3 remains for the moment a bright spot. But the unfair
4 trade that the Department of Commerce has found in
5 this case with subsidy margins of 20 percent for
6 China, 17 percent for Indonesia, 20, 17, and dumping
7 margins even larger, matter of fact, it's not
8 something one guesses about it's just, it's either
9 this or something else but it's that, pose a
10 tremendous threat to the long term viability of this
11 mill.

12 When I presented the testimony in 2007
13 NewPage had been forced to shut down one of its mills
14 resulting in the loss of 120 jobs. 120 jobs in West
15 Virginia is like 13,000 in California. I mean I have
16 to think that way and I hope that you will too. Just
17 recently NewPage announced it was eliminating 90 more
18 jobs at this mill. Unfortunately friends like this
19 with causes such as unlawful dumping are what West
20 Virginia people discuss around their dinner tables.

21 That was not the case, West Virginia is not
22 an international state. We have become one, but we
23 have become one negatively, and that's not good for
24 America's position in the world or in general but
25 that's the fact. Let me put it actually more actually

1 bluntly, I think I'm the only West Virginia Senator
2 who's ever voted for a foreign aid bill and there's
3 never one that I've voted against. Well they say,
4 well that's just Jay, you know, he was born in New
5 York, what does he know?

6 But, you know, I believe that we have to be
7 part of the world. People in our state don't
8 necessarily because for the most part they accept it
9 and they fight for their country in Afghanistan and
10 Iraq, another subject, they don't have that
11 requirement, they don't travel enormously, they don't
12 have some of those instincts. So during the period of
13 investigation of this case entire mills have been
14 shuttered. American jobs have been lost and U.S.
15 companies have seen their competitive edge plummet to
16 unfair competitors overseas.

17 Commissioners, the end result is material
18 injury to the U.S. paper industry and a deep sense of
19 loss for workers, families, and the communities who
20 are relying on these important jobs for their
21 livelihoods. You may hear from Respondents that the
22 problem for the U.S. producers is really the matter of
23 the recession, not Chinese and Indonesian imports.
24 I'm sure you'll hear that and you probably already
25 have.

1 While the recession has been a difficult
2 time for sure for the paper sector and for all
3 manufacturing, I believe you will see that the record
4 before you supports the finding that imports from
5 China and Indonesia are a determining factor in the
6 material injury experienced by our producers and their
7 workers and the effects on communities. In conclusion
8 I would like to say the following. A strong country
9 is competitive.

10 A strong country exports more than it
11 imports. A strong country ensures that American jobs
12 are not lost in cases specifically like this one. I
13 urge you humbly to apply the laws in a manner
14 consistent with your duties and responsibilities and
15 as Congress intended. Congress isn't there just
16 because it's at the top of the Hill, it does serious
17 work.

18 People don't like Congress but we still do
19 serious work. And, you know, I don't care if people
20 don't like Congress, we do serious work. And you want
21 to see that work culminate in a fair equitable manner
22 for our people. I believe that if you do this you
23 will find that providing the request of relief is what
24 the law requires. I thank you for once again putting
25 up with me for at least 20, 25 minutes.

1 CHAIRMAN OKUN: Thank you for your
2 testimony. Let me see if my colleagues have any
3 questions for you. Commissioner Lane?

4 COMMISSIONER LANE: Senator Rockefeller, we
5 always appreciate your coming, we always wish to see
6 you and pay attention to what you say. And I would
7 sort of like to note that I listened to you in 2007
8 and thought the industry was being injured then, and I
9 appreciate your being here today. And I want to point
10 out that we have a number of your constituents here in
11 the audience, a group of students from the West
12 Virginia University College of Law international trade
13 class and their professor and I know it's a real treat
14 for them to see you in action standing up for West
15 Virginia and all of America. Thank you.

16 MR. ROCKEFELLER: Well thank you, ma'am,
17 very much. And I look forward to meeting them and I
18 thank you for the opportunity.

19 CHAIRMAN OKUN: Thank you. All right, we
20 will resume our industry testimony at this point, no?
21 I'm sorry, I'm looking at the Secretary.

22 MS. ABBOTT: Yes, we will resume our
23 testimony now, thank you.

24 CHAIRMAN OKUN: Okay, thank you. Please
25 proceed.

1 MS. VAN ERT: Good morning, Chairman Okun
2 and Commissioners and Commission staff. I'm Sandy Van
3 Ert, President and CEO of Appleton Coated. I am
4 joined here today by Greg Savage, Vice President of
5 Commercial Sales. My predecessor as CEO John Cappy is
6 also present. I've been with the company or its
7 predecessor for 23 years, starting out as internal
8 audit in 1987. I am from Wisconsin Rapids and was
9 born into a paper making family.

10 Appleton Coated produces coated sheet in our
11 mill in Combined Locks, Wisconsin. Our facility is
12 state-of-the-art. All of our manufacturing equipment
13 is either new or has been completely rebuilt in the
14 past 15 years. Our mill houses three paper machines
15 including the newest paper machine of its type in the
16 United States. In addition we have two machine
17 coaters and two sheeters. We have a capacity to
18 produce 400,000 tons of coated paper per year and we
19 have approximately 650 employees.

20 Over the past 15 to 20 years we've invested
21 over \$500 million in our mill. Although we are not
22 the biggest producer in the United States ours is a
23 very lean, flexible, and efficient operation with a
24 focus on high quality paper and excellent customer
25 service. Imports from China and Indonesia have had a

1 devastating effect on the coated paper market in the
2 United States. Unless offsetting duties are imposed
3 the health of our industry and Appleton Coated are in
4 jeopardy.

5 Coated sheet historically has been produced
6 and sold in different grades. The higher the
7 brightness level of the sheet the higher the grade and
8 the higher the price. The primary focus of our
9 business is on the higher end number 1 and number 2
10 sheets, although we also produce an economy grade
11 called Altima. Starting in the last half of 2008 we
12 started to observe a big push of Indonesian and
13 Chinese imports into the market that were being sold
14 at prices that were 15 to 20 percent below our
15 prevailing market prices.

16 Then in the first two quarters of 2009
17 imports from these countries really began to flood the
18 market. The immediate effect was a downward pressure
19 on pricing for the number 3 sheets, which fell about
20 \$200 per ton between the second quarter of 2008 and
21 the second quarter of 2009. The deterioration in the
22 price for the number 3 sheets resulted in a widening
23 price spread between the number 3 sheet and the number
24 1 and number 2 sheet.

25 Within a calendar quarter or two we began to

1 see price deterioration from the number 1 and number 2
2 grades as well, in the range of \$150 to \$200 per ton
3 for both text and cover product. Thus although the
4 imports were focused on an economy grade product, the
5 impact soon translated into lower prices for the
6 higher grades as customers began to demand a
7 realignment of pricing between the grades.

8 The impact of these price declines
9 negatively affected both our revenue and operating
10 results. Moreover, due to lower cash availability we
11 were forced to curtail our capital expenditures to a
12 level below our annual depreciation. This inability
13 to reinvest in critical assets jeopardizes our ability
14 to compete and to increase employment. In fact we
15 restructured our business in 2008, resulting in the
16 elimination of 69 employees, and we were also required
17 to lay off 73 employees in 2009.

18 Since the imposition of the duties this last
19 spring, however, we have seen a marked improvement in
20 the market. Pricing is up and so is our production.
21 The provisional relief has helped us expand sales
22 throughout the country, including our west coast where
23 we have a regional warehouse. But I am deeply
24 concerned that if the duties are not imposed to offset
25 the dumping and subsidies we will simply see

1 Indonesian and Chinese product flood back into our
2 market.

3 First there is a tremendous amount of new
4 capacity that is coming online in China within the
5 next year, two and a half million tons worth. And let
6 me emphasize this new capacity is not in the planning
7 stages. Two of the mills are already producing and
8 the other two are under construction with production
9 planned in the first half of next year. The Chinese
10 market is not sufficiently developed to absorb all of
11 the new capacity, and most of it will end up in our
12 market, especially if the European Union imposes
13 antidumping and countervailing duties as they are
14 expected to.

15 Secondly, APP already has a warehouse and a
16 distribution network in place in the form of their
17 subsidiary Eagle Ridge that can quickly move increased
18 volume into the U.S. market. I'm sure that APP will
19 likely say that Eagle Ridge has not been all that
20 successful up to now, but that lack of success most
21 likely is a consequence of the case's being filed last
22 September.

23 Eagle Ridge has also started a distribution
24 network in Canada, and we understand from our Canadian
25 contacts that APP has particularly successful in

1 grabbing market share through this new organization by
2 selling at ridiculously low prices. That's a
3 blueprint for their efforts in the United States if
4 the Petitioners are not afforded a relief sought for
5 them in these cases. I have reviewed the staff report
6 and I believe it paints an accurate picture of the
7 injury to our industry as a result of the imports from
8 China and Indonesia. And I urge you to make an
9 affirmative determination in this case. Thank you.

10 MR. GERARD: Good morning, Chairman Okun and
11 Commissioners. As many of you know from my many
12 previous experience before this distinguished
13 Commission, my name is Leo Gerard and I am the
14 International President of the United Steel Workers
15 Union. And today I'm accompanied by John Geenan, the
16 union's International Vice President who oversees
17 collective bargaining for over 130,000 of our members
18 in the pulp, paper, and forest products sector in the
19 United States.

20 We are here today on behalf of Steel Worker
21 members, and in fact we are here on behalf of all
22 workers who produce coated free sheet products subject
23 to these investigations across the country. Like
24 Congressman Kagen said in his testimony, it's about
25 families and it's about people. Here today with us

1 are also over 20 members whose families will be
2 affected and who work in the mills. And they're here
3 because they don't want to see their livelihoods
4 destroyed from dumped and subsidized imports which no
5 matter how hard they work or how hard they try they
6 cannot compete against.

7 These workers and who they represent and
8 their families need and want trade remedy laws to work
9 for them. We've had a parade of elected officials
10 today who have made eloquent comments, many of them
11 pointing out that this is about people. I would like
12 the people I hear from the mills, the men and women
13 who do the work every day, to stand and be recognized
14 by this Commission, because your decisions will affect
15 their lives, their families, and their communities. I
16 am tremendously proud of the fact that they've
17 traveled here and, Chairman Okun, I'd like if you
18 could ask them to stand.

19 CHAIRMAN OKUN: They're anticipating you,
20 they're already standing, and we want to say welcome
21 to all of you, we appreciate you being here to observe
22 the proceedings. Thank you, Mr. Gerard.

23 MR. GERARD: Thank you. These members came
24 from Escanaba, Michigan, Wisconsin Rapids, Wisconsin,
25 Combined Locks, Rumsford, and -- I'll never pronounce

1 this one -- Skowhegan, Maine Lake, Maryland, Cloquet,
2 Minnesota, and Wickliffe, Kentucky. And these as I
3 said are the people whose lives and families will be
4 affected by the decisions of this Commission.

5 As the largest industrial union in North
6 America we have unfortunately time and time again
7 borne the terrible consequences of deliberate
8 industrial policies and unfair trade practices like
9 those of China and Indonesia that you're dealing with
10 today that ensure export markets are expanding for
11 them and employment for their population is growing no
12 matter what the consequences are for U.S. companies,
13 workers, and communities.

14 In the paper sector, one of the largest
15 sectors for our union, the certain coated paper
16 investigations before you are just the latest in a
17 line of cases where some parts of the U.S. paper
18 industry have come under relentless assault from
19 dumped and subsidized imports, for example in
20 lightweight thermal paper and line paper. Indeed the
21 facts here reveal that imports of certain coated paper
22 from both China and Indonesia have been dumped into
23 our markets at margins as high as 135 percent.

24 I want to repeat that for everybody.
25 Margins as high as 135 percent. These imports have

1 benefitted from massive subsidies received from their
2 governments, including below market rate loans from
3 state owned banks, targeted tax exemptions, and input
4 subsidies that make major inputs like timber and
5 electricity much cheaper than the markets. Our
6 companies and workers simply cannot compete nor should
7 they be asked to compete with foreign countries and
8 foreign governments' largesse, and they should not
9 have to.

10 The facts are chilling. Even in the midst
11 of the greatest economic contraction since the Great
12 Depression and while demand in the U.S. market
13 literally collapsed in 2009 for the paper products at
14 issue, subject imports increased by nearly 9 percent
15 as our market was collapsing. So during the same
16 period while we suffered decline in demand of over 15
17 percent Chinese and Indonesian imports increased, let
18 me repeat again, increased by more than 9 percent.

19 The investigation showed that while they
20 were able to do so by engaging in massive and
21 widespread underselling which they could do due to the
22 massive subsidies they received, in fact your public
23 prehearing report shows that these imports undersold
24 domestic producers more than 82 percent of the time by
25 margins as high as 25 percent. The harm to workers

1 from such unfair trade has been devastating.

2 The public prehearing report shows
3 employment wages, paid hours, and workers all suffered
4 serious declines. Two mills that employed about 1,000
5 workers in Muskegon, Michigan, and Kimberly,
6 Wisconsin, also were shut down during the period at
7 issue. The paper machines at mills in Luke, Maryland,
8 and Rumford, Maine, were shut down while other mills
9 also withdrew production volumes.

10 Most of these mills are in rural areas and
11 they are the very lifeblood of their communities.
12 When they are shuttered the entire community suffers.
13 Businesses which depend on the mills and our workers
14 for their livelihoods suffer as well. In fact the
15 Commerce Department estimates that for every direct
16 job in paper industry supports more than two jobs in
17 additional jobs. This is even more devastating when
18 the country faces a national unemployment rate
19 officially of 9 and a half percent but unofficially
20 much closer to 17.

21 Few jobs are out there, and USW members like
22 the ones here today don't want to see their jobs
23 erased due to deliberate unfair trade practices by
24 China and Indonesia and due absolutely to no fault of
25 their own. Indeed in 2007 our members have seen the

1 loss of approximately 10,000 paper jobs, about half of
2 which are in the white paper operations, that is paper
3 other than newsprint. And since 2002 our members have
4 seen approximately 60,000 jobs lost in the entire pulp
5 and paper industry and forest products.

6 So again, the worker's fate, their
7 community's fate, and their family's fate rests with
8 the enforcement of our trade remedy laws. And in
9 these investigations we see that preliminarily the
10 laws are working as intended. After Commerce imposed
11 preliminary duties, Chinese and Indonesian producers
12 largely left the U.S. market, after which the
13 industry's fortunes started to turn around. Some of
14 our members who had been laid off have been recalled
15 back to work. That means that once again they can
16 afford to put food on their tables and support their
17 families.

18 There is some glimmer of hope. Clearly
19 affirmative final determination by this Commission in
20 these cases would keep us moving in the right
21 direction, the right track, and would allow our
22 members and show our members as Senator Rockefeller
23 said that trade laws can work. American paper
24 workers, American communities, and America in general
25 needs you to do the right thing. And on behalf of all

1 of our members in the industry I urge you to make an
2 affirmative finding which are supported by the
3 evidence in these cases. And thank you for your time,
4 I look forward to your questions.

5 MR. SAVAGE: Good morning. My name is Greg
6 Savage and I am Appleton Coated's Vice President for
7 Commercial Sales. Most of our sales of coated sheet
8 are short term contracts, although that phrase
9 includes agreements and understandings that are not
10 always reduced to writing. A relatively significant
11 share of our sales are on a spot basis. As Sandy has
12 told you, Appleton Coated has been badly injured by
13 the unfair imports from China and Indonesia.

14 As our company's Vice President for
15 Commercial Sales I have personally been in the
16 trenches, so to speak, doing battle in the coated
17 sheet market with the Chinese and Indonesian product.
18 Over the last several years we saw more and more
19 merchants and printers who had previously bought
20 Appleton Coated sheet fill more and more of their
21 inventory with Chinese and Indonesian coated sheet,
22 reducing the floor space and working capital available
23 for our product. And it's not difficult to understand
24 why.

25 Depending on the grade and the product we

1 saw imported sheets being marketed at as much as \$200
2 to \$240 a ton lower than our product. Appleton's
3 experience thus mirrors that reported by purchasers
4 and summarized in the prehearing staff report, page V-
5 20, table V-7, that the vast majority of product from
6 China and Indonesia undersold domestic mills
7 throughout the period of the investigation.

8 While Appleton Coated has worked with its
9 customers throughout the period to find ways to be
10 competitive with the subject imports, including by
11 reducing our prices, we simply could not cut our
12 prices all the way down to Chinese and Indonesian
13 levels. For much of the period raw material cost
14 including pulp were increasing in price on the spot
15 market, which put significant pressure on domestic
16 mills to get higher prices on their product.

17 As demand started to slow in late 2008,
18 pricing pressure on pulp became less, but the price
19 aggression from producers in China and Indonesia
20 intensified. Prices continued to decline in 2009. I
21 see that the APP attorneys argue that the price
22 declines in 2009 were due to the Black Liquor Tax
23 Credit. I totally disagree. Let me give you just one
24 reason why.

25 As one of the Petitioner customer witnesses

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1 testified at the preliminary staff conference, "We
2 started to see prices from China falling precipitously
3 at the end of last year, 2008, before this Black
4 Liquor Tax Credit was in force. November December
5 last year we were really seeing product pricing moving
6 down." That quote appears on page 109 of the staff
7 conference transcript.

8 That was also our experience as a domestic
9 producer. We saw a ramp-up of deep discounting in the
10 fourth quarter of 2008, before anyone got a Black
11 Liquor Tax Credit, a widening of underselling and a
12 surge of imports from the subject countries in the
13 first half of 2009. Those events forced Appleton
14 Coated to respond and we assume was true for the other
15 domestic producers.

16 We saw no appreciable effects from the Black
17 Liquor Tax Credit. We are a nonintegrated producer,
18 so we of course were not eligible for the credit
19 ourselves. Nor was the movement of pulp price
20 inconsistent with the type of gyrations we have
21 experienced with the changes in demand in the market
22 in recent years. So I join Sandy and all the other
23 witnesses here today in asking you to make affirmative
24 determinations in these investigations. Under
25 conditions of fair competition Appleton Coated

1 believes that it has a bright future here in America.
2 Thank you.

3 MS. MILLER: Good morning. I am Jennifer
4 Miller, Sappi Fine Paper North America's Executive
5 Vice President for Strategic Marketing and Chief
6 Sustainability Officer. I have been with Sappi since
7 1996. My responsibilities include managing the profit
8 and loss of the coated paper business for North
9 America, including marketing, product management, and
10 pricing. I join Mark in thanking you for the
11 opportunity to tell you about the devastating harm
12 that dumped and subsidized imports of certain coated
13 paper from China and Indonesia have caused Sappi.

14 As your staff's public prehearing report
15 makes clear price is a very important factor in the
16 coated sheet market. While most customers would rank
17 quality as the most important factor in their
18 purchasing decisions, the fact is that the quality of
19 Chinese and Indonesian certain coated paper is very
20 comparable to Sappi's coated sheet. Chinese and
21 Indonesian sheet products are made on world class
22 machines, perform consistently on press, and are made
23 to world class specifications.

24 Consequently price is always an important
25 determining factor in who gets the sale. Coated sheet

1 imports from China and Indonesia compete directly
2 against our sheets for shelf space in merchant
3 warehouses and in downstream printer markets. Since
4 inventory is one of the biggest costs faced by sheet
5 merchants, even a small difference in price and terms
6 can create a significant incentive to stock imported
7 sheet, particularly when credit is tight.

8 Importantly, once imported sheet is stocked
9 in the merchant's warehouse the product's lead times
10 are comparable to that of Sappi's and can and do serve
11 the needs of even small commercial printers. Because
12 of these dynamics, imports from China and Indonesia
13 have in recent years increased their share of the U.S.
14 market even as demand contracted. This wave of
15 imports has put intense price pressure on our
16 products.

17 Since 2006 sheet from China and Indonesia
18 sold in the economy segment has been priced well below
19 our comparable economy grade. By March of last year
20 they were undercutting prices for our comparable
21 product by 20 to 30 percent or more. In order to
22 respond to the Chinese and Indonesian prices Sappi
23 drastically reduced the prices for our Flo product in
24 February 2009, and we continue to reduce prices.

25 As our questionnaire responses shows,

1 Sappi's prices for Flo fell by nearly \$110 per ton
2 between the fourth quarter of 2008 and the third
3 quarter of 2009. Eventually the price differential
4 between our economy sheet and our high end sheet
5 lineup had widened so much that in September 2009 we
6 were forced to reset the prices for our high end
7 sheets to bring them back in line with our economy
8 grade sheets.

9 If take a look at our questionnaire response
10 you will see that between the second and fourth
11 quarters of 2009 the prices for our high end sheets
12 fell by more than \$200 a ton. In short, the harm
13 caused to Sappi by imports of dumped and subsidized
14 coated sheets from China and Indonesia was very real
15 and very significant. Before closing I want to
16 briefly address the issue of like product and APP's
17 argument that coated web should also be included in
18 addition to coated sheet.

19 As the Commission staff no doubt will recall
20 this issue was discussed extensively during the
21 preliminary investigation staff conference. For your
22 convenience, attached to my statement are the relevant
23 excerpts of Petitioner's witness testimony and answers
24 to questions from the conference transcript. We at
25 Sappi strongly believe that the Commission got it

1 right in its preliminary determination when it decided
2 that web rolls are not part of the like product.
3 Nothing in the record that I have reviewed including
4 APP's arguments from its public prehearing brief
5 warrants any change in that outcome. Thank you.

6 MR. NELSON: Good morning. I'm Barry
7 Nelson, Senior Vice President of Sales for NewPage
8 Corporation. I have worked in the paper industry for
9 more than 20 years and I have been with NewPage since
10 its creation. I'm responsible for sales of all
11 NewPage paper products with the exception of some
12 specialty paper items. Historically the domestic
13 industry producing coated sheets has enjoyed certain
14 competitive advantage vis-a-vis imports in terms of
15 superior logistics and supply chain savings.

16 These advantages enabled us to earn small
17 premiums of \$40 to \$60 per ton. However, those
18 advantages have been overwhelmed by what can only be
19 described as wholly irrational pricing of dumped and
20 subsidized Chinese and Indonesian imports. We have
21 seen subject imports undersell our products by as much
22 as \$150 to \$160 per ton, and while most of the subject
23 imports consisted of what is known as economy grade
24 coated paper, the price pressure was not isolated to
25 the economy segment of the market.

1 As subject imports depressed prices for
2 economy grades, the price margins between the grades
3 broadened, creating pressure on higher grades. When
4 the floor starts to drop it eventually brings the rest
5 of the market down with it. Rising volumes of subject
6 imports and a steep decline in demand due to the
7 recession left NewPage facing a dilemma, either reduce
8 prices to meet competition from dumped and subsidized
9 imports or cede market share.

10 As you've heard from George, NewPage has
11 been reducing its capabilities by closing paper
12 machines and mills and taking enormous volume out of
13 production. Rather than close more mills and throw
14 more employees out of work, we decided instead to
15 reduce our prices dramatically to maintain volume. As
16 the pricing data in our questionnaire response shows,
17 between the third quarter of 2008 and the fourth
18 quarter of 2009 we've cut prices on some of our
19 products by as much as 20 percent to compete with the
20 subject imports. But such a strategy while stemming
21 the loss of volume can only go so far.

22 In 2009 we had reduced prices to the point
23 that we were selling our economy sheets at a loss.
24 Not surprisingly our producer questionnaire response
25 shows what had been positive operating returns in 2007

1 and 2008 had turned into substantial operating losses
2 in 2009. Our company and industry have undeniably
3 been injured by the Chinese and Indonesian imports and
4 badly need the relief that orders would provide.

5 Finally I want to comment on the issue of
6 web rolls versus coated sheet and a statement on page
7 20 in the Respondent's public prehearing brief. The
8 sentence reads "It is common knowledge that NewPage
9 ships large quantities of rolls to Pro Con Converting
10 which sheets these web rolls for the sheet fed market
11 or rewinds them to smaller width rolls for high speed
12 web offset printing." That statement was made by Mr.
13 Hanscom from Eagle Ridge Paper. Mr. Hanscom is
14 mistaken. While Pro Con does convert some sheets for
15 NewPage, these are sheeter rolls, not web rolls.
16 NewPage does not sell web rolls to any customer that
17 we would warrant for use in sheet fed presses. Thank
18 you.

19 MR. MCGEHEE: Good afternoon. My name is
20 David McGehee, President of Mac Papers. Our company's
21 headquarters are located in Jacksonville, Florida, and
22 we are the largest merchant distribution of fine
23 papers, envelopes, and graphic supplies in the
24 southeast United States. Since our company's founding
25 in 1965 we have continued to institute programs that

1 allow us to offer the industry's finest products and
2 most responsive services first, fast, and accurate.

3 I personally have worked in the paper
4 business for over 35 years. Our sales total about
5 \$425 million a year and we ship more than 100,000 tons
6 of paper annually. We currently have about 650
7 employees. Our company has 20 branch office warehouse
8 locations as well as 20 what we call Mini Macs, which
9 are paper stores for walk-in customers. Coated paper
10 is a very important part of our business, accounting
11 for approximately 45 percent of our annual shipments
12 by volume.

13 Most of the coated sheet that we sell is
14 shipped direct from our warehouses to our customers,
15 who consist primarily of commercial printers and tax
16 supported business in mailing houses. I am here today
17 in support of the Petitioners and the imposition of
18 antidumping and countervailing duties on Chinese and
19 Indonesian coated paper for one simple reason. The
20 imports of their products have completely disrupted
21 our business and our industry.

22 The APP Company's market strategy can be
23 summed up in six words. Use price to buy market
24 share. Almost ten years ago we took out an ad in
25 local papers announcing Mac Papers chooses not to do

1 business with Communist China paper manufacturers. We
2 did not want to support mills that paid their workers
3 61 cents an hour, that violated environmental
4 guidelines, and whose government violated WTO rules
5 and regulations and manipulated its currency.

6 Unfortunately, beginning in 2007 we had to
7 eat crow because of these unfair imports that were
8 underselling other sources by up to 15 to 18 percent,
9 and their product quality was quite good. In order to
10 remain competitive we started sourcing from Indonesia.
11 Then we discovered we could get the product at even
12 cheaper prices from China. We had to do this because
13 all of our competitors were buying the same imports.
14 In a market where price is incredibly important these
15 margins of underselling were simply too large to
16 ignore.

17 I understand that APP has argued that
18 Chinese and Indonesian imports are not the reason why
19 domestic prices have declined. I could not disagree
20 more. Things have gotten so bad that our customers
21 who'd normally buy uncoated paper find they can buy
22 coated paper for less. Simply put these unfair
23 imports have turned our market upside down. Finally I
24 note that APP claims imports are excluded from
25 participating in paper directed by a program. Again I

1 disagree. Mac Papers participates in such programs
2 and we have used APP coated sheets in them. Thank
3 you.

4 MR. FREELAND: Good afternoon. I am Mike
5 Freeland, President and owner of Field Paper Company.
6 Our company was founded in 1916 and I have been with
7 the company 24 years. Four years ago I became sole
8 owner of this business. We are headquartered in
9 Omaha, Nebraska, and have two warehouses, one in Omaha
10 and the other in Des Moines, Iowa, with combined
11 100,000 square foot of storage space. We have 53
12 employees all together and we source from about 20
13 vendors of paper both domestic and foreign. Our
14 company sales total about \$30 million per year. More
15 than 90 percent of our sales are to commercial
16 printers in Nebraska and Iowa.

17 We first started to see Chinese and
18 Indonesian coated paper in our market around 2004 and
19 2005. These imports were priced as much as 35 percent
20 below the domestic paper. We finally started to buy
21 Gold East in 2006 because we felt we had to in order
22 to remain competitive. That's because price is very
23 important to our customers. We compete against large
24 national distributors so we need to take advantage of
25 every competitive factor that we can.

1 If we had not started to buy these imports
2 we may not have been able to stay in business. Over
3 the years we bought more and more Gold East paper and
4 less domestic paper. Before we started buying Gold
5 East in 2006 99 percent of our coated paper was bought
6 from domestic producers. By 2009 that was down to
7 about 50 percent with most of the rest coming from
8 Gold East.

9 It's important to point out that our
10 domestic suppliers work hard to find ways to make
11 their paper more competitive with these imports. For
12 example one of our -- instead of shipping three or
13 four truckloads per week from the distribution center,
14 one of our domestic suppliers was able to bring down
15 their price by shipping these truckloads directly from
16 the mill to us.

17 While that means more inventory carrying
18 cost for us, the reduced cost made it worth it. But
19 the problem is this, no domestic producer of coated
20 paper can stay in business selling just economy grade
21 sheets at heavily depressed prices. If you're a
22 domestic producer selling a lot of number 3 coated
23 paper at \$52 a hundred-weight, you also need to be
24 able to sell number 1 paper at \$88 and number 2 paper
25 at \$77.

1 But that's tough to do when imports under
2 investigation are selling in the mid to upper 40s.
3 The imported coated sheet is very good quality, so
4 none of our printers, end user customers didn't see a
5 meaningful difference in the printed product. If they
6 can't tell the difference they have no reason to pay a
7 higher price for a higher grade of paper. Field
8 Paper's experience with the imports under
9 investigation show that the industry can't survive,
10 let alone thrive, with dumped and subsidized imports
11 competition keeping prices depressed.

12 If these imports can get up to half of our
13 business in the space of a few years, as they have, it
14 is not difficult to imagine that the same is occurring
15 at other merchants around the country. An operation
16 like ours can't support domestic mills when large
17 price differences exist as they have in recent years.
18 Eliminate the dumping and the subsidies and you
19 eliminate the artificial competitive advantage, and
20 then my buying decisions are likely to improve a great
21 deal more for domestic coated papers. Finally I
22 understand that APP claims that their product does not
23 compete with domestic coated sheets because they do
24 not produce custom sized products. Field Paper has
25 bought custom sized product from Gold East on a

1 regular basis. Thank you.

2 MR. SCHOEDINGER: Good afternoon, Madam
3 Chairman and Commissioners. I am George Schoedinger,
4 Vice President for Business Development for Universal
5 Printing Company in St. Louis, Missouri. Universal
6 Printing has been in the business since 1939. We are
7 ranked among the top 100 printing companies in the
8 United States, with a staff of more than 200 dedicated
9 professional graphic arts individuals. Our facilities
10 include a state-of-the-art prepress department, one of
11 the industry's newest sheet fed press rooms, and a
12 bindery that includes saddle stitching, perfect
13 binding, folding, and a multitude of other finishing
14 services.

15 We serve the printing needs of customers
16 nationwide from our sales offices in St. Louis,
17 Missouri, New York, New York, and Dallas, Texas. I
18 started in the printing business in 1989, first
19 selling printing to customers for a commercial
20 printing company. In 1997 I started my own print
21 business called Pinnacle Press. I sold that business
22 to another printing company in 2005 and started
23 working for Universal Printing full time in 2006.

24 My responsibilities cover purchasing and
25 managing the company's sales force, so I know the

1 market very well. The printing industry is under
2 tremendous competitive pressures from alternative
3 media such as electronic media. That means that we
4 have to be able to produce the printed product at the
5 lowest possible cost. Coated papers from China and
6 Indonesia quickly became accepted by commercial
7 printers such as Universal Printing because it was 20
8 to 30 percent cheaper than domestic coated paper.

9 Major merchants such as xpedx, Shaughnessy,
10 Unisource supplied us with the imported paper, and we
11 found that it met our customers' needs. Because of
12 the enormous difference between Chinese and Indonesian
13 prices on one hand and the domestic prices on the
14 other, the Chinese and Indonesian producers were
15 setting the market and the domestic mills were
16 desperately trying to keep up. Finally let me tell
17 you what I believe will happen if the Petitioners
18 should happen to lose this case.

19 The Chinese and Indonesian producers will
20 once again flood the market with low priced product as
21 they have most of this past decade. The depressed
22 prices will make it difficult for domestic mills to
23 stay in the market long term, and we will see
24 continued closure of domestic mills or the inability
25 to reinvest in keeping the mills efficient. This is

1 the biggest downside of dumped Asian products, that
2 the domestic mills will be stripped of their ability
3 to manufacture and we will lose yet one more
4 manufacturing industry here in America. As someone
5 who happens to believe that buying from domestic
6 companies is good for our economy, I ask you to help
7 ensure that doesn't happen by providing relief from
8 the unfair trade practices found by the Commerce
9 Department. Thank you.

10 MR. MARCIAN: Good afternoon. My name is
11 Mike Marcian, and I am President of Corporate Press,
12 which is located in nearby Lanham, Maryland. We are a
13 commercial printer that has been in business for
14 nearly 60 years. I started working in the printing
15 business in 1973. I'm also a former chairman of the
16 board of the Printing Industries of America.
17 Corporate Press has 175 employees and between \$28 and
18 \$30 million in sales every year. About 50 percent of
19 our business is in coated paper, specifically coated
20 paper.

21 A lot of our customers are in the direct
22 mail business. We also print monthly magazines,
23 annual reports, covers for books, advertisement
24 inserts, and even some coated newsletters. We buy our
25 coated paper from merchant distributors, not direct

1 from the mills. The printing industry has always been
2 very focused on price. It is a high volume low margin
3 business where the barrier to entry by new competitors
4 are low.

5 We're also an industry that is consolidating
6 as larger printing companies buy up smaller ones that
7 are struggling to get by. We belong to an
8 organization called Independent Printers Worldwide, or
9 IPW for short. IPW was organized in 1998 to help its
10 members streamline their procurement process to
11 achieve efficiencies and cost savings and purchasing
12 equipment, supplies, and materials and services.

13 IPW makes it possible for a company like
14 Corporate Press to remain independent while greatly
15 boosting our bargaining leverage with our vendors. So
16 whether you're a large printing outfit with numerous
17 locations throughout one or more regions of the
18 country or a smaller shop like ours, price matters a
19 great deal. Corporate Press started buying imported
20 coated paper from Asia about five or six years ago.
21 We started with Korean paper and then shifted to
22 Chinese.

23 We bought it because it was priced 20
24 percent below what the domestic coated paper was
25 selling for. At the outset the quality of the paper

1 was a little suspect, but it has improved
2 significantly since then and today it is entirely
3 comparable to domestic coated sheets. Initially I
4 didn't particularly care whether we bought Chinese or
5 domestic coated paper so long as the quality was
6 acceptable.

7 My buying decisions were based entirely on
8 price. Our major merchant distributor is Unisource,
9 which has worked more broadly with IPW. When domestic
10 producers, specifically NewPage, lowered their prices
11 to become more competitive with imported product at
12 Unisource last year, we were able to obtain more
13 domestic product for our needs. With unemployment in
14 this country over 9 percent I am personally pleased
15 that I can source more domestic product.

16 However, in a low margin business our
17 company like most other printers has to buy
18 competitively priced product when quality is
19 acceptable as all of the domestic and imported
20 products from China and Indonesia is. Imposition of
21 antidumping and countervailing duty orders will ensure
22 that competition for our domestic mills is at a fair
23 price and will make it easier for companies like
24 Corporate Press and IPW other members to source more
25 domestic coated sheets at a competitive price while

1 helping save jobs in America. Thank you.

2 MR. SETH KAPLAN: Good afternoon. I am Seth
3 Kaplan, a principal of the Battle Group. I have been
4 asked by counsel for Petitioners to examine the
5 effects of subject imports, the recession, and other
6 supply and demand drivers on domestic CCPP prices over
7 the period of investigation. I approached this task
8 in three ways. First I used statistical techniques to
9 measure how subject imports, nonsubject imports, and
10 the recession affected domestic coated paper prices
11 adjusted by the price of pulp, coated paper's single
12 largest material input.

13 The analysis is similar to looking at the
14 factors that drive the metal margin in investigations
15 involving steel products, and the Commission often has
16 favored this approach because price trends can be
17 deceptive when the underlying input prices are
18 volatile as with both steel and paper. Second, I
19 looked at what purchasers and other parties said about
20 the role of subject imports and the recession on U.S.
21 producer prices.

22 And finally I conducted a financial analysis
23 to determine whether the industry has suffered a cost
24 price squeeze. The results of my analysis show that
25 subject imports caused material injury to the domestic

1 industry. The econometric analysis is attached at
2 exhibit 5 of the Petitioner's prehearing brief. Using
3 over eight years of quarterly data from widely relied
4 upon sources, I found that subject imports had a
5 statistically significant negative effect on U.S.
6 producer price margin. To a less degree, nonsubject
7 imports also negatively affected domestic producers
8 price margins. And finally, demand was positively
9 correlated with prices.

10 So all the results are what you expected.
11 Thus both subject imports and the recession
12 contributed to the decline in U.S. producer price
13 margins over the period of investigation. In a
14 companion analysis, I also found CCPP prices sell
15 significantly more than web roll prices, a result that
16 supports the earlier finding. Next I examined
17 statements made by purchasers to Commission staff
18 investigating lost sales and lost revenue allegations.

19 The great majority of purchasers stated
20 that, and I quote, "U.S. producers have reduced their
21 prices in order to compete with subject imports," and
22 that's the end of the quote. Purchasers reported the
23 price depressing effects of subject imports regardless
24 of whether they confirmed or denied an individual lost
25 sale or lost revenue allegation. This underselling

1 and its effect on domestic prices was ubiquitous in
2 the market and affected many sales.

3 Note that they did not say that domestic and
4 subject coated paper prices both fell due to the
5 recession. Rather, they said that subject prices
6 caused domestic prices to fall. This is consistent
7 with the purchaser's perception that domestic and
8 subject imports are highly substitutable. It is
9 further supported by purchasers identifying price as
10 the second most important factor after quality, where
11 domestic and subject coated sheet are comparable, in
12 purchasing decisions, and the fact that 29 of the 32
13 purchasers surveyed listed price as a very important
14 factor in choosing their coated paper supplier.

15 Finally, I examined whether the domestic
16 industry was suffering from a cost price squeeze. The
17 Commission has found the existence of a cost price
18 squeeze is powerful evidence of price suppression. In
19 this investigation, average unit values fell while per
20 unit costs increased. The resulting decline in gross
21 profits is further evidence of the negative effect of
22 dumping and subsidization on domestic producer prices
23 and the consequent harm evidenced by the industry's
24 financial condition. The financial analysis is
25 attached as exhibit 2 to Petitioner's prehearing

1 brief.

2 So in conclusion, I examined the effects of
3 subject import volumes on domestic prices and margins
4 using three complementary techniques, econometric and
5 statistical analysis being the first, the second to
6 see if that was consistent with statements made on the
7 record to your investigators calling customers and in
8 responses by purchasers sent out by the Commission,
9 and finally a financial analysis that's separate than
10 the econometric analysis. Each of these methods has
11 led me to conclude that subject imports caused
12 material injury to the domestic industry by depressing
13 prices, suppressing sales, and causing financial
14 distress. I'd be happy to answer any questions.
15 Thank you for your attention.

16 MR. STEWART: That concludes our direct
17 testimony, Madam Chairman.

18 CHAIRMAN OKUN: Thank you very much to all
19 of you for your testimony, and also would say welcome
20 to those workers who have traveled to be with us and
21 the students who are out there. Having consulted with
22 my colleagues on what they consider as the best use of
23 our time and your time we are going to go ahead and
24 break for lunch now. We'll resume at 1:30, and we'll
25 start our questions then, and that way, and we have I

1 think two members of Congress who should be here this
2 afternoon. Mr. Stewart?

3 MR. STEWART: Madam Chairman, President
4 Gerard has indicated that he has to leave by 1:30 --
5 2:30, excuse me. So he'll be here for the first hour.

6 CHAIRMAN OKUN: Okay. We appreciate that,
7 Mr. Gerard, and I will remind colleagues in case they
8 have questions for you. And with that I want to
9 remind everyone that this room is not secure so please
10 don't leave any confidential information. Again we
11 will resume this hearing at 1:30, we'll stand in
12 recess.

13 (Whereupon, at 12:49 p.m., the hearing in
14 the above-entitled matter was recessed, to reconvene
15 at 1:30 p.m., the same day.)

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1 A F T E R N O O N S E S S I O N

2 CHAIRMAN OKUN: This hearing will now
3 resume. Welcome back to this morning's panel, and
4 good afternoon. We will begin our questioning this
5 afternoon with Commissioner Lane.

6 COMMISSIONER LANE: Thank you. And thank
7 you all for coming to participate in this
8 investigation. And we really appreciate all of you
9 being here, and especially all of those folks who have
10 traveled a long distance to be here to see what is
11 going on.

12 I'm going to start with a general question.
13 And I know that it has been answered in the opening
14 statement, I know it's been answered in the brief.
15 And it was probably answered in Dr. Kaplan's
16 testimony, but my booklet doesn't have it, so I can
17 only rely upon my memory.

18 But the question is, could you specifically
19 and succinctly tell me what evidence in the record
20 most clearly supports an argument that the price that
21 you received for coated free sheet paper has been
22 either suppressed or depressed, or both, during the
23 period of investigation?

24 And if the prices were suppressed or
25 depressed, what evidence supports an argument that

1 such suppression or depression of prices was caused
2 either in whole or in part by the subject imports?

3 MR. STEWART: Thank you, Commissioner Lane.
4 This is Terence Stewart. I'll start with the, with
5 the answer.

6 First, if you look at our prehearing brief,
7 and you look at pages 31 and 32, those pages are, have
8 confidential information, so I'll just ask you to take
9 a look at those two.

10 What those pages attempt to do is to take
11 the information that the staff gathered in the
12 questionnaire responses that look at the prices of the
13 products where there was direct competition. And your
14 staff report indicated that products one and four,
15 which basically equate to the economy grades, were the
16 bulk of the imports from both China and from
17 Indonesia.

18 And what that table attempts to do is to
19 take a look at what amount, if any, underselling there
20 was between the products, whether that underselling
21 increased or decreased quarter to quarter. And the
22 testimony that you heard today from the domestic
23 industry -- and obviously they don't have access to
24 the confidential staff report -- was as follows: that
25 in the fourth quarter of 2008 you started to see

1 tremendous downward movement in prices from China and
2 Indonesia. And you can look at those two pages, which
3 reflect what's in your staff report, to see whether or
4 not your staff report would confirm that or not.

5 As the -- and I believe that you heard from
6 Barry Nelson earlier that at some point the margin of
7 underselling became as much as \$150, in a market in
8 which the competitive advantage the domestics have
9 from shorter lead times, et cetera, is measured more
10 in the \$40 to \$60 range. And that domestics then
11 responded.

12 If you take a look at pages 31 and 32, you
13 will see whether or not you would think the record
14 supports the conclusion that domestic producers
15 lowered prices quarter by quarter as margins widened
16 to be able to compete.

17 Then on pages 521 to 527 of your staff
18 report, you have the staff reviewing its review of
19 lost sales allegations and lost revenue allegations.
20 Now, the public staff report does not obviously
21 indicate who the customer is who was contacted, but
22 does include whether or not the customer indicated
23 that the domestic producers lowered their prices to
24 compete with the subject imports.

25 And what you find in those six pages is that

1 virtually every customer, whether they agreed that
2 there were lost sales or not, agreed that domestic
3 producers lowered prices to compete with the imports.
4 And that's entirely consistent with what you have
5 heard, both from the domestic producers and their
6 customers here.

7 It's also the case at the preliminary
8 conference there were four other customer who were
9 present -- two merchant/distributors and two
10 printers -- and their testimony was to the same
11 effect.

12 One of those customers, who is a very large,
13 a large customer in the United States, had indicated
14 that in fact the pricing pressure started in the
15 fourth quarter, consistent with what witnesses here
16 today have said, of 2008; and that it was the Chinese
17 leading the price down. And you can see whether or
18 not that is confirmed by what's on page 31, 32.

19 So you have, you have your staff report
20 review of purchasers' observations that domestics
21 lowered their prices to compete. You have the pricing
22 information quarter by quarter, which will let you
23 make your own judgment as to whether or not domestics
24 were chasing foreign prices down, whether foreigners
25 were chasing domestic prices down, or what have you.

1 You have your under-selling analysis by the
2 staff on a product-by-product basis, which shows that
3 you have 82 percent of quarters, or 84 percent of
4 sales, listed in the public report, where you have
5 under-selling and the margins are 10, on average 10.6
6 up to 25 percent.

7 And all you have to do is look at that on a
8 quarter-by-quarter basis to see whether it is
9 stagnant, whether it grows, or whether when it grows
10 there then is subsequent declines in domestic prices
11 to be able to see whether or not you agree with the
12 position that has been taken by this group of
13 witnesses: that it clearly was pricing pressure from
14 the imports from China and Indonesia that led, led the
15 price series on the downside. That domestics
16 responded, and that the response in the economy grades
17 led to a later decline in the top grades. And the top
18 grades are basically what are reflected in your
19 pricing series product no. 2 and product no. 5.

20 Those are also reflected in our prehearing
21 brief, where we've done the same type of analysis.
22 But you would have heard our witnesses say that there
23 was typically a two-quarter delay between price
24 declines on the economy grades. And when the gap got
25 too big between economy and the others, their prices

1 on the other grades collapsed, as well. And you can
2 check your staff report numbers for product 2 and 5 to
3 see if you believe that they have accurately portrayed
4 what happened to them in the market or not.

5 But that would be, I would say, the core,
6 the core basis. Every one of the major players in the
7 industry have told you that they were chasing price
8 down. They were chasing price down to maintain volume
9 in a declining market.

10 The domestic industry declined in 2009, but
11 they didn't decline as severely as they might
12 otherwise have done. And they didn't decline as much
13 as they had in the first half, before a lot of their
14 efforts to meet prices or get closer to meeting prices
15 took place.

16 You have uncontradicted evidence in the
17 staff report that there is, that there is almost
18 universal under-selling, what those margins are. And
19 you have the statements from all of the customers, or
20 nearly all of the customers, who were contacted by the
21 staff, that domestics were chasing the subject import
22 prices down.

23 You also have the data from the, in the
24 staff report, from the purchasers, A, that they ran
25 quality first and price second; and that the quality

1 between the Chinese, Indonesian, and domestic product
2 is basically comparable. Which means that while
3 quality may be the top issue, it doesn't distinguish,
4 as in many of the cases you had before you, product is
5 comparable product. And so price becomes a much more
6 important factor. And that was the testimony of the
7 customers here today, that price is a very important
8 factor in their market, sure.

9 There is some advantage to having shorter,
10 shorter delivery time, and you get a reduction in
11 inventory carrying costs and those sorts of things
12 from buying domestic. But that fits into that kind of
13 small differential.

14 So that would be, that would be a lengthy
15 answer to your question, Commissioner.

16 COMMISSIONER LANE: Thank you, Mr. Stewart,
17 that is quite helpful, because it is a voluminous
18 record. And those were the points that you made in
19 your opening statement. And it helps to focus on
20 exactly where the numbers are in the record. So I
21 appreciate that. And I have more questions, but I'll
22 wait until the next round.

23 CHAIRMAN OKUN: Commissioner Pearson.

24 COMMISSIONER PEARSON: Thank you, Madame
25 Chairman. Welcome to all members of the panel. It's

1 good to see so many familiar faces.

2 To those who don't normally attend these
3 sessions, let me just explain that one of the issues
4 we have to deal with at the Commission is what we call
5 non-attribution, to make sure that we don't attribute
6 to subject imports some effect from something else
7 happening in the economy. That will undergird my
8 question, just for background.

9 On this record we see that apparent
10 consumption declined until the 2010 interim, domestic
11 industry production and shipments declined, and
12 employment declined. Aren't all of these consistent
13 with the effects of the recession? Why should we read
14 more into it than that? Mr. Kaplan.

15 MR. KAPLAN: Yes. Well, first I'd like to
16 add another fact in that period, which is that through
17 the first three years, the absolute volume of imports
18 increased, which is subject imports. Which is
19 surprising, given the recession. So the subject
20 imports picked up market share, but rose absolutely.

21 Well, your question is an interesting
22 question, and it overlaps I think somewhat with
23 Commissioner Lane's question. It's that you have two
24 things going on at once. You had the imports, and you
25 had the recession. So the question is how to

1 disentangle them.

2 COMMISSIONER PEARSON: Yes, absolutely.

3 MR. KAPLAN: And I think on the first point,
4 were things getting worse, I think clearly there was
5 under-selling, and there was falling price. So you
6 had price depression.

7 Now, how do you figure out whether it's the
8 imports or the recession? I looked at it three ways.
9 The first way I looked at it is statistically, and I
10 looked to see if price margins of the domestic
11 producers were affected by subject imports and by
12 demand, and by non-subject imports.

13 And I found that, in fact, subject imports
14 significantly had a negative effect on domestic
15 prices. The recession negatively affected domestic
16 prices, too. So both events were occurring.

17 The second thing I looked at is a comparison
18 between coated paper and web rolls. Because web rolls
19 would be also subject to many of the same supply-and-
20 demand drivers. Not all of them, different products,
21 but some of the same drivers.

22 And what I found was, is that coated sheet
23 prices were more negatively affected than web prices.
24 So this is consistent with the first regression, which
25 showed that imports, subject imports did negatively

1 affect prices. This is a confirmation.

2 Then I looked at what customers said. And
3 customers said, in the lost sales and lost revenue
4 section, explicitly identified the subject imports as
5 causing the domestic producers to drop prices.

6 Now, the economists sometimes like
7 regression analysts say lawyers like, you know,
8 evidence directly from customers. Here you get them
9 both; they are completely consistent.

10 I would look at the number of customers that
11 said that, and you will find it's overwhelming. Each
12 of them identified the subject imports as a reason
13 domestic producers lowered prices. Even though the
14 recession was going on and they noted that there was
15 distress from the recession, as well.

16 Finally, there was a cost-price squeeze.
17 And traditionally, the Commission has looked at the
18 cost-price squeeze as evidence of price suppression
19 and price depression. Here there is a recession going
20 on simultaneously, but the regression analysis, the
21 evidence from the staff report, and today the evidence
22 you've heard directly from purchasers, all confirm
23 that a significant part of the decline, a material
24 part of the decline, was due necessarily to the
25 subject imports under-selling the product, increasing

1 under-selling margins, being aggressive, and picking
2 up share and volume during the period of
3 investigation.

4 So you had the information to separate the
5 effect of the imports from the effect of the
6 recession, and it's plain from three separate
7 complementary analyses and testimony you've heard
8 today, that imports themselves caused a significant
9 part of this problem. And that you are not
10 attributing that decline to the recession. In fact,
11 you could isolate it, and that it's material and it's
12 caused injury.

13 COMMISSIONER PEARSON: Okay. I confess that
14 I have not had an opportunity to review your analysis,
15 and I will do that with the Commission economists
16 prior to the vote, I can assure you.

17 But I hear what you're saying. There are
18 ways to explain all of this that might have some good
19 bases behind them.

20 But you know, despite the conditions that
21 you outlined, the domestic industry saw a steady
22 increase in its market share over the POI. You know,
23 both subject and non-subject imports saw their market
24 shares decline over the full POI, although the subject
25 imports not until the end.

1 So is this fundamentally a price case,
2 rather than a volume case?

3 MR. KAPLAN: Well, you'd expect in a
4 recession typically that the share of the domestic
5 industry would increase, and the share of imports
6 would fall. All kinds of economic models look at, you
7 know, kind of a home court advantage; that people
8 supply their own market, and then export.

9 And given the available capacity in the
10 United States and the recession going on, you'd expect
11 overall demand and overall shipments to decline; but
12 that the player that would do the best would be the
13 one with the home court advantage, as it were, due to
14 transportation costs and other issues.

15 What you saw is non-subject imports
16 declined, which is expected in this recession.
17 Domestic shipments' share increased. But actually
18 domestic shipments fell, while subject imports
19 increased both in volume and in share. And you would
20 expect neither of those, typically.

21 And it's evidence consistent with them
22 picking up share and lowering prices due to their
23 ability to sell at prices that they could only sell in
24 the U.S. with dumping and with subsidization.

25 COMMISSIONER PEARSON: Right. But

1 consistent with what you've just said, fundamentally,
2 for the first three years of the POI, we seem to see
3 the subject imports taking market share from non-
4 subject imports, and with the domestic industry
5 improving its market share position overall.

6 So, you know, I hear what you're saying; I
7 just don't think that it explains everything that
8 we're seeing on this record. Mr. Stewart.

9 MR. STEWART: You do, of course, have as
10 well the preliminary record, in which you would see,
11 from the preliminary record, is that in the first half
12 of 2009 there was some significant erosion of market
13 share for domestics. Which is consistent with the
14 domestics' statement to you today that there was both
15 a surge in imports of very aggressive pricing, and
16 they were then faced with the situation do they
17 respond or do they not.

18 And they opted to respond in the context of
19 that first half. And they, by lowering prices, were
20 able to reduce the extent of loss of volume that they
21 otherwise had been experiencing. And that is
22 reflected in the full year and the full year data.

23 You will also find in the, in the staff
24 report, a confidential statement that comes from a
25 major purchaser that identifies what was going on in

1 late 2008, in terms of what the Respondents were
2 looking to do in terms of their market presence in the
3 United States. And I would encourage you to look at
4 that. Because in a downward-spiraling market, which a
5 recession would naturally do, domestic producers in a
6 high-fixed-cost industry are faced with the issue do
7 they try to maintain the operation of their
8 facilities. And if a price aggression makes that far
9 more difficult, and they in fact become much more
10 aggressive themselves in responding to that price
11 aggression, the fact that they obtained some volume in
12 that would, would create the kind of trim lines that
13 you see.

14 COMMISSIONER PEARSON: Okay. In short, in
15 shorthand, do you see this as more of a price case
16 than a volume case?

17 MR. STEWART: Well, price is certainly a key
18 part of the case, since the industry chose to respond.
19 But there's also the volume case. And the concept
20 that in a market that declines by 25 percent, imports
21 are allowed to grow, subject imports are allowed to
22 grow, and that that's not displacing, it seems to me
23 is not, is not a valid argument.

24 COMMISSIONER PEARSON: Okay. Thank you,
25 Madame Chairman, my time is done.

1 CHAIRMAN OKUN: Thank you. And before I
2 turn to Commissioner Aranoff just two reminders, I was
3 going to do this before Commissioners Lane and Pearson
4 went, but for my colleagues, a reminder that Mr.
5 Gerard has indicated to me he needs to leave at 2:30.
6 So if you could direct any questions you have to him
7 in your first round of questioning.

8 And then also just to ask witnesses to
9 repeat your name when you answer, just so the court
10 reporter will know who's speaking. Thank you very
11 much. And, Commissioner Aranoff.

12 COMMISSIONER ARANOFF: Thank you, Madame
13 Chairman. Welcome to all of the witnesses, and we
14 appreciate your endurance.

15 Let me start by actually directing a
16 question to the two printers on the panel who
17 testified. Mr. Nelson addressed this point a little
18 bit today, but in the preliminary investigation there
19 was some discussion of whether it's possible to use
20 web rolls in sheet presses. And Respondents had, I
21 think one witness who, at the preliminary conference,
22 said it could happen, but it was rare. And then in
23 their prehearing brief here, they had a statement
24 suggesting that perhaps it was more widespread. I'm a
25 little confused about that, and I'll ask them later

1 today.

2 But I did want to ask Mr. Schoedinger and
3 Mr. Marcian, have you ever used a web roll in a sheet
4 press?

5 MR. MARCIAN: No, it will not run through
6 our equipment.

7 COMMISSIONER ARANOFF: Okay. Have you ever
8 been offered by a supplier that they could sheet a web
9 roll for you, and that that would create a price
10 advantage for you?

11 MR. MARCIAN: No.

12 MR. SCHOEDINGER: George Schoedinger. No,
13 we never have.

14 COMMISSIONER ARANOFF: Okay. If someone
15 were to offer that product to you and the price were
16 attractive, would you use it? And if not, why not?

17 MR. MARCIAN: It wouldn't run. We couldn't
18 do it. So at any price, we couldn't do it.

19 MR. SCHOEDINGER: The equipment wouldn't
20 tolerate it.

21 COMMISSIONER ARANOFF: Can you describe what
22 it is about the product that's sheeted out of a web
23 roll that wouldn't allow the equipment to tolerate it?

24 MR. SCHOEDINGER: The moisture content in
25 the paper is one of the big components that won't

1 allow us to run that through a press that's made for
2 sheet-fed paper. The equipment just doesn't tolerate
3 the two different types of papers. They're made
4 differently, and so they don't, it won't run.

5 COMMISSIONER ARANOFF: Okay. I think there
6 was some discussion in the Respondent's brief about
7 the fact that that might have been true for old
8 presses, but that the presses aren't sensitive to the
9 moisture content any more. Are you running old
10 presses?

11 MR. SCHOEDINGER: George Schoedinger again.
12 We have state-of-the-art equipment. And the problems
13 may be different, but it won't work. And moisture is
14 affected. The moisture content of the paper has a
15 significant bearing on which press it will run on.

16 So in brand-new equipment, you still can't
17 run the different grades back and forth between the
18 two types of, you know, two types of equipment.

19 COMMISSIONER ARANOFF: Okay. Mr. Marcian?

20 MR. MARCIAN: We have never been offered to
21 buy that, and we don't run it because it won't run
22 through the presses.

23 COMMISSIONER ARANOFF: And that's because of
24 the moisture content being wrong? Or are there other
25 factors?

1 MR. MARCIAN: I don't know specifically why;
2 I just know it won't run.

3 COMMISSIONER ARANOFF: Okay. All right,
4 thank you.

5 MR. STEWART: Commissioner Aranoff, the two
6 presidents of NewPage and Sappi are both, have long
7 manufacturing backgrounds. If you'd like an
8 explanation of the physical differences, I'm sure
9 either one of them would be happy to add to that, and
10 what makes the paper not work in one press or another.

11 COMMISSIONER ARANOFF: Well, I appreciate
12 that. And I'd be happy to hear that. I actually
13 think we have a very adequate record on the technical
14 points. And the point that I'm trying to clear up on
15 the record is the assertion that despite those
16 technical differences that we're aware of, there are
17 people who are still sheeting web rolls and using them
18 on sheet presses.

19 MR. STEWART: And you heard Mr. Nelson
20 earlier go after the specific reference --

21 COMMISSIONER ARANOFF: Yes.

22 MR. STEWART: -- that was in the prehearing
23 brief of the other side.

24 COMMISSIONER ARANOFF: Okay. So that's,
25 this is the piece of the record that I'm trying to

1 make sure that we clean up in the final phase, which
2 is we heard about the technical differences. And then
3 Respondents have indicated that they don't think they
4 matter any more, for various reasons. And then they
5 gave specific examples.

6 And what I'm trying to establish is, you
7 know, is this a few random cases where someone has
8 done this, or is this a significant market practice.
9 So that's the point that I'm trying to go to.

10 Mr. Salonen, you're raising your hand.

11 MR. SALONEN: Yes, thank you, Commissioner
12 Aranoff. Eric Salonen. The other point I think that
13 also needs to be kept in mind is that whether a
14 printer might try to use paper that has come from a
15 web roll, has been sheeted, once that's done, none of
16 these companies will warrant that paper for that use.
17 So that if the printer runs into problems with it, you
18 know, he's on his own.

19 COMMISSIONER ARANOFF: I remember we had an
20 extensive conversation on that issue in the last, in
21 the last go-round.

22 Okay, well, let me ask the gentlemen in the
23 front, then. Do you want to address this issue? I
24 feel like it's the one area where we need to clean up
25 our record a little bit on the like product issue.

1 MR. GARDNER: Mark Gardner with Sappi Fine
2 Paper. When we manufacture a sheet-fed grade, it is a
3 different furnish. Our base stock is a different
4 coating, designed for the high-tech ink that we'll see
5 in a sheet-fed press that has higher moisture for
6 stability. And it's designed for being multiple
7 passes through a sheet-fed press.

8 Whereas on web, it tends to be designed for
9 porosity, because we're using high heat to set the
10 ink. We need to make sure the paper will breathe in
11 order not to blister. And it also is designed with
12 different binders and coatings because the tack or the
13 stickiness on the ink on a web press is much lower
14 than on a sheet-fed press. Totally different
15 products.

16 COMMISSIONER ARANOFF: Okay. And you don't
17 think there is a lot of printers out there in the
18 market who, you know, just don't care, and will do it
19 anyway?

20 MR. GARDNER: If there are, they're taking
21 large gamble chances at it, and any high-quality
22 printing would be very difficult.

23 COMMISSIONER ARANOFF: And the consequence
24 is that the printing wouldn't turn out very well, and
25 you'd end up wasting a lot of paper. Not so much that

1 you would damage the machinery.

2 MR. GARDNER: Well, you can, if you have
3 poor running paper, you can wrap the blanks and damage
4 the printing press.

5 COMMISSIONER ARANOFF: Okay. All right. So
6 there's one specific statement in Respondent's
7 prehearing brief, I think it's from, a declaration
8 from Mr. Hanscom, which contains some of these facts.
9 So if you could take a look at it post-hearing, if
10 there's anything else in there that you'd like to
11 rebut, I would welcome that.

12 MR. STEWART: We'll be pleased to, thank
13 you.

14 COMMISSIONER ARANOFF: Okay.

15 MR. KAPLAN: Commissioner Aranoff, just one
16 point on that. I found that statement to be really
17 troubling in a couple of senses. In one circumstance
18 he says everybody knows that NewPage is taking certain
19 action with respect to sales. And that's already been
20 refuted.

21 And then on porosity, I think it's a really
22 remarkable statement. And he says I do not have
23 porosity levels of different papers handy. I mean, it
24 was really a kind of off-the-cuff statement, I think,
25 and not a thorough -- it's not even a statement, it's

1 a sort of letter. It's not anything in the nature of
2 real evidence or a real affidavit.

3 COMMISSIONER ARANOFF: Okay. So like I
4 said, I'm trying to make sure that we have a real
5 careful record on this issue that's been batted back
6 and forth about whether there really is
7 interchangeability. But let me move on.

8 Gosh, this is a big question. I don't know
9 if I have enough time left to ask it. Let me try a
10 smaller one.

11 One of the things that is mentioned in
12 Petitioner's prehearing brief is this idea that there
13 has been a proliferation of private label products in
14 the market, and that somehow the proliferation of
15 private label products contributes to the
16 vulnerability of the domestic industry.

17 And I wanted to ask you to spell that out a
18 little bit, because I wasn't entirely clear on what
19 the connection was.

20 MR. STEWART: If you don't mind, maybe we'll
21 deal with that in the post-hearing. Private label, as
22 a general matter, tends to be, as opposed to the
23 company's own labels, tend to be product that's
24 offered at a slightly lower price. And so
25 proliferation of private labels means that you're not,

1 you're not moving as much of your own company label,
2 which is the one that has all the promotion and
3 background on it. That I think is the basic message
4 that with that. But let me check with my colleagues,
5 and we'll flesh it out in the post-hearing.

6 COMMISSIONER ARANOFF: Okay. I'm not sure
7 that our record even establishes that there's been a
8 proliferation of private label product, that's like
9 the premise factually. I read the staff report; I
10 don't see that in there. It may be that the staff
11 didn't think that was important, I don't know. So I
12 think we have to start with that, why is that
13 happening, and then go to the second point.

14 MR. STEWART: Sure.

15 COMMISSIONER ARANOFF: Okay. With that, I
16 think my time is almost up. So thank you, Madame
17 Chairman.

18 CHAIRMAN OKUN: Commissioner Williamson.

19 COMMISSIONER WILLIAMSON: Thank you, Madame
20 Chairman. I, too, want to express my appreciation to
21 the witnesses for their testimony and spending your
22 time here today.

23 I would like to start with Mr. Gerard.
24 There's been a lot of talk about the number of plants
25 closing and impact on communities. I was just

1 wondering what the union is doing or what kind of
2 assistance the workers have been getting to adjust, to
3 deal with this.

4 MR. GERARD: Well, I'll give a comment, then
5 I'll ask my colleague, John Geenen, to make some
6 factual points on it, because he coordinates the
7 bargaining.

8 We've been, I think, fairly cooperative in
9 working with the industry. And we've worked very hard
10 on behalf of our members to get them trade adjustment
11 assistance, and in many cases been successful.

12 We've done unpleasant negotiation. And by
13 that I don't mean we didn't reach agreement, but we
14 reached agreement by going backwards. And John can
15 make a comment. Just in some areas of pension cost
16 we've assisted to the tune of \$100 million or more, in
17 some segments of making sure that the industry was
18 viable, and working with some that have been through
19 bankruptcy.

20 And I'll ask John if he wants to make some
21 factual points, because he does the collective
22 bargaining with the industry. John?

23 MR. GEENEN: Thank you. I can say that in
24 every negotiation that we've approached in this
25 industry, there has been some demand to try to improve

1 the cost structure of our labor agreements, and also
2 improve the ability of our workers to work more
3 efficiently.

4 And President Gerard had made reference to
5 the retiree medical costs, and that cut the costs of
6 every one of these companies, where we made deep,
7 deep, deep concessions in excess of \$100 million. And
8 in every one of these work sites we've entered into
9 practices that created a leaner work force, and raised
10 productivity by reducing the number of people in and
11 around every job in the industry, in the work place.

12 COMMISSIONER WILLIAMSON: Thank you. That
13 question of productivity leads to my next question. I
14 know in some cases we've had, it's very clear that the
15 injury has really been to the workers. I mean, that's
16 where you've seen the most dramatic impact.

17 I'm not quite sure I see this here. I was
18 just wondering about this industry. It doesn't seem,
19 when you go into a factory, there are not that many
20 workers, given the amount of stuff that's going on.

21 And so I was wondering, what does that say
22 about the nature of the Chinese competition? We've
23 talked about the subsidies and all that, but is that
24 question of worker cost a factor in this case at all?

25 MR. GERARD: Look, I feel very strongly.

1 I've been, all week all I've been doing is running up
2 and down the streets of Washington, talking about the
3 Chinese and what they do. And American workers are
4 now put up against Chinese country, the country of
5 China. And we filed a 301 petition a week ago today
6 on certain products. And I was saying to Terry we
7 could do that in any product.

8 I'm not sure I understood the premise of
9 your comment, but I can tell you this. Had the
10 decision of the Commission been different a few years
11 ago on the injury issue, we'd probably have 10,000
12 more members now. Our members have taken a hit that
13 is unconscionable because of Chinese misbehavior in
14 this sector. And I can do this with a bunch of other
15 sectors.

16 Keep in mind that these communities where
17 most of these paper mills are, the most valuable asset
18 that worker has next to their job and their benefits
19 is their house. If I lived in a house that was worth
20 \$100,000 and you shut the paper mill, there's a good
21 chance I can't give that house away. If I find
22 another job, I might be able to keep up my mortgage.

23 So our members have taken it on the chin, or
24 lower. And the reality is that unless we get remedy
25 from the Commission when we make the case of illegal

1 and unfair behavior by another country through its
2 companies, there is no way that our members will
3 survive in this kind of environment. And every one of
4 these people won't be here a few years from now.

5 And I don't know how to make that any
6 stronger. And today we're here with coated paper; we
7 could be here tomorrow with another case, because this
8 is what they do everywhere. And we see this argument
9 all the time.

10 And so that it's, the future of this
11 industry is in your hands now. We've done everything
12 we can do. These managements have done everything
13 they can do. Their salespeople have done everything
14 they can do. We've put in the best technologies. I
15 was yesterday at, on a boiler mat. This is an
16 industry that produces 70 percent of its own energy
17 through biomass, and doesn't have to take that energy
18 off the grid. When this energy goes down, that energy
19 is going to go back to the grid. So that I don't
20 think, and I have all the respect for the people here
21 and the people on the Commission, but I don't think
22 you understand the inhumanity of what's going on in
23 the industrial workplace in America as we try to
24 compete with Communist China. You know?

25 And if they decide, as they've said in a

1 number of sectors, we're going to dominate the coated
2 free sheet paper industry, then that government is
3 going to do what it thinks it's going to do to
4 dominate that, and you're the only thing standing
5 between us and destruction.

6 And I assume, Mr. Commissioner, that you
7 wanted to know how the workers have taken it? They've
8 taken it on the chin. But they're standing back
9 there, and they're wanting to fight. They're not
10 wanting to fight in an unfair way. They want to work
11 with their employer, so that they can have good jobs
12 in those communities. And we're counting on you to do
13 it.

14 MR. GEENEN: Mr. Commissioner, a direct
15 answer to your question regarding should labor be a
16 big factor in the overall cost, given that the
17 machines that our employees and our members and the
18 companies' employees are working on are really state-
19 of-the-art machines. I think the answer is, it
20 shouldn't be a big factor.

21 But when there are so many other advantages
22 to the Chinese paper industry in terms of the value of
23 the currency and illegal logging, then it does become
24 a real factor for us. And it becomes a real issue at
25 a bargaining table when it shouldn't be, because we

1 are operating on state-of-the-art equipment that, you
2 know, has increased its productivity twofold over a
3 period of 20 years. So that shouldn't be the factor.
4 But nonetheless, our members find themselves stepping
5 backwards in terms of their standards of living in
6 order to try to compete against an economy that
7 cheats.

8 MR. GERARD: When Congressman Oberstar was
9 here talking about the steel industry, I was reliving
10 my past. It's the same thing in the paper sector.

11 This is the most productive paper sector in
12 the world. It can compete with anybody. But we can't
13 compete against a country that is not going to play by
14 the rules. And the issue before you is one of the
15 issues they cheat on. They cheat on every issue.

16 COMMISSIONER WILLIAMSON: Okay. That you
17 for those answers. I'm just trying to get the picture
18 clear, because sometimes the numbers, just looking at
19 the numbers strictly in our C table don't always make
20 the point. And so I wanted to mate those real-world
21 experiences with the data. So thank you for that
22 additional, shall we say clarification.

23 Turning to a little more technical question
24 for the lawyer. Table C-1 and C-2 set out alternative
25 figures for subject imports. And I want to say what

1 are the best sources of statistics for us? Which one
2 should we be looking at? Is there an advantage of
3 looking at one versus the other?

4 MR. STEWART: This is Terry Stewart. Thank
5 you, Commissioner. I think at the moment we believe
6 that the statistics that are based on the import
7 statistics are the better. The other is dependent
8 upon importer questionnaires, and the importer
9 questionnaires are partial. Not due to any lack of
10 effort on the part of the staff, but just the nature
11 of getting responses. So we think you have a less
12 complete response in terms of the import data that is
13 premised on that.

14 It doesn't make a big difference in terms of
15 the numbers, as I recall C-1 and C-2. But C-1 is
16 based off of an estimate of likely imports from the,
17 from the government statistics. And we think that
18 that's probably a more solid basis for the final.

19 COMMISSIONER WILLIAMSON: Good, thank you.
20 And I have no further questions at this time.

21 CHAIRMAN OKUN: And before I turn to
22 Commissioner Pinkert, I understand we have, I believe
23 it's our last Congressional witness.

24 MS. ABBOTT: That is correct, Madame
25 Chairman. Our next speaker is the Honorable Amy

1 Klobuchar, United States Senator from Minnesota.

2 CHAIRMAN OKUN: Welcome to the Commission,
3 and good afternoon, Senator.

4 MS. KLOBUCHAR: Well, thank you very much.
5 Thank you, Commissioner, Chairwoman Okun, and all the
6 Commissioners. I know that Commissioner Pearson is
7 from Minnesota, so I'm glad to see you here. I do
8 bring you greetings from our home state, where in the
9 words of our poet laureate, Garrison Keillor -- our
10 unofficial poet laureate -- the women are strong, the
11 men are good-looking, and all the paper mills are
12 above average.

13 So it is truly good to be here. And I am
14 also glad you've given me the opportunity to take a
15 10-minute break from the Senate impeachment hearing of
16 a Louisiana Judge. It has some very interesting
17 pieces of evidence, but I won't go into them here.

18 I am honored to be here today on behalf of
19 the workers of Sappi Fine and NewPage Corporation,
20 represented by their union, the United Steelworkers.
21 Along with so many of my colleagues who were talking
22 out there, that I understand have testified before you
23 today or have submitted written testimony, I'm here to
24 voice my support of their petition filed against
25 subsidized and dumped imports of coated paper products

1 from China and Indonesia.

2 Minnesota, as I'm sure Congressman Oberstar
3 told you with great flourish, has a proud history of
4 involvement in the American paper industry. The
5 abundant wood and water supplies in my state have fed
6 the paper industry for more than 100 years.

7 In fact, in the late 1800s Minneapolis made
8 its name as a mill town. Situated right on St.
9 Anthony Falls, which is literally only about less than
10 a mile from my house, the so-called "Mill City" became
11 a thriving hub for paper mills, sawmills, and flour
12 mills as early as 1871.

13 Many years ago my grandpa worked as a logger
14 in northern Minnesota, and he and other loggers in the
15 state helped transform our country into the global
16 power that it is today. And they helped build
17 Minnesota's paper industry, which now represents more
18 than 11,000 jobs in our state.

19 Unfortunately, Minnesota's name in paper is
20 being undercut today by the unfair trade policies of
21 foreign paper producers. Both Sappi Fine and NewPage
22 Corporation have important mills in Minnesota.
23 Sappi's pulp and paper mill in Cloquet, Minnesota has
24 been in existence since 1898. It is located on the
25 banks of the St. Louis River, and employs over 750

1 workers.

2 NewPage's pulp and paper mill is in Duluth,
3 based right on the northern shore of Lake Superior.
4 The Duluth mill employs over 250 workers, and includes
5 a recycled pulp mill that recycles nearly one million
6 pounds of recovered paper every day.

7 Unfortunately, coated paper operations at
8 both of these mills are suffering as a result of
9 unfair imports from China and Indonesia. A study put
10 out recently by the Economic Policy Institute has
11 documented the boom effect of China's subsidies on its
12 paper industry.

13 According to petitions filed, Chinese and
14 Indonesian imports have increased by 40 percent in
15 2009, accounting for 30 percent of the U.S. market.
16 The unnatural growth in foreign paper production has
17 driven U.S. producers' shipments down to 38 percent of
18 the U.S. market. And between 2002 and 2009, we've
19 lost more than 150,000 workers in the paper products
20 industry.

21 Prices continue to plummet in the face of a
22 flood of imports. Perhaps even worse than these
23 immediate losses, unfair competition from foreign
24 producers has also forced Sappi Fine to suspend
25 planned investments in new technologies and in new

1 operations, which is exactly the opposite of where we
2 want our country to be going.

3 At a time when innovation is desperately
4 needed to help bring our country out of recession,
5 unfair foreign trade practices are forcing our
6 companies to cut down on new development. I know how
7 important the paper industry is to Minnesota workers
8 and families. Local communities in our state and
9 across the country are dependent on the future success
10 of paper mills and continued livelihood of their
11 workers.

12 I believe we have an obligation to address
13 this unfair competition that would further worsen our
14 state's economic situation. Therefore, I urge the
15 International Trade Commission to address the unfair
16 competition that is evidenced in these investigations.
17 China and Indonesia cannot be allowed to continue to
18 flood us with dumped and subsidized coated paper to
19 the detriment of our companies and workers.

20 American workers and businesses deserve to
21 operate on an even, level playing field with our
22 foreign competitors. And this requires proper
23 enforcement of anti-dumping and countervailing duty
24 laws.

25 I ask that when you have fully examined the

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1 negative impact of these imports from China and
2 Indonesia that they have had on our paper producers,
3 you make an affirmative determination in the final
4 phase of these investigations.

5 Everywhere in our country workers are
6 suffering, families are suffering. And we know that
7 we have a lot to do in our own country in terms of
8 moving forward with competitiveness and innovation,
9 and changes that we need to make. But we can only
10 truly make them if we are playing on a level playing
11 field.

12 Thank you very much for having me here
13 today.

14 CHAIRMAN OKUN: Thank you for your
15 testimony. Let me see if my -- wait a minute, my
16 colleagues have questions. Yes, Commissioner Pearson.

17 COMMISSIONER PEARSON: Welcome, Senator
18 Klobuchar.

19 MS. KLOBUCHAR: Thank you, Commissioner.

20 COMMISSIONER PEARSON: It's a pleasure to
21 have you here. In my tenure, this is the first time
22 we've had two Members of the Minnesota delegation come
23 to the same hearing. So this obviously is very
24 important.

25 MS. KLOBUCHAR: Was the other one wearing

1 bright pink, too?

2 (Laughter.)

3 MS. KLOBUCHAR: Did he speak in French?

4 COMMISSIONER PEARSON: No.

5 MS. KLOBUCHAR: He does that.

6 COMMISSIONER PEARSON: He made a fine
7 presentation.

8 MS. KLOBUCHAR: Okay, very good.

9 COMMISSIONER PEARSON: I would just say that
10 although I don't think I ever heard of him referred to
11 as a potential poet laureate of Minnesota, your father
12 did a phenomenal job with his columns for years, and I
13 very much enjoyed them in my younger days. So I just
14 wanted to make that comment. There's a journalistic
15 streak in your family.

16 MS. KLOBUCHAR: Well, thank you very much.
17 And my background, as the Commissioner knows, my
18 grandpa was a logger, but before that he was a miner
19 up in Ely. And he worked 1500 feet underground in the
20 mines in Ely, Minnesota; never graduated from college.
21 But he saved enough money, literally in a coffee can,
22 to send my dad to college. And my dad went on to
23 become a, first an AP writer, and then a sportswriter,
24 and then a columnist for the Minneapolis paper. And
25 he has now returned as a blogger covering Brett Favre

1 and the Vikings, so going back to his roots.

2 So we are very hopeful of the next game.

3 All right, thank you very much. I appreciate it.

4 CHAIRMAN OKUN: Thank you very much,
5 Senator.

6 MS. KLOBUCHAR: Thank you.

7 CHAIRMAN OKUN: Commissioner Pinkert.

8 COMMISSIONER PINKERT: Thank you, Madame
9 Chairman. And I, too, thank all of you for being here
10 today to help us understand conditions in this
11 industry.

12 I want to begin with a question for Mr.
13 Gerard, or perhaps his colleague. I know that the
14 Steelworkers is an international union, and I'm
15 wondering if you can tell us anything about the
16 condition of the coated paper industry in Canada.

17 MR. GERARD: I'll get John to do that
18 because he's been working with them on some issues.
19 John?

20 MR. GEENEN: The paper industry in Canada is
21 really sensitive to the value of a dollar in Canada,
22 versus the value of a dollar here. And there's really
23 only a few remnants left of the coated paper industry
24 in Canada, and Canada has become the principal
25 newsprint producer in North America. But there is not

1 a robust coated paper industry there any more.

2 COMMISSIONER PINKERT: Thank you. Mr.
3 Gerard.

4 MR. GERARD: I've been talking with my
5 colleagues in Canada, and maybe a tribute to people
6 like Jay Rockefeller and the American lawmakers, the
7 law in Canada about bringing a case is slightly
8 different than here.

9 But I've been urging them to bring a case,
10 as well. And they are now in the process. And they
11 don't have the degree of flexibility we do. They've
12 got to get the approval of the Commission to do the
13 case. So they're promoting it now, and we hope they
14 will get a case there shortly, as well.

15 COMMISSIONER PINKERT: Thank you. Now,
16 turning to Mr. Nelson. I note that you testified
17 about a price premium for the domestic product over
18 imported products.

19 And I'm wondering whether you think that
20 there's still a natural price premium. And if so, is
21 there a consensus on the panel as to what that premium
22 might be?

23 MR. NELSON: Yes. Mr. Barry Nelson with
24 NewPage. I think one of the merchant distributors
25 probably is a better determiner of how big that

1 premium could be.

2 The way that we look at that premium and how
3 it's been explained to us by our merchant partners is
4 that because of the faster supply chain, the level of
5 working capital, the less working capital is needed to
6 cover the same service levels to their, in turn, their
7 customers is lower.

8 And because of that lower working capital
9 investment, they're willing to pay somewhat of a small
10 premium. I think that premium has been eroded over
11 the last three to five years, mainly because of the
12 quality aspect; that what was once a premiere quality
13 advantage that we had on our economy sheets versus
14 what was available from the CCP from the Indonesian
15 and Chinese industry, has become more interchangeable.

16 So I think it's probably Mr. McGehee or the
17 folks from Field.

18 MR. DeVOE: This is Steve DeVoe from
19 NewPage. The only thing I would add to Barry's
20 comments is, another thing that has eroded that price
21 premium is, as we have lowered our pricing to match
22 the dumped, dumped import pricing, we have pieces of
23 our business that no longer reflect that premium.

24 COMMISSIONER PINKERT: Any other comments
25 from the panel on this issue?

1 MR. McGEHEE: David McGehee, Mac Papers.
2 It's been our history, we needed pricing greater than
3 \$1.50 or two dollars a hundredweight from off-shore
4 manufacturers to make their programs work financially.

5 MR. NELSON: This is Barry Nelson. That
6 would be 30 to 40 dollars per ton.

7 COMMISSIONER PINKERT: Thank you. Now, I
8 have a series of questions about the second half of
9 2008. I may not get to all of them this round, but
10 it's my understanding that the volume, not necessarily
11 the market share, but the volume of the subject
12 imports peaked in the second half of 2008.

13 And I'm wondering whether that was
14 correlated with a decline in operating income or
15 operating margins for the domestic industry.

16 MR. STEWART: If you wouldn't mind,
17 Commissioner Pinkert, maybe we could take that in the
18 post-hearing. Because I haven't looked at the, at
19 2008 broken up that way. And so we'd have to go back
20 and look at the preliminary record to kind of pull
21 that data out. I don't have an answer off the top of
22 my head.

23 COMMISSIONER PINKERT: That will be helpful.
24 And I'd also ask that if you can, try to estimate what
25 the cost of goods sold to sales ratio would have been

1 during that second half of 2008.

2 MR. STEWART: We'll be pleased to do that.

3 COMMISSIONER PINKERT: Thank you. Now, this
4 one is not so much about the second half of 2008, but
5 2008 as a whole. And it's really more for your
6 economist.

7 What explains the drop in apparent
8 consumption in 2008? And in light of that drop, is
9 apparent consumption a good measure for demand in this
10 industry?

11 MR. KAPLAN: Well, the recession did start
12 towards the end of, in really the end of 2007, as the
13 economy started to decline throughout 2008. And then
14 it really accelerated toward the end of the year with
15 the collapse of Lehman and the stock market crash.

16 But I'd like to turn it over actually to the
17 industry to discuss what they saw in demand in 2008.
18 Obviously the decline continued into 2009, as well.

19 But with respect to it being, consumption
20 being an indicator of demand, I mean, consumption,
21 well, the price and a quantity going on at the same
22 time. It's the equilibrium of both supply and demand.
23 But at least with respect to inventories that we see
24 in other cases where there's a massive buildup, that
25 really didn't occur until more into, into 2009, as

1 demand fell and some of the customers had it in hand.

2 So anyway, the first part of your question,
3 I'd like to hand it to the industry witnesses to
4 describe what their demand was in 2008, and the timing
5 of it.

6 COMMISSIONER PINKERT: Before we get to
7 that, I just want to add one more question that
8 perhaps you can address from the post-hearing, Mr.
9 Kaplan. But you talked about overall conditions in
10 the economy. It's my understanding that the trend
11 with respect to GDP in 2008 was somewhat different
12 from the trend with respect to apparent consumption in
13 2008.

14 And so if you could help us understand that,
15 perhaps in the post-hearing, that would be useful.

16 MR. KAPLAN: Sure. And both Respondents and
17 Petitioners use the same demand drivers, and it wasn't
18 GDP, it was magazine pages. So it's slightly
19 different than GDP. I'll be happy to address it in
20 the post-hearing brief.

21 COMMISSIONER PINKERT: That would be
22 helpful, very helpful. Any other comments on the
23 demand conditions in the market in 2008?

24 MR. DeVOE: This is Steve DeVoe from
25 NewPage. It's tough for me to make a comment about

1 the industry as a whole, but I could give you a
2 perspective from our business concerning coated
3 papers.

4 In 2008 we were seeing increased pressure
5 and losing share to low-priced imported paper, a lot
6 of it on private-label programs. There was an earlier
7 question about that.

8 We made a decision, we had not yet made a
9 decision in 2008 that we were going to match up with
10 the pricing that we were seeing in the marketplace.
11 We made that decision later in 2009.

12 Most notably, we secured a large private-
13 label program with Unisource, that I think was
14 mentioned in the preliminary hearing several months
15 ago. So as a result of that, we saw our business and
16 our share pick up in the second half of 2009.

17 But certainly for 2008, the specific period
18 you're asking about, we were holding the line on
19 pricing as much as we could, and we were, we were
20 losing business.

21 CHAIRMAN OKUN: If you could put your
22 microphone on, please.

23 MS. MILLER: Yes, this is Jennifer Miller
24 with Sappi Fine Paper North America. And let me just
25 speak sort of generally, and then maybe I can also

1 address a question from Commissioner Pearson, from
2 Sappi's point of view, about the difference between
3 the impacts of the recession and the price under-
4 selling that we were facing. Because I think it's
5 bound up, in at least Sappi's experience, from 2008 to
6 2009.

7 Certainly for the bulk of 2008 we enjoyed
8 nice demand and nice operating margins. We did start
9 to see the impact of the recession on our business
10 towards the end of 2008. But also, that was when we
11 first started to notice quite dramatic under-selling
12 of our product by the Chinese and Indonesian imports.

13 What stands out in my mind in particular was
14 in early 2009, when we were certainly already battling
15 the early impacts of the recession on our business,
16 that we were sitting down with merchants to discuss
17 possible economy sheet program switchouts with them.
18 And maybe without -- trying to keep my answer
19 efficient -- paper isn't sold on every order that
20 comes through the door. Merchants and printers have
21 to make choices on which suppliers they will stock
22 inventory in their warehouses. And that's because
23 paper comes in lots of different sizes and finishes,
24 and they just simply don't have the working capital to
25 have, you know, two or three different suppliers.

1 So it's very important for a company like
2 Sappi, when they sit down with the merchants, to
3 understand what that price point is going to be, to
4 get that merchant to stock our inventory.

5 So certainly in the early part of 2009, we
6 would have been expecting to hear things like please
7 help us lower our costs by changing your supply chain,
8 or please help us lower our costs by having your
9 technical service rep help us improve, you know, the
10 productivity of our operation.

11 What I was unprepared for, and what I know
12 my sales callers were unprepared for, was indications
13 from our merchants and printers at the time that in
14 order for us to switch out programs, we would have to
15 meet prices 20 to 30 percent below what we were
16 selling then. And I can tell you the margins weren't
17 high.

18 Why is that important to us, is that if we
19 didn't match those lower prices by 20 to 30 percent,
20 we would lose the shelf space in those merchant
21 warehouses and printers' warehouses. Which meant that
22 even if we had a designer or a customer saying I want
23 to buy Sappi paper, the answer would be we can't get
24 it for you because it's not in the warehouse.

25 So we were forced, and in my testimony

1 earlier I said we were forced in February of 2009 to
2 go to each and every one of our merchants and do a
3 dramatic price reset. I can tell you that felt
4 different. I'm not as erudite as Mr. Kaplan here, but
5 I can tell you it was a different kind of price move
6 than one I would make, and enjoin my healthy
7 competition from my colleagues Greg and Barry here.
8 It was a matter of degree difference.

9 COMMISSIONER PINKERT: Thank you. I'm going
10 to have to stop you right there, as my red light is
11 on. But I would note for the record that you were
12 answering Commissioner Pearson's, as well as my own,
13 question. So thank you.

14 MR. GERARD: If I can, Madame Chairman, I've
15 got to excuse myself. But I want to thank you all
16 very much for the opportunity to be here. And I'm off
17 to a meeting on dumped silicon metal.

18 CHAIRMAN OKUN: Okay. Thank you, Mr.
19 Gerard. I will start my questioning.

20 Mr. Kaplan, Dr. Kaplan, I will start with
21 you. But then I would like industry that produces to
22 chime in if they can, as well. Which is, if you had
23 the opportunity to respond to several questions about
24 pricing, and also about how we sort out what is going
25 on in '09 to determine the impact of subject imports.

1 And so I don't need you to repeat any of that, I heard
2 that.

3 But the Respondents had raised at least two
4 other issues with respect to what was going on in
5 2009. So I want you to address those, and how you
6 take them into account in your analysis. And then
7 also how producers respond, as well.

8 One of those arguments was with respect to
9 what was going on with raw material prices, along with
10 the argument on the tax credits for the black liquor
11 subsidies and what impact that might have had. So I'd
12 like a response on that.

13 MR. KAPLAN: Yes. On the first point, on
14 the raw materials, I tried to address that directly in
15 my empirical work by looking at the price of the
16 product minus the raw material cost. And I know all
17 the Commission is familiar with many of the steel
18 cases that you've done, where sometimes you use the
19 metal margin, which is the price of the steel minus
20 the price of the scrap. And that way, and the reason
21 in both these industries you might want to do that is
22 because the underlying input price can be quite
23 volatile.

24 And so I tried to adjust for the issues
25 regarding raw material by, by looking at the margin,

1 rather than just the price. And that eliminates,
2 should eliminate their concern, as they think it
3 through.

4 The second issue is the black liquor issue.
5 And there's several points on that.

6 The first is that the Commission's financial
7 data reflects the black liquor tax credit as it was
8 reported by each company. And the Commission's
9 financial analyst has verified it; they looked at
10 where they've been; they've asked many questions, then
11 they blessed it.

12 And the Commission typically looks at
13 operating income. I know in the first investigation,
14 I think Petitioners suggested that they look at net
15 income. And they said no, we look at operating
16 income. Well, the operating income has declined. The
17 black liquor tax credit is incorporated in there. And
18 I want to note that the industry would be doing much,
19 much worse. If anything, the distortion from the
20 credit improves the performance of the industry from
21 what it otherwise would have been. This was a one-
22 time event. Prices declined before people started
23 using the credit. People knew the credit was going to
24 disappear. So if anything, the financial condition
25 reflects an artificial improvement due to the credit.

1 The second point regarding the black liquor
2 tax credit is that the credit was given for a wide
3 variety, it was given for the making of chemical pulp,
4 not for the making of coated paper. And much of the
5 credit was distributed to other products during that
6 period.

7 Finally, in statements made by the industry,
8 the credit was used for paying down debt and other
9 issues for surviving at a very, very severe time, and
10 did not, was not passed through to prices until it was
11 forced. And it really wasn't like the credit was
12 passed through; they were just forced to lower prices.

13 So in essence, the credit that they hoped to
14 receive to be able to use to lower debt, and be able
15 to use to raise profits for capital investment,
16 instead was dissipated by the dumped and subsidized
17 imports, which forced a lowering of prices and a
18 squandering of whatever benefit they might have
19 received.

20 CHAIRMAN OKUN: Okay. Mr. Martin, you look
21 like you're ready to go.

22 MR. MARTIN: Yes, I'm ready to go,
23 Commissioner, thank you. I'd like to address the
24 black liquor tax credit, at least with respect to
25 NewPage since the Respondents seem to want to point

1 out some comments from our former CEO.

2 I think first of all, the quote that they
3 used that, you know, on face value that's somewhat
4 damning, is a partial quote. And they leave out the
5 word "unfortunately."

6 I can tell you from NewPage's perspective,
7 first of all, in 2009 we did not begin to receive the
8 black liquor credit until April. And in July we
9 thought Congress was going to take it away. In
10 September we thought Congress was going to take it
11 away. And we knew without, we knew as a matter of
12 fact it would be gone at the end of the year. So it
13 was, you know, it was a tax credit that we received,
14 that we treated below the line; and in no way did we
15 allow that to affect what we were doing on an
16 operational basis.

17 In 2009, we did enter into a contract with
18 Unisource to displace some of the imported product.
19 And in order to do that, we had to meet the pricing
20 levels of that imported product, and we had to agree
21 to a contract that didn't just deal with 2009. You
22 know, when merchants enter into contracts, they're not
23 looking for you to be their partner for a month;
24 they're looking for a long-term relationship.

25 So in no way could we enter into an

1 arrangement, or use the black liquor credit as a
2 subsidy to lower price to get into that business.
3 Because we knew that it was not going to be there.

4 So you know, I'm glad we had it for the
5 period of time we had it. It had no impact on our
6 day-to-day operating decisions, on our day-to-day
7 decisions on how we priced product. So I think it's
8 kind of a red herring with respect to this case. It
9 has no bearing on this case.

10 But we did not -- and the phrase of passing
11 it through, the net effect was, if you looked year
12 over year, if it wasn't for the black liquor credit,
13 our results would have been substantially worse. And
14 the operating results were substantially worse year
15 over year. That happened to allow us to keep the
16 lights on during that period of time.

17 MS. AYER: This is Anne Ayer from Sappi. I
18 also just wanted to confirm that we reported it below
19 the line, and we did not consider it in making pricing
20 decisions. And it kicked in well after we had had to
21 take pricing decisions, and instead viewed it as
22 something to help the balance sheet.

23 CHAIRMAN OKUN: Okay.

24 MR. SAVAGE: Greg Savage with Appleton
25 Coated. Just to clarify, I mentioned it a little bit

1 in our statement, but Appleton Coated is a non-
2 integrated mill, so we did not benefit from the tax
3 credit. And as we moved our prices, it was in direct
4 response to the Chinese and Indonesian increase in
5 imports in the first half of 2009.

6 CHAIRMAN OKUN: Okay. Ms. Van Ert.

7 MS. VAN ERT: I was going to just say what
8 Ray did in relation to the black liquor tax credit,
9 but also to address the import class prices. Because
10 we're non-integrated, we purchase pulp, and it flows
11 with the market prices. And I can assure you that
12 when pulp is way down or pulp is way high, I don't get
13 to pass that on just through prices. It's what the
14 price is going to be what the market will bear, and it
15 has little or no impact as to what the state of the
16 pulp market is during that particular year, whether it
17 be low or high.

18 So that really is not reflective of what you
19 have to do on pricing, when you have to go to match
20 the Chinese imports.

21 CHAIRMAN OKUN: Okay. I appreciate those
22 comments. Then another issue raised with respect to,
23 in particular '09. And I'll start with you, Dr.
24 Kaplan, and ask producers.

25 If you'll talk about the role of inventories

1 during this period and its impact on prices, and how
2 we should take that into consideration. And I think
3 they're already moving the inventory drawdown, but
4 just, did you take that into account in your analysis,
5 as well?

6 MR. KAPLAN: I'd like to discuss the details
7 on a firm basis in a post-hearing.

8 CHAIRMAN OKUN: Okay.

9 MR. KAPLAN: But I'd like to pass off the
10 effects of any inventory in 2009 to the industry
11 people that could speak to it.

12 CHAIRMAN OKUN: Okay. And I should say, you
13 can obviously comment broader than '09. I'm just
14 using, with respect to this particular argument, that
15 there's something that I should understand about the
16 period as a whole in inventories. Please respond to
17 that, as well. Who'd like to start? Mr. Gardner.

18 MR. GARDNER: Yes. Mark Gardner, Sappi Fine
19 Paper. I can only speak about our inventories, and
20 our inventory situation going out of '08 into '09 was
21 already quite low. We didn't build any inventory
22 during the year of '08 and '09, so it really didn't
23 influence into our ability to hold back or move
24 product one way or the other. We were pretty much
25 running during that whole period of time at our

1 defined level.

2 CHAIRMAN OKUN: Okay. Are there other
3 producers?

4 MS. VAN ERT: Our inventory levels didn't
5 change that much, either, so it really had no effect
6 on our placing.

7 CHAIRMAN OKUN: Okay. Yes.

8 MR. NELSON: Barry Nelson with NewPage. Was
9 the question about the overall impact of inventory and
10 how this would draw on prices?

11 CHAIRMAN OKUN: Yes.

12 MR. NELSON: I think one of the things that
13 maybe our merchant customers that are here can discuss
14 a little bit more in detail is, as these programs get
15 moved from one supplier to another, there's an
16 eventual lag effect on price in the marketplace as
17 they purge that inventory. I think that's one of the
18 things, as we look at price recovery since the duties
19 have been put in place, we have started to see
20 stabilization and improvement in pricing.

21 I think the lag of that improvement in
22 pricing is in large part due to the fact that a lot of
23 that inventory that was transitioned to different
24 products manufactured by domestic manufacturers had to
25 be brought through the system. So I think that's one

1 of the other impacts that's felt when those merchants
2 change programs.

3 CHAIRMAN OKUN: Okay. My red light's come
4 on, but I will make a note to myself to come back and
5 ask your purchasers about that, as well. I thank you
6 for bringing it up. Commissioner Lane.

7 COMMISSIONER LANE: Thank you. Let's start
8 with the issue of whether or not the imports from
9 Indonesia are negligible. Could you indicate whether
10 you think that the imports are negligible? And what
11 the applicable percentage of imports from Indonesia,
12 as you calculate the percentages and explain the
13 detail of your calculations. And of course, this
14 relates to the other issue as to the scope of the
15 investigation, and whether or not to include multi-
16 ply paper or product or something or other.

17 MR. STEWART: Let me start on -- this is
18 Terry Stewart. Let me start on the negligibility
19 issue.

20 The prehearing staff report presents two
21 alternative views based on the data that's before the
22 Commission at the moment. One is based on the import
23 statistics, and does not include what APP, in later
24 submissions, indicated were categories that they may
25 have included some of their imports of the product

1 that we believe are covered by the case.

2 And that, I believe, shows a market share of
3 between six and seven percent for the 12-month time
4 period of total imports by Indonesia. The second
5 approach, which is an APO approach, looks at the
6 importer questionnaires, and comes up with its own
7 figure there.

8 With regard to coverage, the Commerce
9 Department of course will be ruling next week. And we
10 believe that their preliminary determination will
11 likely be affirmed. And that's because the scope of
12 the petition dealt with brightness, dealt with weight,
13 dealt with suitable for high-quality graphics, and
14 dealt with product that was sold in sheets. And you
15 will note in those four elements that there is nothing
16 that says that it's a distinguishing characteristic,
17 whether it's a single ply or it's a multiple ply.

18 And so we believe that the, that the total
19 imports will include multi-ply from a scope point of
20 view, when Commerce comes out with that decision.
21 Assuming that that's the case, for purposes of my
22 discussion.

23 The other HDS category that will be
24 identified by Commerce as being covered if they do
25 that are being covered simply because APP has

1 indicated that they have entered product under those
2 HTS numbers, not because the HTS numbers are, in our
3 view -- in our view, or we believe in Customs' view --
4 the correct HTS numbers for this product to be
5 entered.

6 So we think that what the staff has put
7 together for the prehearing staff report on Customs,
8 on Commerce Department import statistics, is in fact
9 the correct calculation, and was an effort to estimate
10 the full volume. The full volume may be higher than
11 that, because of misclassification or different
12 classification by the importers.

13 So we believe that that approach is the
14 correct approach. We think the alternative approach
15 that the staff took to look at importer questionnaires
16 has the problem that I raised with, I believe it was
17 Commissioner Pinkert; namely, that you don't have a
18 complete set of importers, so it's only partial data.
19 But to the extent it comes up with a consistent
20 approach, you have alternative approaches that would
21 say negligibility is not an issue in the case.

22 COMMISSIONER LANE: Okay, thank you. Thank
23 you for that explanation.

24 I would ask anybody who feels that they want
25 to answer this question, to answer it. I'd like to

1 address the indicators of profit, and what targets you
2 would set as being reasonable.

3 In other words, let's look at operating
4 income as a percentage of revenue. What do you
5 consider to be a reasonable or necessary percentage
6 when considering the success or failure of your
7 business activities?

8 Also, if you tend to look at other measures,
9 such as return on investment or cash flow payback.
10 What level of return on investment or cash flow do you
11 consider to be a minimum reasonable level?

12 MR. GARDNER: Mark Gardner with Sappi Fine
13 Paper. We look at a range that's typically 10,
14 minimum 10- to 12-percent return of our operating
15 margin. In order to sustain the business, when we
16 look at reinvestment, we look at a -- I think an
17 easier way to think about it, we tend to look at a
18 two-year to four-year horizon for payback on that
19 investment.

20 COMMISSIONER LANE: Anybody else want to
21 answer that? Do you all agree that that's about what
22 you would expect? Mr. Martin?

23 MR. MARTIN: From our perspective, trying to
24 put it in the right terms, I was thinking in terms of
25 operating margins. And what our industry has enjoyed

1 historically has been 15- to 20-percent operating
2 margins.

3 You know, in the 27 years that I've been in
4 the business, that would be the range. And so to me,
5 15 percent, you know, in the lean years, and 20
6 percent in the good years. But in that range is what
7 it needs, what this business needs to sustain itself
8 and reinvest capital at a level to keep us
9 competitive. We clearly aren't, haven't operated in
10 that range in the last few years, but that would be
11 the target for NewPage in this business.

12 COMMISSIONER LANE: In times of recession,
13 do you alter your expectations so that a lower number
14 would make you feel good?

15 MR. MARTIN: It doesn't make my owners feel
16 good, so the answer would be no. I mean, clearly, you
17 know, you can't -- in a recession you have to deal
18 with the cards that are dealt you. That doesn't mean
19 you think that is a good number.

20 COMMISSIONER LANE: A 15- to 20-percent
21 range, you say that that allows you to reinvest. Does
22 it also allow you to hire more employees?

23 MR. MARTIN: Oh, absolutely. It absolutely
24 would.

25 COMMISSIONER LANE: And the reverse is true,

1 that the lower the number, the expectation is that you
2 have to lay off workers?

3 MR. MARTIN: That's correct, ma'am. And
4 that's the case. You know, in our case just this
5 summer, you know, we had a restructuring of 10 percent
6 of our salaried work force. The Luke mill, which
7 Senator Rockefeller talked about, we had --

8 COMMISSIONER LANE: And a number of us
9 visited that mill in 2007, I believe.

10 MR. MARTIN: Yes, I was there with you,
11 actually.

12 COMMISSIONER LANE: Right, okay.

13 MR. MARTIN: I met you all at that time. We
14 had to do a restructuring in that mill due to just the
15 lack of operating profit that we have. And we reduced
16 the manpower in that mill by 10 percent.

17 MS. VAN ERT: This is Sandy Van Ert from
18 Appleton Coated. I would agree with my colleagues, or
19 with the other Petitioners here. If you don't have
20 that type of an investment, at least that average over
21 time, you're never going to generate the cash flows
22 you need with capital intensity that our industry has
23 in order to generate any kind of new capital spend.
24 And it's usually that new capital spend that allows
25 you to potentially hire new workers, as you gain, you

1 know, output through whatever capital you're putting
2 in your machines, or additional machines to increase
3 your production.

4 MR. KAPLAN: Commissioner, if I could just
5 add, one reason for that, looking at it in terms of
6 the competition, is the Chinese are putting up
7 approximately two million tons of new capacity. Their
8 financing is coming in large part from the government.
9 So when you look at these companies here, there has
10 got to be a reasonable rate of return to meet the
11 level of investment, to match the foreign competition.

12 COMMISSIONER LANE: Okay, thank you. What
13 effect on your business has the shift to digital
14 readers and people doing a lot of their advertising
15 through computers and alternative forms of
16 advertising, other than catalogs and using paper?

17 MR. NELSON: This is Barry Nelson with
18 NewPage. Different segments of our market seem to be
19 impacted at different rates.

20 For example, anything that has to do with
21 reference material, like think back to World Book
22 Encyclopedia, that was pretty much erased by
23 electronic means.

24 There are some, however, opportunities for
25 printers to use digital information, in things like

1 direct mail and more customized brochures, where
2 digital information can actually grow printing at the
3 same time.

4 So depending on the segment, it can have
5 different impacts on our business.

6 COMMISSIONER LANE: Okay, thank you. I'll
7 come back to the rest of you that wanted to answer
8 that question at my next round.

9 CHAIRMAN OKUN: Commissioner Pearson.

10 COMMISSIONER PEARSON: Thank you, Madame
11 Chairman. Mr. Martin, a question for you. This is to
12 be answered really in post-hearing. And I don't do
13 this because I think you need more things to do, but
14 it's to be responsive to an issue that's been raised
15 by Respondents.

16 And that is, could you please provide us
17 with quarterly product-specific pricing data for sales
18 to Unisource? And then clarify when the sales to
19 Unisource began.

20 MR. MARTIN: Yes, we can do that, post-
21 hearing.

22 COMMISSIONER PEARSON: Post-hearing, yes.

23 MR. MARTIN: Absolutely.

24 COMMISSIONER PEARSON: Okay, thank you.
25 That would be helpful. It would just fill out the

1 record in a way that would be useful.

2 MR. MARTIN: No problem.

3 COMMISSIONER PEARSON: Okay. Now for the
4 panel as a whole. There's quite an unusual fact
5 pattern in this investigation relating to the five
6 pricing products. The subset of those products that
7 actually experienced competition with subject imports
8 during the POI all showed slight increases in price;
9 not huge, but slight.

10 The subset of products for which there was
11 no competition with subject imports experienced rather
12 noticeable declines in price. Is there some
13 explanation for this? I find it counterintuitive.

14 MR. STEWART: If you wouldn't mind,
15 Commissioner, we'll answer that in the post-hearing.
16 Because, first of all, they haven't seen the pricing
17 series since their APO, so they only know what they
18 filled out in their own questionnaire. And I believe
19 that if you look at the price series, what you will
20 see is that the reason that it shows "price increases"
21 is what happens in 2010, as imports exited the market.
22 But we will address it in more detail.

23 COMMISSIONER PEARSON: That may be correct.
24 However, that does nothing to explain the pricing
25 pattern that we see in the subset of products for

1 which there was not competition with the imports.

2 MR. STEWART: We did try to address that in
3 the, in the initial answer to Commissioner Lane, but
4 we will spell it out in the post-conference brief.

5 COMMISSIONER PEARSON: Yes, if you could.
6 Because I'm not sure whether I've ever seen this type
7 of fact pattern among the pricing products before. I
8 may have, but I've just forgotten it at this moment.

9 In fact, and perhaps counsel could clarify
10 in the post-hearing whether there are any previous
11 investigations with this fact pattern, in which the
12 Commission made an affirmative determination.

13 MR. STEWART: Well, since we won't have
14 access to the confidential records of the previous
15 cases, that will probably not be a doable request.

16 COMMISSIONER PEARSON: Point well taken.

17 MR. STEWART: But the basic answer with
18 regard to products 2 and 5, which I had described at
19 some length earlier, was that the claim of the
20 Petitioners here was that -- and the claim from
21 customers -- was that imports in the economy, where
22 there is obviously direct competition, had an effect
23 across the board.

24 What the witnesses here testified to was
25 that the effect on the premium grades, which are what

1 is covered in 2 and 5, occurred with a lag of about
2 six months. And my statement earlier had been that if
3 you take a look at our pages 31 and 32 of our
4 prehearing brief, where we tracked the data from those
5 series, you can see whether or not the data that your
6 staff collected correspond with that or not.

7 But that was the explanation, that you have
8 a delay in the reduction in prices, but that there are
9 significant downward pressures on prices for the grade
10 1s and 2s; and that tends to show up in the third or
11 fourth quarter of 2009, which is later than the, where
12 the major price effects are felt for the economy
13 grades. And the confidential data will either support
14 that or not, and we try to lay it out in the brief as
15 to whether it did.

16 COMMISSIONER PEARSON: Okay. Well, I hear
17 what you're saying.

18 MR. STEWART: We will respond specifically
19 to your question. But I'm just trying to point to
20 this stuff that is in front of you at the moment.

21 COMMISSIONER PEARSON: Would it be correct
22 to assume that the domestic industry did have input
23 into the selection of pricing products? Yes. And so
24 we just ended up with a couple in which, with a subset
25 in which there was no competition.

1 MR. STEWART: Well, that suggests that the
2 data accurately portrays where the competition occurs.
3 I believe that you can ask any of the salespeople, and
4 they will tell you that the major products coming in
5 from China, while they may be classified as product 1,
6 in fact have price effects and directly compete.
7 Because of their brightness, they are in fact
8 somewhere between a product 3 and a product 2. And in
9 fact, can compete against both of those in the
10 marketplace.

11 So the way your data is structured, it is
12 all in product 1, because it's done by brightness.
13 But in fact, the product competes against both.

14 COMMISSIONER PEARSON: Could people who are
15 involved in sales of the product comment on that? Is
16 there some overlap across the categories that we've
17 established here, in terms of how the Chinese product
18 might compete?

19 MR. NELSON: This is Barry Nelson with
20 NewPage. Like I said earlier, when the Chinese
21 originally came into the market back a number of years
22 ago, the quality was not equal to what we had. And so
23 they priced it below where we were.

24 That pricing stayed at that level, and their
25 quality level has, over time, improved. To the point

1 now where, on a specification basis, they're competing
2 in some cases with our no. 2 products. But the
3 pricing is still below our no. 3 economy price levels.

4 So they've ramped up their quality levels;
5 at the same time, not moved up the price level.

6 COMMISSIONER PEARSON: Okay. Is part of the
7 quality improvement an increase in brightness within
8 the ranges that we've established for our pricing
9 products?

10 MR. NELSON: That's a component of it, as
11 well as the surface characteristics, and subsequently
12 the print characteristics of an end print job.

13 COMMISSIONER PEARSON: Okay. Mr. Kaplan.

14 MR. KAPLAN: There's really two effects
15 going on. And the first is, is that there's three
16 grades that have a historical relationship with each
17 other.

18 And what happened is, when the product came
19 in, it forced down the price of the economy grade, and
20 distorted the historical relationships between the
21 three grades. And what you're seeing is, is the
22 return to the historical relationship with a lag.

23 So that explains your question about the
24 timing, is that historically these three things moved
25 along with a certain relationship. But the bottom

1 one, the economy one, was forced down by the imports.
2 The domestic producers -- and I don't want to get into
3 something that's confidential.

4 But anyway, they did things with their
5 pricing such that the historical relationship didn't
6 remain the same, and then it's now returning to it.
7 So that lag is one thing.

8 So my point is that any imports that affect
9 the economy grade affects everything; moves all
10 prices, sometimes directly, sometimes with a little
11 bit of a lag.

12 The second point being made is that the
13 quality and brightness changes means that product
14 that's imported that's categorized as one product, it
15 actually has characteristics that are between that
16 product and a higher-grade product. So there is
17 actually some direct competition going on with the no.
18 2s that's not really captured the way the pricing was
19 reported.

20 So what we conclude is, is that the
21 competition has become more direct, and it's dragged
22 prices down through that. And second, because of the
23 relationship between the grades, any under-selling or
24 price depression from the economy level will
25 eventually drag all prices down of the product,

1 because of the relationship between, historical
2 relationships between the three grades.

3 And if an industry person can explain how
4 that happens, I'd be, that would be great. But that's
5 my understanding.

6 MR. DeVOE: This is Steve DeVoe from
7 NewPage. I guess one thing I would say is I don't
8 think it's true that there's products that were listed
9 out where competition does not occur. The competition
10 absolutely occurs. And you can ask any one of the
11 printers or merchants here on the panel, and they will
12 say, especially in that economy segment, I believe the
13 cutoff on the products was 90 brightness, between the
14 dividing line.

15 In the domestic mills, our economy sheets
16 are 88 brightness. And what the imports did is they
17 came in at a product that was at or above, kind of in
18 our mid-tier, our no. 2, and priced it below our
19 economy. So the merchants look at that and say where
20 does the import product compete with? For NewPage, it
21 competes directly head to head with Anthem and
22 Fortune, because that's our low-priced entry-point
23 economy sheet. That's our brands for that.

24 And so it first hit us there. And then, as
25 it highlighted, eventually brought down the pricing of

1 everything as that gap got too big. So what you're
2 seeing there is that 90-brightness dividing line
3 between -- we had a good, better, best; they came in
4 with a better and undercut our economy, our economy
5 product.

6 COMMISSIONER PEARSON: Okay. Well, thank
7 you for that explanation. What we see on the record
8 is just a little bit confusing at the moment, so I
9 appreciate those explanations.

10 Madame Chairman, my time has expired.

11 CHAIRMAN OKUN: Commissioner Aranoff.

12 COMMISSIONER ARANOFF: Commissioner Lane was
13 asking about additional products that may or may not
14 be in the scope when Commerce gets done. But
15 Respondents also raised a claim that there may be
16 several large U.S. producers of a product that would
17 meet the definition of certain coated paper that were
18 not mentioned in the original petition, but that you
19 produce products in the United States that would fall
20 within this product description. Specifically
21 regarding paper board for packaging applications I
22 guess is the product that's being discussed.

23 Can you tell us a little about why those
24 firms weren't included in the U.S. industry, in the
25 petition? And whether or not you intended to include

1 that product.

2 MR. STEWART: Well, when the case was put
3 together, the attention was then, and continues to be,
4 to deal with products that are in sheet, that are
5 suitable for high-quality graphics. And it turns out
6 that there are indeed some companies who produce what
7 is called SBS board, where some of the applications
8 are for high-quality graphics.

9 And so we have stated, since that was
10 flagged, yes, of course those companies should be
11 included, just as that product should be included.

12 If you look at how the petition was worded,
13 our concern had been that in the original case, which
14 had been a coated free sheet case, that coated free
15 sheet had a technical definition in the tariff
16 schedules. And it proved easy to evade the
17 limitations of that for a product that actually
18 competed.

19 So we wanted to be sure that we covered any
20 product that actually competed in the market, that our
21 clients cared about. And what our clients care about
22 is the high-quality graphic-market sheet market. And
23 that's defined by brightness, it's defined by weight,
24 and it's defined by whether the product is in sheets,
25 and whether it's suitable for high-quality graphics.

1 We're not looking, and have never looked, to
2 include materials which is not being used for high-
3 quality graphics. And so the vast majority of
4 packaging material is not covered, and so we were not
5 looking at packaging companies. But in fact, there
6 are products in the SBS board area that meet the
7 definition of what we had in the scope. And hence,
8 we've always intended to have it included, whether or
9 not we listed them.

10 MR. KAPLAN: I would just add one thing,
11 that there is the misstatement, there's certainly lack
12 of clarity in some of what the Respondent says about
13 this. They seem to suggest that some of the multi-ply
14 product, for example, is not suitable for high-quality
15 print graphic, or is not used for printing purposes.

16 In fact, we put extensive evidence in to the
17 Department of Commerce showing that even on the web
18 site for this actual product coming in from Indonesia,
19 they advertise it as printing paper. So you know, the
20 multi-ply paper is not some other kind of packaging
21 paper; that's right in the kind of paper we're looking
22 at here.

23 COMMISSIONER ARANOFF: I know I've certainly
24 seen packages that have very high quality graphics on
25 them. But let me ask you, then, my impression from

1 our staff is that if we include these companies that
2 make this product in the domestic industry, it could
3 account for a very decent share of domestic
4 production, and might change the data significantly
5 from what we have in the prehearing report.

6 How do you think that including this other
7 product and these other producers will affect what we
8 see when we look at the overall health of the U.S.
9 industry?

10 MR. STEWART: We obviously must have
11 different information than your staff has. The only
12 information we have is what's in the staff report.
13 And you have, you have responses from eight companies,
14 four of which we believe, or we understand, are
15 companies that are supplying information about that
16 part of their product line.

17 And if you look at the share of the domestic
18 industry that are accounted for by NewPage and Sappi
19 and Appleton Coated and SMART, who are the four that
20 we would have, that we had originally identified, I
21 think you will find that, while there may be other
22 data that we're unaware of, the data that you have at
23 the moment is not, would not suggest that that's an
24 accurate statement.

25 There may be other data that comes in that

1 we haven't seen, but I'm not in a position to comment
2 on that which we haven't seen.

3 COMMISSIONER ARANOFF: Okay. I'm a little
4 worried that nobody is in a position to comment, and
5 they may not be in a position to comment until after
6 post-hearing briefs come in, depending on the timing.
7 I'll have to ask staff about that.

8 One of the things that Respondents spend a
9 lot of time on in their prehearing brief is this issue
10 of customers who are interested in Forest Stewardship
11 Council certification for product. And is there, I
12 know there's some discussion about the extent to which
13 that's important to customers. Is there any way that
14 we have on the record, that we could have on the
15 record of quantifying the size of the segment of the
16 market that demands this kind of environmental
17 certification?

18 MR. STEWART: Perhaps we could start,
19 Commissioner, by simply asking the customers here
20 their own experience. That would give you some data,
21 data set. And perhaps our producers could comment, as
22 well.

23 COMMISSIONER ARANOFF: Okay. Well, let's
24 start maybe with the distributors, since you talk to
25 quite a range of customers.

1 MR. FREELAND: I'm Mike Freeland with Field
2 Paper in Omaha, Nebraska and Des Moines, Iowa. We are
3 FSC-certified as a distributor. We felt it was
4 necessary. We've been certified for about two and a
5 half years.

6 In our marketplace, we have probably,
7 between the two states, about 20 FSC-certified
8 printers, FSC-certified printers. We thought it was
9 going to be a big issue. We have to verify the
10 certification on our invoices and our picking tickets
11 and our delivery slips. And I'd say our requests for
12 that would have to be considerably below one percent.

13 COMMISSIONER ARANOFF: Okay. So to be an
14 FSC-certified distributor, do you have to promise to
15 only distribute FSC-certified paper? Is that the
16 criterion?

17 MR. FREELAND: Only on request. We --

18 COMMISSIONER ARANOFF: So you can carry
19 other products.

20 MR. FREELAND: Oh, absolutely, yes.

21 COMMISSIONER ARANOFF: Okay.

22 MR. FREELAND: We have to verify that that
23 product is certified. We keep it in a code number
24 that says it's certified. We receive confirmation
25 from the mill that it's FSC-certified. It's a whole

1 chain of custody.

2 COMMISSIONER ARANOFF: Okay, okay.

3 MR. McGEHEE: David McGehee, Mac Papers. We
4 also are FSC-certified. I concur with Mr. Freeland
5 here that the value is there, the interest is there;
6 but over the last several years, price has been much
7 more important than environmental. I would say less
8 than two percent of what we sell, we have to certify
9 chain of custody.

10 COMMISSIONER ARANOFF: Okay. Let me ask the
11 printers, then, are you certified?

12 MR. SCHOEDINGER: George Schoedinger with
13 Universal Printing. We are FSC-certified. And for
14 clarity purposes, the FSC certification, for those who
15 may not know, is a chain-of-custody certification. So
16 it's about chain in and out, no percentage
17 requirements in any way there.

18 We have found -- I looked back through our
19 data over the last several years -- that the number of
20 jobs that we must sell as FSC-certified fall somewhere
21 between one and two percent of the total number of
22 jobs that we sell to our customers.

23 MR. MARCIAN: Mike Marcian, Corporate Press.
24 We're FSC-certified. I would say in sales dollars,
25 it's five percent of my sales; and in paper purchases,

1 two percent.

2 COMMISSIONER ARANOFF: Okay. So it sounds
3 like there was a widespread effort or belief that
4 people needed to get certified, but that it doesn't
5 seem to serve but a relatively small part of the
6 market, in your experience.

7 Let me ask the manufacturers if there's
8 anything you want to add to that.

9 MR. MARTIN: NewPage. And all of our
10 competitors offer some products that have different
11 types of certification. I think the important point
12 to this case is the product that we displaced APP with
13 is not FSC-certified, and is not a requirement from
14 that distributor. So there's no stumbling block in
15 that particular case.

16 COMMISSIONER ARANOFF: Can you see, I mean,
17 as a longer-term trend, do you see a growing demand
18 for, you know, paper that comes from sustainably
19 harvest trees, and that sort of environmental concern?
20 Do you think it's maybe just that the recession has
21 kind of put the brakes on people's ability to kind of
22 afford the luxury of being as environmental as they
23 might want to be? Or do you think that the trend kind
24 of has fizzled already?

25 MR. MARTIN: Speaking for NewPage, I don't

1 think the trend's fizzled. I think it's something
2 that will grow with time.

3 I also am not sure why that's an issue in
4 this case, as the Respondents purchase a lot of their
5 pulp from FSC-certified forests in South America. So,
6 I mean, it's just a process that you have to go
7 through. I'm not quite sure why that's a barrier.
8 It's something that is open to them to do if they wish
9 to compete. But it hasn't fizzled because of the
10 economy. It's just there's a small segment that that
11 matters. And until we have product for that small
12 segment, we're continually trying to expand the amount
13 of certified wood that we supply.

14 Unfortunately, in America there's two
15 certification processes. One is called SFI, one is
16 called SFC. And so that complicates the issue, I
17 think, in North America. But I think the imports,
18 many of the import products that come in are SFC-
19 certified, or at least have been in the past. And
20 it's just a matter of going through the process to
21 become certified.

22 MR. SAVAGE: Greg Savage with Appleton
23 Coated. I think it's relevant, too, on our end. We
24 are not integrated, as we've talked about, which most
25 of the Chinese, and some of the Chinese/Indonesian

1 mills, as well. And there is that small segment that
2 values the SFC or environmental attributes, and it's
3 fairly small.

4 But we have made the choice, as a non-
5 integrated mill, to go through and just buy, and use
6 SFC, and buy our pulp from certified places. And it's
7 a choice that a non-integrated mill can make, and we
8 chose to service that small, small portion of the
9 market.

10 COMMISSIONER ARANOFF: Okay. I think
11 Respondents had at least one person who has indicated
12 that in his opinion, about 15 to 25 percent of the
13 market demands that SFC certification. Sounds like
14 there's nobody here who would agree with that number.
15 No, okay. I've gone over my time. Thank you, Madame
16 Chairman.

17 CHAIRMAN OKUN: Commissioner Williamson.

18 COMMISSIONER WILLIAMSON: Thank you, Madame
19 Chairman. This is a question about plant closures.
20 And you've cited the closures by NewPage and Sappi as
21 evidence of negative effects of subject imports.

22 However, the capacity of the industry as a
23 whole has held steady between 2007 and 2009, even as
24 the market has shrunk substantially, by 25 percent.
25 And so I'm wondering, couldn't someone argue that the

1 data shows that the industry has performed quite well
2 in keeping capacity on line in light of the economic
3 environment?

4 MR. DeVOE: This is Steve DeVoe from
5 NewPage. I can't comment on the capacity numbers for
6 the industry as a whole; I'm not sure what the rest of
7 the industry, you know, did on their response.

8 What I can tell you is, during 2009, as we
9 lowered our price, as we already said, to match the
10 import pricing, we did, in fact, begin to gain some
11 share back in the marketplace in the second half of
12 2009. So when we prepared our questionnaire and
13 allocated capacity based on that, that showed an
14 increase in capacity in our numbers that we submitted
15 in our report. So there may be some effect of that;
16 certainly, there's a rather large shift in the second
17 half of 2009 in terms of once the domestic industry
18 started matching up with pricing, you know, which we
19 were forced to do, we started to get some business
20 back.

21 MR. STEWART: Stated differently,
22 Commissioner Williamson, this is Terry Stewart, the
23 way your questionnaire is drafted for plants that have
24 multiple products, you can have movements in capacity
25 that are unrelated to whether or not plants have been

1 added or closed simply by the relative share of what
2 gets produced within the plant. And the full extent
3 of the capacity contraction that is reflected in the
4 two major plants closing is not reflected by that
5 methodology. That's your usual methodology, and in
6 this case it just ends up with some unusual, unusual
7 numbers.

8 COMMISSIONER WILLIAMSON: Okay. So you
9 would --

10 MS. AYER: And this is Anne Ayer from Sappi.
11 And I can confirm that the way we filled out, we
12 allocated capacity based on production. So it is not
13 to the full effect as shutting down Muskegon and all
14 the sheeters, as it got reported in our data. You
15 know, as opposed to -- we could allocate that
16 differently.

17 COMMISSIONER WILLIAMSON: Okay. That might
18 be helpful, so we can understand the real impact.

19 MR. STEWART: Would you like us to address
20 that in the post-hearing narrative?

21 COMMISSIONER WILLIAMSON: Yes, please.
22 Thank you. There has already been some discussion
23 about the prices between the fourth quarter in 2009
24 and the second quarter in 2010. And I think Mr.
25 Nelson mentioned something about a lag effect on an

1 inventory draw-down.

2 I'm trying to get at the question of why,
3 why haven't prices rebounded more in 2010 than the
4 decline in imports would seem to indicate?

5 MR. NELSON: Barry Nelson with NewPage. I
6 think what I said earlier was in fact true. We have
7 seen a stabilization and a starting rise in the
8 economy sheet market. The lag effect was really a
9 factor of prior to the duties going in, there was a
10 significant amount of inventory that was put in in
11 trying to beat those duties.

12 That inventory had to be drawn down over the
13 course of the last six to nine months. And so you see
14 a relative drag effect on pricing.

15 But what has happened in the marketplace
16 since the duties have gone in is a stabilization and a
17 return in improvement in pricing. At least we've seen
18 that at NewPage.

19 COMMISSIONER WILLIAMSON: Okay, thank you.
20 Does anyone have anything to add to that?

21 MS. MILLER: Jennifer Miller with Sappi. I
22 would just confirm what Barry has said. We have
23 announced two sheet price increases, one in May and
24 one just last week. And we did battle, in terms of
25 improved price realization, with very long and very

1 heavy inventory investments in those import programs
2 in merchant and printer warehouses.

3 COMMISSIONER WILLIAMSON: Thank you.

4 MR. SAVAGE: Greg Savage, Appleton Coated.
5 I can confirm all three. We're seeing the same thing,
6 and have also had a commodity price increase, one this
7 year.

8 COMMISSIONER WILLIAMSON: Okay, thank you.
9 Mr. McGehee, did you have something?

10 MR. MCGEHEE: Yes, sir, thank you. I'd just
11 say with a 12-week backlog, getting product from
12 China, we had a lot of tons in process already. When
13 we concluded doing business with Asia Pulp and Paper,
14 we did ramp up our inventory, so there was a lot of
15 tons on our floor, a lot of tons on the water coming
16 in in late '09.

17 COMMISSIONER WILLIAMSON: Okay. Thank you
18 for those answers. I know the question of black
19 liquor subsidies has already been raised, but post-
20 hearing, I wonder if you could take a look at the
21 Respondents' claim that when the subsidy for black
22 liquor included domestic prices, AUVs and profits did
23 not decline from 2008 to 2009. This is in their brief
24 on pages 52 and 53, and 93 and 94.

25 So I was wondering if in responding, you can

1 specifically --

2 MR. STEWART: We'd be happy to. Are we
3 allowed to respond with regard to other extraordinary
4 items, or just that one extraordinary item?

5 COMMISSIONER WILLIAMSON: You have license.

6 MR. STEWART: Thank you.

7 COMMISSIONER WILLIAMSON: Okay. Let's see.
8 I was wondering, you talked a lot about the impact of
9 prices in the fourth quarter, 2008, and beyond. But
10 what you haven't talked much about is, since there's
11 been under-selling throughout the period, what's been
12 the impact of that under-selling in '07 and '08?

13 MR. STEWART: Well, you will recall that
14 there was an earlier case that picked up through 2006.
15 And you heard earlier what the operating income for
16 the industry historically has been, and what it has
17 been in recent years.

18 What you see in terms of the pricing
19 patterns in earlier time periods is you see under-
20 selling that's fairly consistent, and you see
21 depressed profit margins versus what the industry
22 needs, but not changes in profit margins from the time
23 period that you're looking at.

24 So from the way you would have looked at the
25 matter in 2006, 2007, 2008, it looked like there was

1 no margin compression; whereas the domestic producers
2 would say they had been under extreme margin
3 compression. Operating and operating incomes of six
4 or seven percent, versus the 15 or 20 percent they
5 need to be able to reinvest.

6 So, but they had not, they had not fully
7 reacted to the prices as they did in 2009.

8 COMMISSIONER WILLIAMSON: Were there any
9 other impacts, say impacts on workers or anything like
10 that, that was seen in this earlier period?

11 MR. MARTIN: You're talking 2007, 2008?

12 COMMISSIONER WILLIAMSON: Yes, correct.

13 MR. MARTIN: Well, I mean, I think it we
14 look at -- this is George Martin with NewPage. And if
15 we look at 2008, we took out the Kimberly mill in, I
16 believe we announced that in early August of 2008.
17 That was over 500 employees that were affected at that
18 mill, whose, almost the entire product line was
19 directed toward coated sheets.

20 So in NewPage's case, that took place within
21 that earlier timeframe.

22 COMMISSIONER WILLIAMSON: Okay. Mr. Kaplan?

23 MR. KAPLAN: There are really two effects.
24 Given the margins, both dumping and subsidy, the
25 import prices would have had to be much higher. And

1 that means that the domestic industry would have
2 increased their share in sales, pre-recession.

3 And had they increased their share in sales,
4 they would have needed more employees. So at the
5 margin, if they had then faced fair competition, and
6 if prices were right in the market, they would have
7 had a larger share, hired more employees, and had
8 greater output in profit.

9 But the second effect is not marginal, but
10 it's kind of this gross discreet effect of closing
11 down whole facilities. So they had to close down
12 whole facilities, and of the facilities that were
13 remaining, they had less people employed and made less
14 profit than they otherwise would have.

15 So the Commission is told to look at the
16 performance of the industry throughout the business
17 cycle, and the conditions of competition that are
18 peculiar to the industry. Here you had a situation,
19 pre-recession, with significantly high demand; and yet
20 you still had shutterings and loss of share, and the
21 inability to increase shipments and employment to
22 levels that would have justified the booming economy.

23 So what Respondents want you to do is to
24 look at an okay performance in the salad days, when
25 the economy is booming, and say see, they're doing

1 fine; and then make up excuses when the recession is
2 happening.

3 What was really occurring is that prices and
4 profits were depressed continuously throughout the
5 whole POI, and the recession just, you know, just made
6 it so apparent that imports had an effect. That, I
7 think the tone of this hearing and the questions
8 asked, you know, reflect the change from the, reflect
9 the seeing of the recession playing out. Reflect the
10 difference from the original case, where times were so
11 good it maybe masked the depressing effect, because
12 the performance was okay, when it should have been
13 great.

14 COMMISSIONER WILLIAMSON: Okay. Thank you
15 for those answers. My time has expired.

16 CHAIRMAN OKUN: Commissioner Pinkert.

17 COMMISSIONER PINKERT: Thank you, Madame
18 Chairman. I want to stay with that line of thinking,
19 Dr. Kaplan. And in particular, I'm interested in what
20 happened with the operating margins in the first six
21 months of 2010.

22 Now, at that time you didn't have the kind
23 of pressure from the subject imports that you had had
24 earlier, and the economy wasn't as bad, the overall
25 economy wasn't as bad as it had been in 2009, at least

1 in the first six months of 2009.

2 So my question is, as an economist, why do
3 you think that we didn't see more improvement in the
4 margins in the first six months of 2010?

5 MR. KAPLAN: Well, I think the reason is,
6 well, first you're starting to see quantity changes,
7 which is what you'd expect as the imports exited.

8 The second part is, why aren't we seeing the
9 price changes. And there's two reasons. The first
10 was, is that the three grades are getting back into
11 realignment again. So while you're starting to have
12 the ability to push up prices at the bottom, you have
13 to align the other two grades, which is preventing the
14 average prices from rising as quickly as they could.

15 The second point is there's a little bit of
16 inventories and a little bit of lag. And you are
17 seeing price increases going through, and starting to
18 stick now.

19 So while your point is well taken that there
20 hasn't been an immediate response, the testimony we've
21 heard today suggests that it's starting to rise.
22 We've seen the quantity change. And a part of the
23 lack of an increase in profit is due to the higher
24 grades realigning with the economy grade, with the lag
25 that's been discussed.

1 I would expect, if demand stays constant,
2 that profits would increase as price increases go
3 through. I think the industry witnesses could speak
4 to this in their plans, get some more theoretical
5 perspective.

6 COMMISSIONER PINKERT: I want to add a
7 question to that theoretical treatment. And that is,
8 for the post-hearing, could you compare the operating
9 income margins for the domestic industry in the second
10 half of 2009, with the first half of 2010? And then
11 add whatever analysis you wish to try to explain
12 what's going on there.

13 MR. KAPLAN: I will do that.

14 COMMISSIONER PINKERT: Okay, thank you.
15 Now, does anybody else on the panel have comments
16 about the outlook in terms of performance for the
17 domestic industry, under the assumption that the
18 current conditions pertain going forward?

19 MR. KAPLAN: The industry remains
20 vulnerable, given that the economy is -- a sluggish
21 recovery by the economy. So the industry is clearly
22 vulnerable. It has been vulnerable over the cycle.
23 Nonetheless, it's better today than at the time when
24 we thought, you know, this might be Great Recession 2.
25 But I'd let them speak to their own forecast, unless

1 that is all confidential.

2 COMMISSIONER PINKERT: Whatever they can add
3 would be helpful. And if they can't add it here in
4 the public hearing, then in the post-hearing
5 submission.

6 MR. MARTIN: I know NewPage -- George Martin
7 with NewPage. We'd be happy to do that in the post-
8 hearing.

9 MR. GARDNER: Mark Gardner with Sappi. We'd
10 do it in the post-hearing, too.

11 COMMISSIONER PINKERT: Thank you very much.
12 Now, I want to go to another one of these questions
13 that Dr. Kaplan would refer to as posing a
14 counterfactual, and that is if you look at the non-
15 subject imports during the period of investigation, if
16 the subject imports had exited the market, would there
17 have been a one-to-one replacement of the subjects
18 with the non-subject imports?

19 MR. DeVOE: This is Steve DeVoe from
20 NewPage. I think -- I'm not sure I understand the
21 question. If the subject imports leave the market,
22 what --

23 COMMISSIONER PINKERT: If they had left the
24 market during the period of investigation, would there
25 have been a one-to-one response of increasing non-

1 subject imports to offset the decreasing subject
2 imports.

3 MR. DeVOE: I think you would have seen a
4 combination of domestic production that would have
5 filled that demand need, and potentially some non-
6 subject imports, depending on what the market would
7 have beared.

8 MR. NELSON: This is Barry Nelson with
9 NewPage. I think you're starting to see that now,
10 right? When you look at the subject matter -- or
11 subject imports going away, that vacuum has been
12 filled by a combination of both domestic as well as
13 non-subject imports.

14 COMMISSIONER PINKERT: Maybe I could flip
15 the question around. Do the witnesses on the panel
16 have any view about what drove the market share of the
17 non-subject imports down during 2009?

18 MR. STEWART: This is Terry Stewart,
19 Commissioner. Seth Kaplan earlier talked about
20 economic theory would suggest would happen when you
21 head to a recessionary period, which is that you would
22 get a contraction in import market share because of
23 purchasers' concern over the cash flow and extended
24 payment terms and monies being tied up, et cetera.
25 And I think that you had at least three things going

1 on. You had that phenomenon going on. You had the
2 phenomena of some of the major suppliers being from
3 Europe, and in that period of 2009 having a very high
4 valuation of the euro. And I believe that your staff
5 reflects that non-subject imports, at least from a
6 customer's perspective, are not price leaders, but
7 price followers. And three, you had really depressed
8 prices in the U.S., which made the U.S. a less
9 attractive market.

10 So all three of those things led to a fairly
11 sharp contraction in supply from non-subject imports,
12 as you see in the 2009 data.

13 COMMISSIONER PINKERT: Dr. Kaplan?

14 MR. KAPLAN: In addressing your previous
15 question to if the subject imports left, how would
16 they have been replaced --

17 COMMISSIONER PINKERT: That's what we call
18 lag time, right, Dr. Kaplan?

19 MR. KAPLAN: That's correct. It's less than
20 seven months, but it is a lag, absolutely. The
21 Commission's own models and economists' kind of
22 neutral assumption is that the volume of the exiting
23 imports would be split proportionately to the current
24 shares. So if the U.S. had, you know, three-quarters,
25 and the subject -- non-subject one-quarter of the

1 remaining, then you'd say it would be about three to
2 one.

3 Now, if there were capacity constraints
4 somewhere, you would do it differently. But I think
5 in this case, where there was a lot of excess
6 capacity, there was the ability of domestic producers
7 to supply, there was a recession going on, that you'd
8 probably guess that a more than proportional share of
9 the subject import loss would be picked up by the
10 domestic producers, based on, you know, the proportion
11 held by what is left. So the U.S. would have picked
12 up, you know, well in excess of half, you know, or
13 three-quarters of the subject import volume, had the
14 subject been fairly priced and had exited the market,
15 like you've seen since the preliminary duty.

16 COMMISSIONER PINKERT: And I don't want to
17 put words into Mr. Stewart's mouth, but I take it that
18 what you're saying is that the non-subjects during
19 2009 behaved the more the way one would predict
20 imports in general would behave given the overall
21 market conditions at that time.

22 MR. KAPLAN: After -- the collapse of the
23 global economy cause the largest decrease in trade
24 since the Great Depression. It was staggering in
25 overall context. And I want you to compare that to

1 the decline in world trade to what happened to the
2 subject imports, which didn't blink. So if you want
3 to set up a benchmark for what happened to trade, look
4 at world trade statistics after 2000 -- the collapse
5 at the end of 2008. And now it's coming back. You
6 know, everyone is talking about -- you can see it in
7 the statistics.

8 But the decline was staggering. It was --
9 you know, for macro-economist types, it was a scary
10 moment, you know. For us, we're looking around at
11 each other, kind of knowing what is happening, and
12 we're right on the cliff. And you look at trade
13 statistics, and it was one measure of how south
14 everything could have gone compared to even what has
15 happened.

16 MR. STEWART: And it's the case,
17 Commissioner, that the imports during the recession in
18 2009 increased 9 percent versus the collapse in
19 domestic demand that one year of 15 percent, which is
20 consistent with what Seth just said. You know, you
21 had a 15-20 percent decline in world trade, I believe,
22 is what the WTO put out for 2009.

23 COMMISSIONER PINKERT: Thank you. Thank
24 you, Madame Chairman.

25 CHAIRMAN OKUN: Thank you. For post-

1 hearing, I think in listening to responses with
2 respect to the potential scope issue, the scope issue
3 at Commerce, I just want to make a number of just
4 post-hearing requests to make sure that we're very
5 clear that we get the responses that we would need to
6 do any additional calculations.

7 So just first for post-hearing, would you
8 make sure that you provide your methodology for how
9 the Commission would make adjustments to calculate to
10 total subject imports, depending on the outcome of the
11 scope.

12 MR. STEWART: We would of course be pleased
13 to do that.

14 CHAIRMAN OKUN: And then would you also
15 discuss any adjustments that the Commission should
16 make to calculate its negligibility level.

17 MR. STEWART: We would be pleased to.

18 CHAIRMAN OKUN: And then with respect to --
19 and I believe Commissioner Aranoff -- you'd had a
20 discussion with her about whether there is additional
21 -- how it might change our record. Obviously, we
22 would want you to expand on that.

23 MR. STEWART: We will address all three of
24 those in the post-hearing brief.

25 CHAIRMAN OKUN: Okay. And we have spoken

1 with staff, so we believe, based on the schedule, that
2 there will be adequate time in the briefs to address
3 these issues, and we will look forward to seeing those
4 at that time.

5 All right. I wanted to ask some direct
6 questions. I think for my purposes -- I mean, this is
7 -- it's always good, in my view, when we have a record
8 like this, where you have a lot of participation from
9 both sides. We haven't seen it enough at the
10 Commission, I would say, that we have questionnaire
11 responses on both sides.

12 So I wanted to I guess first direct this to
13 counsel in terms of your arguments with respect to
14 threat. And you focused on the capacity expansions,
15 and you've had a chance to highlight those today. Is
16 there anything else with respect to the record, either
17 in what has been gathered in our chapter 7 or in the
18 Respondents with respect to just what is on the record
19 that you would want to take issue with? Because I
20 want to make sure, you know, again we have a very
21 complete record, and I want to see where there are
22 disagreements with respect to the threat factors.

23 MS. BYERS: Yes. Bonnie Byers.

24 CHAIRMAN OKUN: Okay. Thank you, Ms. Byers.

25 MS. BYERS: I think there are a number of

1 things. As you said, there are four new facilities
2 coming online in China. That is going to happen
3 within the next year. Two of them are already up and
4 running, and are about to begin commercial production
5 within the next quarter. The other two are supposed
6 to be completely built out by the end of the year, and
7 will enter commercial production within the first two
8 quarters of next year.

9 So these 2.6 million metric tons worth of
10 new capacity are actually quite imminent. They will
11 be with us within the next few years. I think the
12 dispute that we have with Respondents is about where
13 all that capacity and that new production is going to
14 go. They seem to think that it can all be absorbed
15 either in the Chinese market or some combination of
16 the Chinese market and other Asian markets. I think
17 the numbers that are in your record do not support
18 that finding.

19 The RISI data indicates that consumption in
20 China over the next year is only going to increase by
21 about 163,000 tons. Consumption in Asia overall is
22 only going to increase by about 600,000 tons. So
23 you've got another 2 million metric tons that has got
24 to find a place to go. And where it is going to go is
25 in the export market.

1 This is a very export-oriented industry.
2 They do export, according to your staff report, almost
3 40 percent of what they produce already. I think the
4 data that is in the staff report also indicates that
5 they're not actually increasing their shipments to the
6 home market. If anything, they're flat to trending
7 down. So the whole notion that they're somehow going
8 to be able to stick all this new production into their
9 domestic market is really not supported by the record.

10 CHAIRMAN OKUN: One question about that.
11 And again, I don't mean to compare it against cases,
12 but I think one of the arguments from Respondents that
13 I think looking at that data that I would want you to
14 respond to is that, you know, you talk about export
15 orientation. But again, you know, you see cases where
16 a lot more of it is directed to the U.S. market,
17 right, the numbers are a lot bigger that you're
18 dealing with just in terms of what percentage of their
19 export is going to the U.S. market.

20 Give me some perspective in this case of how
21 we should look at that in evaluating how much emphasis
22 I should put on that particular factor, Mr. Stewart.

23 MR. STEWART: Well, one gets to a very large
24 increase in exports to the United States simply by
25 allocating an historical share of exports to the U.S.

1 of the total production. They basically say that
2 their numbers run between 9 and 10 percent. If you're
3 adding 2-1/2 million tons, that suggests additional
4 potential exports of up to 250,000 tons. We don't
5 need it all to come here; 250,000 tons additional
6 would be huge, just like their claim that their
7 exports in 2011 if there is not an order would be --
8 would disappear is inconsistent with what their past
9 track record is, just as their claim that their
10 consumption in the home market is going to go up 30
11 percent in 2011, you know, is fanciful.

12 It's in their questionnaire responses, and
13 so your staff has dutifully put it in the staff
14 report. But that doesn't make it a credible number.
15 So all the things that Ms. Byers was going through are
16 absolutely true. And one could easily simply say if
17 there is this capacity coming onboard, and
18 historically they've shipped between 9 and 10 percent
19 to the United States, that it is reasonable to assume
20 that but for the order, one would see 9 to 10 percent
21 of their total production coming here. And that 9 to
22 10 percent is a lot bigger number than what they have
23 down here.

24 CHAIRMAN OKUN: Okay. And then I wanted to
25 make sure I understood your position with respect to

1 any potential EU order, whether the Commission can
2 place any weight on the possibility or the fact that
3 that case is out there.

4 MR. STEWART: Well, you could certainly
5 place some weight that the case is out there. We will
6 in the post-hearing -- we're going to go through
7 whether we think there is a legal impediment to
8 viewing it affirmatively before there is an actual
9 order. But it certainly is a potential threat to
10 where they can export it, hence how much additional
11 volume may need to find a home.

12 CHAIRMAN OKUN: Okay. I appreciate those
13 responses on the threat factors in particular. I
14 wanted to go back -- I think one -- one past question,
15 Dr. Kaplan, I'm going to just put it to you first,
16 which is you had a couple of times referenced the idea
17 of this -- you know, think about the metal margins
18 that we see in other cases. And I guess I was trying
19 to figure out if I thought that really worked in this
20 product. And maybe I should really be asking the
21 producers if they think that way in terms of the
22 pricing of the product.

23 But first, Dr. Kaplan, I just want to make
24 sure that I understood how you were asking the
25 Commission to take that into account here.

1 MR. KAPLAN: Well, my point was that when
2 input prices are volatile, and inputs are a
3 significant share into the final product, that just
4 looking at prices could be deceiving compared to a
5 case where input prices are constant and the price is
6 moving around.

7 Now, the metal margin is particular nice
8 because the share of scrap and the cost of steel is so
9 large. Here, the share of pulp into certain coated
10 paper is a smaller share than metal is -- than scrap
11 is into final steel. But I try to make that similar
12 adjustment because pulp prices can be somewhat
13 volatile, and I didn't want the Commission to look at
14 price trends out of the context of the underlying cost
15 movement.

16 So while it's not as good as the metal
17 margin, it tries to get at the same notion for
18 purposes of your examination of prices.

19 CHAIRMAN OKUN: Okay. All right. Okay.
20 Then I don't think we need to turn to the producers on
21 that one then. One other question for you, Dr.
22 Kaplan, which is -- and you might have said this in
23 response to an earlier question, but I just wanted to
24 be sure that I understood it. In terms of your
25 economic analysis, do you think -- in going through

1 the different factors that you like and what I think
2 is the most important factors affecting price, do you
3 think your analysis gives you -- or would give one
4 some estimate of what prices would have been if
5 subject imports were not in the market?

6 I think you've been asked this several
7 different ways, but I'm just trying to make sure that
8 I understood the response.

9 MR. KAPLAN: You know, first the factors I
10 identified as the key drivers of price were the same
11 factors that were identified by Respondents. So I
12 think there is some agreement that these are the key
13 supply and demand drivers. I think the statistical
14 work gives you confidence that the effects of the
15 subject imports were statistically significant and
16 negative.

17 I have not conducted the usual type of
18 simulation analysis where we try to get at the amount
19 of price suppression and depression. It's
20 significant. It's material. It has had a large
21 effect. But I don't want to look at, you know, eight
22 years of quarterly data and give you an exact number.

23 CHAIRMAN OKUN: Okay. I appreciate that
24 clarification. I just wanted to make sure I
25 understood what we were looking at there. And with

1 that, I will turn to Commissioner Lane.

2 COMMISSIONER LANE: Would the producers of
3 the product describe the components of your cost of
4 goods sold and the percentage of total cost of goods
5 sold for each major component? And maybe if you want
6 to do that in the post-hearing, that would be fine.

7 MR. STEWART: We'll be happy to do it post-
8 hearing.

9 COMMISSIONER LANE: Okay. And do you
10 include labor and depreciation as the cost of goods
11 sold or in other production costs?

12 MS. VAN ERT: Sandy Van Ert from Appleton
13 Coated. We would include it in cost of goods sold.

14 COMMISSIONER LANE: I'm sorry, what?

15 MS. VAN ERT: We would include it in the
16 cost of goods sold.

17 COMMISSIONER LANE: Okay. And does anybody
18 else have an answer for that?

19 MR. GARDNER: Mark Gardner of Sappi Fine
20 Paper. Yes, we would include it in the cost of goods
21 sold.

22 COMMISSIONER LANE: Okay. Thank you. Could
23 each of the producers tell me what your source of
24 energy is? Some of you use hydro, some of you use
25 electricity, and some of you use natural gas. Is that

1 correct?

2 MR. MARTIN: Each of our mills has basically
3 a unique power system. Many of the mills generate
4 their own electricity, all or a portion of it. You
5 know, all of our mills generate our own steam. And
6 the source of that -- you know, the fuel source varies
7 from mill to mill, boiler to boiler. But we use
8 natural gas, coal, biomass, power drive fuel. If it
9 can burn, we probably do.

10 COMMISSIONER LANE: Okay. Which of your
11 costs tend to vary with quantities produced, and which
12 components of your costs tend to be fixed? And could
13 you provide an estimate of the percentage of your
14 production costs that are largely variable? And you
15 can do that in your post-hearing brief. Okay.

16 And so you can do this, too. Do you
17 consider your SG&A costs to be generally fixed,
18 variable, or somewhere in between?

19 MR. MARTIN: George Martin for NewPage. We
20 would consider that a fixed cost.

21 COMMISSIONER LANE: Okay.

22 MR. GARDNER: Mark Gardner from Sappi. We
23 would consider it a fixed cost.

24 MS. VAN ERT: The same would be true for
25 Appleton Coated, fixed cost.

1 COMMISSIONER LANE: Okay. One more
2 question. Dr. Kaplan, we heard testimony that in
3 order for the industry to be doing at least minimally
4 well, it should be earning 15 to 20 percent. That
5 would allow it to hire new employees and reinvest in
6 its plant. Could you give me an estimate -- and this
7 can be done post-hearing -- of what kind of prices
8 during the period of investigation the domestic
9 industry would have been able to charge had the
10 subject imports been fairly traded.

11 MR. KAPLAN: Yes. I'll provide that in the
12 post-hearing.

13 COMMISSIONER LANE: Okay. With that, I
14 appreciate everyone's answers. And stay tuned,
15 because we still have lots more fun to go.

16 CHAIRMAN OKUN: Commissioner Pearson?

17 COMMISSIONER PEARSON: Thank you, Madame
18 Chairman. I have just one question, and it follows up
19 on a question that was raised by Commissioner
20 Williamson. If the industry has reallocated plant
21 capacity to allow for the production of more coated
22 paper than was lost when the two mills were closed,
23 doesn't that suggest that coated paper was a
24 relatively profitable product within the product mix,
25 and that subject imports must not have been having

1 much of an injurious effect? Mr. Gardner?

2 MR. GARDNER: In the case of Sappi, we only
3 produce coated paper. So when we closed the Muskegon
4 mill, we reallocated some of that tonnage -- now, at
5 the time we closed it, the business had already shrunk
6 almost by the capacity of that mill. So we
7 reallocated the mix between web and sheet on our other
8 machines, which were able to do that. So we can
9 control on any given market condition how much web to
10 a certain degree we make, and how much sheath do we
11 make.

12 COMMISSIONER PEARSON: So just to understand
13 it, you're now producing somewhat less web and
14 somewhat more sheet?

15 MR. GARDNER: Yes, yes, correct, with the
16 remaining assets.

17 COMMISSIONER PEARSON: Right.

18 MR. GARDNER: Correct.

19 COMMISSIONER PEARSON: No new assets.

20 MR. GARDNER: Correct.

21 MR. MARTIN: I think perhaps we can respond
22 more in the post-hearing comments, but I also think
23 that 2009 numbers, at least for NewPage, are somewhat
24 distorted by the amount of market down time we took
25 across our entire system. So I'd like to maybe take a

1 crack at that later. We showed a considerable market
2 down time across all of our equipment. And I think
3 the way the allocation process works, that might be
4 having an impact there.

5 COMMISSIONER PEARSON: Right, okay. And
6 that would be helpful, just -- you know, but in the
7 public version of table C1, we are showing a 15
8 percent increase in production capacity in interim
9 2010 relative to interim 2009. So something was going
10 on to give a larger number.

11 MR. MARTIN: Right. And again, I believe it
12 has to do with the way the allocations were done, and
13 also I believe in our case specifically the amount of
14 down time we took changed those percentages.

15 COMMISSIONER PEARSON: Okay.

16 MR. MARTIN: So we'll take a crack at that.

17 COMMISSIONER PEARSON: And I'll look forward
18 to reading that. And, Madame Chairman, with that, I
19 have no further questions. So I would like to thank
20 the morning panel for its enthusiastic participation.

21 CHAIRMAN OKUN: Commissioner Aranoff.

22 COMMISSIONER ARANOFF: Thank you, Madame
23 Chairman. Two questions left. We talked about the
24 black liquor tax credit, but in the staff report, it
25 mentions that there is a potential other tax credit

1 out there arising out of the Food Conservation and
2 Energy Act. Is this familiar to anyone, and can
3 anyone describe what this credit is and whether or not
4 it actually applies to this product?

5 MR. MARTIN: Yeah. I believe you're
6 referring to something called BCAP. And it's actually
7 not -- and it has to do with biomass collection, and
8 it's really not a credit for the paper industry. It's
9 for the folks who generate biomass. I believe that's
10 what you're referring.

11 COMMISSIONER ARANOFF: So your understanding
12 is that there would be no benefit to this product, or
13 as in the case of the black liquor one to a precursor
14 of the product.

15 MR. MARTIN: I think that was suspended back
16 in April, and there is some question as to whether or
17 not that is going to be returning at all. But it
18 actually benefitted the loggers and the folks who
19 collected biomass, not the folks who used it. So we
20 don't see that as a potential benefit to us.

21 COMMISSIONER ARANOFF: Okay. Well, if you
22 could elaborate a little bit on that post-hearing,
23 just because I guess with the black liquor one, the
24 benefit was to pulp, which is a precursor product,
25 while a log is also a precursor product. So, you

1 know, if you can explain why there is no benefit that
2 passes down, that would be helpful.

3 MR. MARTIN: Could your staff clarify just
4 for counsel was it BCAP that they were referring to?

5 COMMISSIONER ARANOFF: I'll ask them to do
6 that with you before the end of the hearing because I
7 only know what I read in the staff report, and it
8 referred to that particular statute. Okay. Thank you
9 very much.

10 My last question goes to the Lacey Act.
11 There is extensive discussion in Respondent's brief
12 about the current effect and the potential future
13 effects of the Lacey Act on imports of the product
14 from China and Indonesia. Can anyone comment on what
15 they believe the current or future potential effects
16 of the Lacey Act are on trade in this product?

17 MS. MILLER: Jennifer Miller, with Sappi
18 Fine Paper North America. Sappi Fine Paper North
19 America does import product that is made by our sister
20 company in Europe, and the Lacey Act is really -- I
21 don't want to call it mere paperwork, but it really is
22 just a matter of conforming to Custom requirements to
23 ensure that the paper that you're bringing in or the
24 wood products that you're bringing into the country
25 were not the subject of endangered species or

1 illegally logged or harvested. So we do not see that
2 as being any significant issue going forward,
3 certainly not for Sappi Europe or the other importers
4 that we talk to.

5 COMMISSIONER ARANOFF: Okay. But what about
6 for the APP companies? They seem to imply that they
7 might be in trouble.

8 MS. MILLER: I can't really --

9 MR. STEWART: We'd be pleased to see if
10 there is an admission that they're engaged in illegal
11 logging.

12 MS. MILLER: Commissioner, I can just speak
13 for the fact that I and my marketing colleagues have
14 worked with our marketing colleagues and logistics
15 people in Europe to ensure that we're Lacey Act-
16 compliant. It's a matter of just good internal
17 controls and making sure that if you did have a
18 Customs agent come into your plant or facility, that
19 you have files in place that would indicate that what
20 you were doing, you know, was consistent with law.

21 COMMISSIONER ARANOFF: And that means you
22 have to be able to identify the origin of the wood,
23 right?

24 MS. MILLER: Yes, that's right.

25 COMMISSIONER ARANOFF: Okay. So you don't

1 see the Lacey Act as having any effect on the flow of
2 trade from the subject countries?

3 MS. MILLER: That's correct. And again,
4 with the important observation, assuming that the
5 paper is made pursuant to logging practices that are
6 legal in the country in which they are done.

7 COMMISSIONER ARANOFF: Okay. With that, I
8 don't believe I have further questions, but I do want
9 to thank all of the witnesses on the panel, especially
10 those of you who have traveled distances to be with us
11 today and taken this time away from your businesses.
12 Thank you, Madame Chairman.

13 CHAIRMAN OKUN: Commissioner Williamson.

14 COMMISSIONER WILLIAMSON: I have no further
15 questions, and I do want to thank the panel for their
16 participation today.

17 CHAIRMAN OKUN: Commissioner Pinkert.

18 COMMISSIONER PINKERT: I too thank the
19 panel, and I look forward to the post-hearing
20 submission.

21 CHAIRMAN OKUN: I think I just have one
22 question left. I did not have a chance to go back to
23 the distributors to ask a question from hours ago now,
24 which had to do with the impact of inventory over the
25 period -- inventories on prices during the period of

1 investigation, if you could focus back there. Yes.

2 MR. McGEHEE: David McGehee. I think we
3 responded to Mr. Williamson's questioning earlier, but
4 there was an inventory lag, especially sourcing paper
5 from China. Traditionally, 12-week backlog. We had
6 orders in process. We had tons on the water,
7 literally. And when we decided to no longer source
8 from China, we did order a slug of tons. It was good
9 paper at a very good price. So we had an inventory to
10 build in mid, late 2009.

11 CHAIRMAN OKUN: Okay. If you did have a
12 chance -- I may have stepped out and didn't hear it.
13 But if it's in the record -- did you all have a chance
14 to respond on the inventory, all the distributors?

15 MR. FREELAND: Yeah. Mike Freeland with
16 Field Paper. We had a similar experience. Our last
17 order with Gold East was December of '09. We
18 anticipated a problem. We began to order paper from
19 another mill, and we probably during that period
20 increased our inventory pretty close to a million
21 dollars. But it took us into the first quarter of
22 '10.

23 CHAIRMAN OKUN: Any other responses. All
24 right, Mr. Stewart.

25 MR. STEWART: The other two are printers and

1 would not maintain large inventories, as the merchants
2 would.

3 CHAIRMAN OKUN: Okay. So with that, I thank
4 you for completing the record on that. And I don't
5 have any further questions. I believe there are no
6 further questions for my colleagues. Let me turn to
7 staff to see if staff has questions.

8 MS. BRYAN: Hello. I'm Nancy Bryan, Office
9 of Economics. I just have two really brief points
10 rather than questions. First of all, to the two
11 printers here today, at least Universal Printing
12 Company and Corporate Press, that we don't have
13 purchaser questionnaires from, it would be great if
14 you could fill one out for us. Let me know if you
15 need a copy.

16 At the very least, I think one of you
17 mentioned that you do participate in paper-directed
18 buy programs. So it would be great to get the answer
19 to those questions from the questionnaire from you.

20 Also, this would be directed to Dr. Kaplan.
21 Just regarding the historical relationship between the
22 pricing of the different grades, it would be great to
23 really have a quantified really some type of
24 historically what you think it was, and if you could
25 maybe give us more of a time line, because I wasn't

1 sure if I followed if you were saying that there was
2 an historical relationship and that converged between
3 the higher and the lower grades over time, and then
4 that has been still converging or widening again. I'm
5 not sure. If you could just go through that time
6 line, maybe -- a post-hearing brief would be fine.
7 And also see if that correlates to our pricing data
8 because I'm not sure if it does or not.

9 MR. KAPLAN: I'll address that in the post-
10 hearing.

11 MS. BRYAN: Okay, great. Thank you. That's
12 all I have.

13 MR. CASSISE: Chris Cassise, Office of
14 Investigations. Madame Chairman, staff has no further
15 questions.

16 CHAIRMAN OKUN: Thank you. Let me turn to
17 counsel for Respondents to see if they have questions
18 for this panel.

19 MR. PORTER: No questions.

20 CHAIRMAN OKUN: Okay. Thank you. Well,
21 before letting this panel go, I do want to again thank
22 all of you for your participation today, for your
23 willingness to be here and to answer our questions,
24 and to supply information post-hearing, and also to
25 the workgroup in the back who have stayed throughout

1 this presentation.

2 So we're going to take five minutes just to
3 clean off these tables and be able to set up the next
4 panel. And while I am doing that, we had talked about
5 a dinner break. I do want to just talk to people to
6 see. We seem to have gone quite efficiently through
7 congressionals. We have one left. So let me just see
8 during the recess if people want to again have a short
9 break or not. And I will announce that when we come
10 back in. So this hearing stands in recess until 4:10.

11 (Whereupon, a recess was taken from 4:05
12 p.m. to 4:12 p.m.)

13 CHAIRMAN OKUN: Madame Secretary, I see that
14 our second panel is seated. Have witnesses been
15 sworn?

16 MS. ABBOTT: All the witnesses have been
17 sworn.

18 CHAIRMAN OKUN: Mr. Porter, you may proceed.

19 MR. PORTER: Thank you. We're going to dive
20 right in, and I'm going to ask Andrew to begin.

21 MR. HANSCOM: Good afternoon. My name is
22 Andrew Hanscom. I'm vice president of sales for Eagle
23 Ridge Paper. I've been selling coated paper for more
24 than 20 years. I started my career in 1987 with SD
25 Warren, the largest coated free-sheet paper producer

1 in the United States at the time.

2 SD Warren was sold to Sappi in 1994. In
3 '93, before the sale, I left SD Warren to join one of
4 the largest coated merchants in the United States,
5 owned by International Paper, that became xpedx. In
6 total, I worked for xpedx or its predecessors for 12
7 years. I joined Eagle Ridge Paper in 2009.

8 Today, I want to discuss some real-world
9 demand and supply dynamics that I believe were missing
10 from the Petitioner's panel. The Petitioner's panel
11 repeatedly discussed the fact that total demand for
12 coated paper sheets fell sharply for 2007 through
13 2009, while we didn't decline at that same amount.

14 While this collection of facts is certainly
15 true, it masks some important differences for
16 different market segments. First you need to know
17 that over this period of time, there was a sharp
18 decline in consumption for web rolls than for sheets.
19 Essentially, while consumption for sheet demand
20 declined, consumption for web rolls fell off the
21 proverbial cliff.

22 One primary difference for this is that
23 ironically, a major drop-off in consumption of web
24 rolls actually caused an increase an increase in
25 consumption for sheets. To see this, it is important

1 to understand the economics of printing. Generally,
2 web offset presses are beneficial in long-run printing
3 jobs. Typically, press runs exceed 20,000
4 impressions. Sheet-fed presses can print from 9,000
5 to 16,000 impressions per hour. Web presses can print
6 up to five times faster, or 45,000 impressions per
7 hour.

8 So you can imagine when the volume is
9 reduced below certain levels, the economic benefits
10 cease to exist for web printing, and the job changes
11 to become a sheet-fed printer.

12 Let me give you a real-world example. Not
13 too many years ago, hundreds of publicly traded
14 companies sent their high-quality printed annual
15 reports to all of their shareholders. Needless to
16 say, this meant printing hundreds of thousands of
17 copies every year. There is no question that these
18 customers chose to print these annual reports using
19 web offset printing. However, recently, most of the
20 same publicly traded companies have decided to limit
21 the printing of their annual reports and simply post
22 them as PDFs on their corporate web sites. Therefore,
23 their need for actual printed copies was significantly
24 reduced, and the now limited job has switched to being
25 printed on sheet-fed presses.

1 A prime example to this reduction in paper
2 demand is The Gap Clothing Store. Several years ago,
3 The Gap printed over 1 million copies of their annual
4 report using high-quality coated paper on web offset
5 presses. Recently, The Gap only printed 15,000 copies
6 on sheet-fed presses. Consequently, this situation,
7 web rolls, offset rolls lost tremendous volume, while
8 sheets actually gained limited new business.

9 Mr. Nelson's from NewPage testimony
10 challenged a statement I made in my earlier
11 submission. I'd like to state for the record, I'm not
12 mistaken. Pro Con told me directly that they in fact
13 sheet web rolls for use on sheet-fed presses. Quite
14 honestly, NewPage simply may not know what their
15 converters actually do to service their downstream
16 market. And I noted in my statement, Pro Con is not
17 alone.

18 I know firsthand that there are many
19 converters and printers that frequently purchase web
20 rolls for the purpose of sheeting for sheet-fed
21 presses. Finally, I note that this practice is so
22 prevalent, that there are actually equipment vendors
23 that sell roll sheeters, with specific claims of
24 features like web moistening units that make it easy
25 for web roll sheeted for sheet-fed presses.

1 In fact, I have in my hand, which I am
2 holding up right now, a brochure from one of the
3 manufacturers whose web site brags about having many
4 installations of this equipment across the United
5 States, and 300 real sheeters worldwide.

6 I'm sorry, but I need to respond to the
7 attack on my character by Petitioner's counsel.
8 Because my company does not have a notary public, I
9 was not able to put my comments about web rolls in an
10 affidavit. However, if this -- however so that this
11 form of my comments is not on issue, I hereby under
12 oath that I affirm every single one of my statements
13 in my message to Dan Porter.

14 The next consumption point I want to make
15 concerns the big difference among grade categorization
16 of products. As I believe you know, coated paper is
17 typically offered in different grades. Grade No. 1
18 refers to premium products, the paper that end users
19 want when appearance needs to be the sharpest. Grade
20 No. 2 is a step down in brightness and appearance, and
21 grade No. 3 is a step below No. 2.

22 We do not sell No. 1 coated paper in the
23 U.S. market. Grade No. 1 is almost exclusively
24 offered by the domestic producers and several European
25 mills. Our market niche is primary grade No. 3. No

1 one who understands coated paper would mistake us for
2 a premium sheet.

3 It is important for you to also understand
4 that over the past years, consumption of grade No. 1
5 has decreased at a much faster rate than grade No. 3.
6 American Forest and Paper Association tracks U.S.
7 producer shipments by grade. While the data from AF
8 and PA indicate the total shipment fell 24 percent,
9 grade No. 1 fell by 42 percent, whereas grade No. 3
10 and grade No. 4 actually increased by 4 percent.

11 Again, this is important because we do not
12 offer a grade No. 1 coated paper. And so it's not
13 right for the Petitioners to blame us for the
14 depressed sale of grade No. 1 paper. Thank you for
15 listening.

16 MR. HARRIS: Good afternoon. My name is Ken
17 Harris. I'm currently the vice president of
18 operations and sales for Eagle Ridge Paper. I have
19 been involved in the coated paper market for more than
20 34 years, and for all 34 years, I have worked for
21 merchant distributors in one capacity or another. I
22 have operated as marketing manager, sales manager, as
23 well as running my own merchant operation.

24 Today, I want to talk about the role of
25 merchants and coated paper distribution, and

1 specifically how merchant economics affects our
2 ability to make coated paper sales. The paper
3 merchant buys from certain manufacturers for
4 distribution to the paper purchaser and printer.
5 Merchants stock many different qualities and grades in
6 close proximity to the buyer and printer for quick
7 order fulfillment and delivery.

8 The paper merchant provides a service to the
9 paper manufacturers by buying and marketing mill and
10 private label brands to the print market. Merchants
11 will buy in volume from the paper mills and resell in
12 smaller quantities to the market.

13 However, it is important to note that
14 merchants do not carry products from all mills.
15 Indeed, most often a merchant will carry just one
16 major domestic supplier and one import supplier. The
17 reason for this is both merchant economics and
18 restrictions by the mills. Because merchants are the
19 ones that hold the inventory in order to provide just-
20 in-time delivery to the printers, and because holding
21 inventory is expensive, there is a limit to how many
22 suppliers a merchant can practically carry.

23 In addition, the mills do not like to share
24 merchants. Mills choose their merchant distribution
25 partners based on size and strength within their

1 specific market. Accordingly, one merchant will very
2 rarely distribute both Sappi and NewPage product lines
3 within the same market. Rather, the mills prefer to
4 have dedicated merchant partners who focus
5 specifically on marketing their brands to build market
6 share. And this is precisely why the Koreans and the
7 Chinese replaced each other over the past few years.

8 In 2008 and 2009, the Koreans decided to
9 dramatically scale back their U.S. business. It was
10 natural for the Chinese to pick up this volume at
11 those merchants that carried the Korean paper, whereas
12 it would have been very difficult for a domestic mill
13 to do so. It's all about balance. Those merchants
14 that carried Korean coated paper also likely carried
15 one major domestic supplier.

16 When the Koreans decided to pull back from
17 the U.S. market, it would not have made any sense for
18 the merchant to replace the volume with more domestic.
19 Doing so would have either disrupted the balance that
20 the merchant had with two domestic suppliers, or if
21 the merchant had only one domestic supplier, it would
22 have meant the merchant was relying far too heavily on
23 just one source.

24 And the same is true when APP had to exit
25 the market in 2010 because of the trade case. As we

1 demonstrated in our questionnaire response with a
2 chart of each of our major customers, for 70 percent
3 of the APP volume, the merchant replaced APP with a
4 Korean supplier. In short, actual merchant economics
5 results in Korean and Chinese being substitutes for
6 each other. It is hard for an import supplier to
7 completely displace a U.S. supplier at a major
8 merchant, and it can be hard for a U.S. supplier to
9 completely displace all import suppliers at a major
10 merchant.

11 Another key aspect of the merchant mill
12 relationship is other product availability, and the
13 critical other product is web roll. Although much of
14 the web roll business is handled directly by the mills
15 themselves, there is good quantity that is still sold
16 for merchants. And merchants love this business
17 because it is quite profitable for them.

18 Most often, the merchant does not need to
19 carry web roll inventory, as the mill will ship direct
20 to the customer. All the merchant needs to do is to
21 make the sale. And for this reason, merchants
22 constantly crave web roll business. And because the
23 mills know this, the merchant's desire for web roll
24 business actually affects the purchase and sale of
25 sheets. Very simply, it is common for merchants to

1 limit their distribution of sheets of other suppliers
2 in order to maintain a domestic supplier's web roll
3 business.

4 I have seen this firsthand in my many years
5 working with merchants. What this means is that those
6 suppliers that do not offer web roll business like APP
7 and most other Chinese and Indonesian mills can find
8 themselves at a real disadvantage in trying to
9 increase sales to merchants. The inability to provide
10 web rolls is a real constraint on APP's ability to
11 completely displace a domestic supplier's business or
12 position at a merchant.

13 In addition, even when APP can get into a
14 merchant, the ability to increase sales to the
15 merchant is very much affected by the merchant
16 relationship with domestic suppliers. Indeed, this is
17 the primary reason why APP has had substantial
18 difficulty in getting the top 10 merchants to carry
19 APP paper. We have to settle for the smaller
20 merchants. Thank you.

21 MR. HUNLEY: Good afternoon. My name is
22 Terry Hunley. I'm an advisor and acting president for
23 Asia Pulp and Paper in the Americas, with my primary
24 responsibilities being the marketing and sales of APP
25 products in this region. But I have been working in

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1 the paper industry for almost 15 years, first as a
2 partner with Strategic Services Group and Natural
3 Resources, then as chief operating officer for Asia
4 Pulp and Paper, and now as an advisor and acting
5 president for Asia Pulp and Paper in the Americas.

6 I would like to discuss two major events
7 that occurred during the period of investigation that
8 had a significant impact on our business. First, our
9 pricing decisions at the beginning of the economic
10 downturn, and second, the loss of our largest
11 customer, Unisource, in mid 2009.

12 During the first half of 2008, we were
13 rapidly increasing our prices due to the global
14 economic conditions at the time. At the end of the
15 third quarter of 2008, however, it became very
16 apparent that the U.S. recession was drastically
17 impacting the market and that printing volumes were
18 declining rapidly. We were receiving reports from our
19 merchant customers at the time that the market was
20 quickly falling apart, and that they needed pricing
21 relief in order to try and maintain their business
22 levels.

23 One of my responsibilities is to collect
24 data on and make market-based decisions on pricing,
25 and then try to get our mills to take appropriate

1 action. Due to the markets dropping so dramatically,
2 we took an ordinary business decision to lower our
3 prices in support of our customers. Our decision was
4 quickly confirmed by the actions of other suppliers.

5 The second major business event is the loss
6 of Unisource as a customer. As mentioned during the
7 preliminary ITC hearing in November 2009, the loss of
8 Unisource represented approximately 50 percent of our
9 monthly coated paper sales, and their loss had a
10 dramatic impact on our business and our subsequent
11 actions in the marketplace.

12 Let me give you some history on this major
13 event. We have always required some type of credit
14 insurance for all of our paper customers. Typically,
15 we would obtain this through a third party financing
16 arrangement, or through a customer-specific credit
17 insurance arrangement. Our situation with Unisource
18 was that we were never able to secure credit insurance
19 for them. As a result of not obtaining credit
20 insurance, Unisource was required to keep a standby
21 letter of credit in place as collateral for their
22 account receivables to us.

23 In early 2009, the standby letter of credit,
24 while relatively large, only covered 30 to 35 percent
25 of the maximum outstanding accounts receivable in a

1 given month, and therefore we considered a significant
2 portion of the accounts receivable unsecured at any
3 point in time.

4 Also, in late 2008, we were told by our
5 Shanghai group that there was a market intelligence
6 report circulating in China regarding portions of the
7 U.S. paper industry. One conclusion of this report
8 was that any U.S. paper merchant that was not directly
9 affiliated with a paper producer had significant
10 business risk, and that Unisource was mentioned by
11 name.

12 Considering that a significant portion of
13 the Unisource accounts receivables to us were
14 unsecured, we made a decision to ask Unisource to
15 double the amount of the standby letter of credit.
16 During this same general period of time, Unisource
17 replaced their chief financial officer. The new CFO
18 took the position that Unisource had a stellar payment
19 history with us, and that their financial stability
20 was strong enough that the standby letter of credit
21 requirement should be reduced to zero.

22 Unfortunately, the decision by APP to
23 require an increase in standby letter of credit and by
24 Unisource to eliminate the standby letter of credit
25 created a very difficult negotiating environment.

1 Over the course of approximately four months, we
2 negotiated with Unisource to try and resolve the
3 situation. During the negotiations, unfortunately, we
4 took some actions to hold or delay some orders. This
5 action obviously upset Unisource.

6 In addition, we thought we had come to an
7 agreement on a particular solution, only to have it
8 rejected by somebody in China. While our relationship
9 with Unisource was never completely smooth, and we had
10 seen similar situations occur in the past, we would
11 usually come to some type of mutually agreeable
12 arrangement on how to proceed.

13 So it was somewhat of a surprise when we
14 received word that Unisource had made a decision to
15 move their business to NewPage. We have since learned
16 that NewPage applied both a carrot and a stick
17 approach to win this business. During the period we
18 were trying to negotiate a settlement, NewPage was
19 suffering from a major recessionary decline in the
20 publications printing market, causing its primary
21 heat-set web and coated ground wood businesses to
22 decrease dramatically.

23 In order to replace the volume lost in its
24 primary market segments, NewPage opened negotiations
25 with Unisource to replace Asian Pulp and Paper as the

1 supplier for Unisource's U-gloss brand, coated sheet-
2 fed value paper grade. NewPage had begun receiving
3 its U.S. government checks from the black liquor
4 subsidy during this time, and used the proceeds to
5 subsidize the pricing for the Unisource deal. This
6 was the carrot. And the stick was the trade case.

7 We were informed that NewPage told Unisource
8 that NewPage was going to file another trade case
9 against APP that would drive APP from the market, and
10 therefore Unisource would have to find a new supplier.
11 As a result, Unisource made a public announcement on
12 May 11th, 2009, that they were switching to NewPage.

13 Based on the resale values we have seen in
14 the market since then, we believe that NewPage was
15 able to offer Unisource a lower net price than we were
16 charging NewPage at that time, and that they remain
17 one of the primary drivers of market pricing the
18 printers at this point.

19 MR. ZHENG: Good afternoon, and thank you
20 for having me. My name is Rui Zheng. I'm presently
21 senior director, recently the chairman, of SMPI. SMPI
22 is the parent company of APP China Operations. I have
23 over seven years of experience in the paper industry
24 working for APP.

25 Prior to this, I was a manager and

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1 consultant at Ernst and Young, where I built clients
2 in the paper industry, including APP and UPN. I was
3 deeply involved in the discussions which led to APP's
4 decisions to invest in China, and most recently the
5 deliberations that led to APP's investment in new
6 capacity in Hainan. For these reasons, I am appearing
7 here today to address the misconceptions being put
8 forth about capacity in China.

9 Because of my investment in APP's decisions
10 to increase capacity, I'm in a very good position to
11 discuss the market dynamics for coated paper in China.
12 First, let me tell you the key consideration that went
13 into APP's decision to install new capacity in China.
14 It was directly -- meant growth in Asia. I know
15 Petitioners have argued that capacity increases in
16 China will target the U.S. market in light of recent
17 consumption projections. Their analogy, however, is
18 flawed, and it is based in part on their
19 misunderstanding of the true practical capacity of
20 Hainan's ability.

21 More importantly, Petitioners have not taken
22 into account demand growth in the regional Asian
23 markets. If you look at Asia's data, you can see why
24 regional markets are so important. Countries like
25 Thailand, Malaysia, Singapore, the Philippines, South

1 Korea, Taiwan, India, Vietnam, Laos, Cambodia, and
2 Pakistan have no coated mechanical capacity. In each
3 of these countries, we see year over year growth in
4 consumption that will need to be served by imports.

5 Many of the same countries I just mentioned
6 have also no coated wood-free capacity. Again, each
7 one of these markets are expected to grow, and will
8 need to be served by imports. At the rate of economic
9 development expense in this market, we expect growth
10 in the coated paper demand to expand at an even
11 greater rate. Recently it is projected that Asian
12 demand growth in 2011 and 2012 will average a
13 substantial 5.4 percent per year.

14 These regional markets are natural targets
15 for Chinese producers, and the reason why Chinese
16 producers are unlikely to expend the extra effort
17 shipping to North America and western Europe. Long
18 transportation times and the high wage rates are a
19 major disincentive to ship to these markets. On the
20 other hand, the proximity of the Asian regional
21 markets gives the Chinese producer an advantage over
22 non-Asian competitors.

23 This is an important point because Asia will
24 be a source of higher demand in the future. Asia also
25 is a large importer of coated wood-free paper from

1 outside Asia in 2009, with no Asian imports accounting
2 for about 20 percent of total Asian coated wood-free
3 imports. That's like a strong incentive for Chinese
4 producers to leverage their regional advantage and
5 displace the non-Asian imports. This was a major
6 consideration when APP considered its capacity
7 expansion.

8 Let me emphasize that over 40 percent of the
9 increase in Chinese export over the period of 2004 to
10 2009 was to other markets in Asia. The United States
11 ranked last of non-regional markets in terms of the
12 increase in Chinese exports. The U.S. market has
13 consistently represented less than 10 percent of APP's
14 total shipments. There are real constraints on our
15 ability to serve the U.S. market. Lead times, freight
16 costs, and environmental concerns all makes our U.S.
17 opportunities limited.

18 Additionally, the U.S. opportunities are
19 simply not as lucrative. APP actually makes more
20 profit per count on shares in the Chinese market than
21 in the U.S. market. We will always look to market
22 opportunities in Asia market before considering other
23 export markets. APP is simply not focused on the U.S.
24 market. More impact on the Chinese market is going to
25 grow and grow quite significantly. Even Petitioners

1 do not dispute that fact. There may be differences of
2 opinion on just how much growth there will be, but all
3 agree it will be big and will continue to expand. The
4 main growth in China has essentially no ceiling that
5 is because Chinese consumption of paper products is
6 just 60 kilogram per capital, whereas U.S. consumption
7 is 300 kilograms per capital and we expect growth to
8 significantly outpace region capacity projections.

9 As you may know, since 2007, the Chinese
10 central government has worked to eliminate
11 inefficient, high-polluting paper capacity in China.
12 The government plans is to put 6.5 million tons of
13 paper capacity out of existence by the end of 2010.
14 We believe this plan, combined with provincial
15 governments initiatives, made about eight to 10
16 million tons no longer operational as of the end of
17 2009. Although most of this capacity was attributed
18 to small producers of no wood fiber product, the
19 elimination of this capacity promotes two important
20 structural changes in the market.

21 First, it forced certain consumers to move
22 to fiber product. Second, as no wood fiber product
23 declines and price rises, the decreased price between
24 no wood and wood fiber products attracts higher value
25 product from producers like APP, to dedicate more mill

1 time to non-subject products to meet demand formerly
2 served by the eliminated capacity. This will serve as
3 a real constraint on actual coated paper capacity that
4 will continue into the future.

5 Additionally, in June 2008, China issued new
6 mandatory standards for water discharge pollutant that
7 was. It is expected that this new standard will force
8 out most small paper producers with annual capacity
9 under 50,000 metric tons. These small producers make
10 up more than half of total excess in Chinese paper
11 capacity.

12 Finally, let me dispel any notion that the
13 amount of new coated paper capacity is not by APP's
14 facility in Hainan as 1.4 million tons or even 900,000
15 tons. I understand this misrepresentation is featured
16 in Petitioners' argument. This figure is grossly
17 inaccurate. We discuss this in some detail in our
18 questionnaire response. The 1.4 million ton figure is
19 the design capacity of Hainan equipment if dedicated
20 to the production of the highest rate coated paper
21 product running at the highest possible speed. It is
22 a commercial fiction. No paper mill dedicates
23 capacity in this fashion.

24 There are too many different market segments
25 to serve. If you look at our questionnaire response,

1 you will see that the practical capacity of the
2 equipment in Hainan is substantially lower than 1.4
3 million tons. Taking into account expected product
4 mix, a more reasonable estimation of Hainan capacity
5 is in line with the demand growth we expect in both
6 China and the regional markets. That is why we
7 decided to build a new factory.

8 This concludes my remarks. I want to thank
9 the Commission for its time and prepare to answer any
10 question you may have to the extent I am able. Thank
11 you.

12 MR. LIFSHITZ: Good afternoon,
13 Commissioners. Thank you for having me and thank you
14 for your time this afternoon. My name is Ian
15 Lifshitz. I am the North American Sustainability and
16 Public Outreach Manager for Asia Pulp & Paper. What
17 you've heard today from Petitioners is that we at APP
18 are going to flood the U.S. marketplace in the near
19 future. Frankly, I just don't see how this is
20 possible.

21 At APP, we face two unique sets of obstacles
22 when selling to the U.S. market. We can't offer FSC-
23 certified paper and environmental NGOs are constantly
24 attacking us. Essentially, we start every sales
25 engagement with one hand tied behind my back -- our

1 back. To my knowledge, no other company faces these
2 challenges when trying to sell coated paper in the
3 United States.

4 My job at APP lets me hear firsthand the
5 concerns from customers requiring greenness and their
6 concerns are on greenness of paper. Customers are
7 increasingly demanding certified products, primarily
8 FSC-certified products, which has become the gold
9 standard in the United States. As a matter of fact,
10 in the 2009 sustainability report, Sappi describes
11 certification, including FSC, as a key competitive
12 advantage. We have also seen many large national
13 retailers, such as WalMart and Staples, specify FSC
14 products within their procurement policies.

15 It is correct -- as I mentioned earlier,
16 it's correct that we at APP can purchase FSC pulp, but
17 we cannot purchase -- we cannot manufacture FSC-
18 certified paper. Unfortunately, for us at APP, FSC-
19 certified products are something that our company
20 simply cannot offer. We lost our FSC-certification
21 December 2007 and due to FSC bylaws, we won't be
22 getting it back. What this means for APP is that our
23 competitors can offer customers a product that we
24 cannot. And as more and more customers are asking for
25 FSC-certified products, more and more of our

1 competitors are offering it. For example, in 2007,
2 xpedx sold just 48 tons of FSC-certified paper. By
3 2008, that number had jumped to 55,000 tons and in
4 2009, it jumped to well over 300,000 tons. In
5 contrast, APP sold zero tons of FSC-certified paper in
6 2009. Ultimately, when customers want FSC-certified
7 paper, they have to go elsewhere.

8 I want to stress that this is not a
9 theoretical problem. I filed a declaration on the
10 record in this case. As an attachment, I provided a
11 list of customers and accounts that flat out will not
12 buy from us because we don't offer FSC-certified
13 paper. This list was for regional markets, but this
14 situation exists all across the United States. In
15 speaking with our sales representatives, it's clear
16 that we are losing new business because we cannot
17 offer products our competitors can. Our sales
18 representatives reported that in the Denver market,
19 shares for FSC paper is approximately 15 to 20
20 percent. In Dallas, it's about 20 percent. And in
21 Detroit, the FSC market share is approximately 30
22 percent. This is a substantial portion of the market
23 to be locked out of and it's only growing.

24 What's more, certification is not the only
25 challenge that we face. APP is under constant attack

1 by environmental NGOs, whose ultimate goal is to put
2 APP out of business. We are regular victims of
3 campaigns, which urge our customers and potential
4 customers to stop buying our products due to the
5 alleged environmental issues. These attacks effect
6 and will continue to effect our ability to sell in the
7 United States. For example, NGOs have e-mailed
8 printers across the United States warning them to
9 avoid controversies and risks that come from buying
10 APP and Eagle Ridge Paper. The Rain Forest Action
11 Network put a take action link on its website, which
12 let's people e-mail all Eagle Ridge sales
13 representatives and criticize APP's environmental
14 record. These employees receive so many e-mails, many
15 of them are forced to change their e-mail addresses.
16 These campaigns are ongoing. Greenpeace issued a
17 massive report in July urging all companies to stop
18 doing business with APP. This resulted in significant
19 negative press that stirred away even more customers.
20 In short, I have been told many times by customers
21 that we like APP, we like your paper, but are afraid
22 to buy from us. For many customers, APP is simply not
23 worth the risk.

24 In conclusion, I just don't see how
25 Petitioners can claim that APP will somehow be able to

1 significantly increase our sales in the United States.
2 It just doesn't make sense. We face obstacles that
3 none of our competitors face, lack of FSC-
4 certification and constant environmental NGO attacks.
5 These are facts. And the combination of these facts
6 have a severe effect on APP's ability to sell to the
7 United States. Thank you.

8 MR. DURLING: Good evening. My name is
9 James Durling with the law firm Winston & Strawn and
10 appearing today on behalf of the Respondents. Even if
11 the Commission continues to define the like product as
12 including only certain coated paper sheets and sheeter
13 rolls, the record demonstrates that subject imports
14 have not caused any material injury to the domestic
15 industry.

16 At the outset, note that the volume of
17 subject imports have been stable. Subject imports
18 increased less than 3,000 tons from 2007 to 2009,
19 about one percent, and then fell in 2010. This volume
20 of subject imports was fully consistent with strong
21 domestic industry operating performance in 2007 and
22 2008. The volume of subject imports did not change
23 materially in 2009; other factors changed.

24 Indeed, the domestic industry consistently
25 gained market share, adding market share in 2008 and

1 then adding more market share in 2009. It is hard to
2 see how a domestic industry gaining more than five
3 percentage points of market share has suffered any
4 adverse volume effects. Note the domestic industry
5 had particularly strong market share gains in the
6 second half of 2009, increasing to 61 percent of the
7 market. They achieved this gain before any petition
8 effects and maintained their share even when subject
9 imports lost market share in the first half of 2010.
10 The record also confirms that subject imports and non-
11 subject imports have essentially replaced each other
12 as they entered and exited the market. From the
13 second half of 2009 to the first half of 2010, subject
14 imports lost about 12 points of market share and non-
15 subject imports completely replaced that loss with
16 about a 12 point gain of market share.

17 We can also see this extreme import
18 substitution in total volume. Non-subject imports
19 decreased by much, much more than subject imports
20 increased, which is why the domestic industry gained
21 market share. None of the subject import gain came
22 from the domestic firms. Both domestic firms and
23 subject imports gained from non-subject imports. This
24 direct import substitution continued into 2010, but
25 reversed. In 2010, as subject imports fell by about

1 110,000 tons, non-subject imports rose by the same
2 amount, a direct one-for-one replacement. Overall
3 these facts, flat subject imports, growing domestic
4 market share, and complete import substitution
5 confirmed the absence of any adverse volume effects.

6 Let us now turn to the price trends over the
7 period. This slide presents indexed domestic prices
8 for both sheets and web rolls to show trends over
9 time. Domestic prices rose through 2008. Price
10 levels declined in 2009. Petitioners believe that
11 this fact, combined with the mere presence of lower-
12 priced subject imports, is all they need to prevail.
13 That's really the heart of their case. But the law
14 requires evidence that the subject imports actually
15 caused the market price decline and the record shows
16 that they did not.

17 At the outset, we note a fundamental
18 inconsistency in Petitioners' theory. If lower-priced
19 subject imports caused domestic price declines, then
20 why did domestic prices increase over the 2007 to 2008
21 period? Moreover, why did domestic prices remain flat
22 at lower levels in interim 2010, when subject imports
23 have largely exited the market? Petitioners try to
24 ignore these other periods and focus on 2009 because
25 their simplistic theory cannot explain these other

1 periods of time. Prices rose earlier in the period
2 and then fell in 2009 for other reasons.

3 Note that the price trends for coated sheets
4 and coated web rolls are almost identical. Subject
5 import sheets do not compete with domestic web rolls.
6 After all, sheets cannot be reassembled to be used on
7 an offset web printer. So why did web roll prices
8 follow the exact same trend? Other economic factors,
9 not subject imports, drove down all domestic prices in
10 2009 and kept them low in 2010. Consider the
11 following: demand for all coated paper, included
12 coated sheets, dropped sharply in 2009. Although
13 demand had been weakening somewhat during 2007 and
14 2008, demand for commercial print activity, the
15 leading user of coated sheets, collapsed in early
16 2009. As this graph shows, the underlying demand for
17 sheets dropped by 9 percent in the first quarter of
18 2009, a single quarter decline more than four times
19 the rate of gradual erosion seen over the prior two
20 years.

21 Demand drivers for web rolls, magazine ads,
22 and catalogues also fell sharply in the first quarter
23 of 2009. Thus, this case is like others the
24 Commission has seen in the aftermath of the late 2008
25 recession. Demand has been falling and fell

1 precipitously in early 2009. Inventory adjustments
2 exacerbated this drop in demand, as purchasers drew
3 down inventory rather than place new orders. The
4 issue is not producer inventories, but inventories
5 held at the merchants. We estimate using the data on
6 merchant inventories that this inventory de-stocking
7 alone explains more than 40 percent of the drop in
8 domestic shipments in 2009 and puts a veered downward
9 pressure on prices.

10 The sharp decline in underlying demand and
11 the inventory adjustments are both key factors. Nor
12 is this our theory. This is the reality documented
13 vividly and concretely in Petitioners' pre-hearing
14 brief. Exhibit 12 of that brief provides some
15 contemporaneous e-mail exchanges between Sun Paper, a
16 major Chinese exporter, and xpedx, a large national
17 distributor of paper products that had been using Sun
18 to supply its endurance program of paper. A March 13,
19 2009 e-mail from xpedx notes that no one expected the
20 market to turn down so sharply, with exclamation
21 points. The e-mail also notes the inventory problem
22 in January and caused xpedx not to place any orders at
23 all in February and speculates that there may not be
24 any orders at all in March either. The e-mail
25 concludes, "it's unfortunate for both of us that the

1 inventory bubble exists. We just need to adjust and
2 react to the new market realities." Thus, this
3 decline in demand and consumption made it impossible
4 for domestic producers to maintain their prices.
5 Purchases, such as xpedx, simply had less need for
6 coated paper and were less willing to pay the old
7 higher prices.

8 Given this weak demand, domestic shipments
9 for coated web rolls dropped even more sharply in
10 early 2009 than demand for coated sheets, leading to a
11 significant decline in coated web roll prices. Since
12 web rolls are 80 percent of the total coated paper
13 market and web roll prices are a common benchmark for
14 the industry, these falling web roll prices put
15 further downward pressure on sheet prices. Sheet
16 prices simply could not be sustained in the face of
17 plunging web roll prices. Otherwise, the incentive to
18 buy rolls and cut them into sheets becomes too great.

19 Besides these major shifts in demand, raw
20 material costs also fell sharply in 2009, dropping
21 more than 20 percent in the early part of 2009,
22 putting further downward pressure on domestic prices.
23 Weak demand and lower costs will inevitably lead to
24 lower prices.

25 Another huge shift in 2009 relates to the

1 black liquor tax credits. Black liquor tax credits in
2 2009 led directly to lower prices. NewPage has
3 repeatedly stated that it passed through this tax
4 credit in the form of lower prices to customers and
5 that is the way NewPage has thought about these
6 credits, as an adjustment to price. Indeed, as this
7 NewPage slide shows, the \$304 million tax credit
8 received by NewPage in 2009 almost exactly matched the
9 \$300 million total negative price variance reported.
10 For NewPage, this evidence of pass through during 2009
11 is quite compelling.

12 We can now pull together these different
13 factors. This graph presents a weighted average index
14 of domestic and subject import prices for products
15 number one and number four, the two specific products
16 facing subject import competition. We use an index to
17 protect the proprietary information, but will present
18 the same analysis using actual pricing in our post-
19 hearing brief. These economic forces, particularly
20 the demand factors in pulp cost trends, are affecting
21 all prices in the market. As expected, both domestic
22 prices and import prices fell during 2009, reacting to
23 the same economic forces.

24 But the Commission should look more
25 carefully at the trends before 2009 and during 2009.

1 Note that subject imports were underselling domestic
2 prices throughout 2007 and 2008, but domestic prices
3 still increased. Subject import prices changed during
4 2008, both up and down, but domestic prices still
5 consistently increased. Subject imports dropped their
6 prices in the fourth quarter of 2008, but domestic
7 prices still increased. GPS, the largest importer of
8 subject merchandise, saw the writing on the wall,
9 realized the effects of the economic collapse, and
10 adjusted its prices more quickly. Domestic prices
11 began to fall in early 2009 because of the broader
12 economic forces driving down all prices.

13 Now consider these other economic factors.
14 During 2007 and 2008, end-use demand weakened
15 somewhat, but shipments had not yet collapsed as
16 merchant inventories increased somewhat and at least
17 initially were insulating producers from weakening
18 demand. Also, unit pulp cost and overall cost of
19 production were increasing during this period,
20 supporting higher prices. These dynamics changed in
21 2009. Demand drops more sharply. Over the first
22 seven quarters, the demand index dropped 13 points.
23 Over the next two quarters, the demand index dropped
24 another 10 points, a sharper decline over a shorter
25 period. Basically, the recession hit in late 2008 and

1 demand collapsed. Merchants stopped buying, as they
2 began to work down their inventory level. That is why
3 the drop in apparent domestic consumption in the
4 first-half of 2009 was so sharp, purchasers were
5 buying at sharply reduced levels. Moreover, the cost
6 trends reversed. Pulp costs that had been increasing
7 in 2007 and 2008 began to decline, in no small part
8 due to the black liquor tax credits.

9 So to recap, what changed in 2009? Demand
10 changed, falling sharply in 2009. Merchant
11 inventories that had built up during 2008 began to
12 drop in 2009, as merchants worked through their
13 inventory and further reduced purchases. Pulp costs
14 reversed course and began to decline. Black liquor
15 tax credits further offset costs, included an enormous
16 incentive for domestic integrated producers, the only
17 ones eligible for the tax credits, to cut their
18 prices, and they did. Indeed, these other factors
19 explain why web roll prices followed almost exactly
20 the same trend. Even without any material effect from
21 subject imports of sheets, which can't be reassembled
22 into web rolls, web roll prices also fell in 2009 at
23 the same time and by the same magnitude.

24 Petitioners blame it on the imports theory
25 cannot explain this decline in web roll prices, nor

1 does it make any sense even to try. Small volumes of
2 subject imports of sheets could not and did not effect
3 the much, much larger volumes of domestic web rolls.
4 These dynamics fell even though not much was changing
5 with subject imports.

6 And the strategy worked. The domestic mills
7 increased their shipments more than 150,000 short tons
8 and gained more than 10 percentage points of market
9 share in the second half of 2009. That added volume
10 allowed them to earn enough black liquor credits as an
11 industry to completely offset operating losses. The
12 incentive to maximize volume at the expense of price
13 grew enormously and domestic producers lowered their
14 prices to buy volume. Thus these demand in cost
15 changes in 2009 combined to put downward pressure on
16 all prices.

17 Rarely does the Commission have a record
18 that so thoroughly documents and quantifies the
19 existence of other non-import factors that have so
20 significantly effected prices. Even if domestic and
21 imported paper is substitutable and price is one of
22 several important factors, that just underscores the
23 logical disconnect in Petitioners' theory. These
24 other factors can explain why domestic prices
25 initially increased, fell in 2009, and then remained

1 weak through 2010, even as subject imports left the
2 market. Petitioners' theory cannot.

3 The Petitioners have made much of the
4 adverse trends in 2009 and 2010 and seek to blame
5 subject imports, but Petitioners' argument is a little
6 more than an effort to blame the existence of subject
7 imports for their difficulties. The record
8 demonstrates that subject imports had no material
9 effect on the domestic industry. Domestic industry
10 production and shipment trends tracked apparent
11 domestic consumption. It actually fell less sharply
12 than the decline in overall consumption. In fact, the
13 domestic industry consistently expanded its market
14 share regardless of the trends in subject imports.
15 This overall trend is key because most of the
16 performance indicators that the Petitioners stress are
17 volume metrics that reflect decrease in consumption.

18 The reverse was true at the end of the
19 period. After the market adjusted to the demand shock
20 in the first half of 2009 and the inventories had been
21 drawn down so much that shipments began to recover,
22 consumption began to grow. And the domestic industry
23 fully participated in that growth, adding 10
24 percentage points of market share in the second half
25 of 2009. Moreover, subject imports did not affect

1 domestic shipments. The non-subject import decline of
2 364,000 tons was more than the entire volume of
3 subject imports. In interim 2010, subject imports
4 lost 110,000 tons, while non-subject imports gained
5 the same amount, a one-for-one switch. These two
6 facts, growing domestic market share and non-subject
7 import substitution, are fatal for Petitioners' theory
8 of causation.

9 The domestic industry did more than hold its
10 own. It gained share by lowering its prices to
11 compete more effectively for a shrinking market.
12 They, in fact, captured significant volume and market
13 share from all imports over this period. They had an
14 incentive to lower prices and they did.

15 Once again, the xpedx e-mail traffic
16 provides contemporaneous confirmation. As xpedx
17 describes in this April 14th e-mail, domestic mills
18 were taking down time and must be convinced that their
19 large volume web business will remain weak, apparently
20 trying to gain economy sheet business to fill machine
21 time. The domestic mills lowered their prices to buy
22 much needed volume during the period of weak demand
23 and few orders.

24 The domestic industry restructured by
25 shuttering some older less efficient capacity and

1 expanding their sheet capacity while doing so. As
2 this comment by NewPage demonstrates, it was seeking
3 efficiency from an acquisition. What Mr. Martin of
4 NewPage did not tell you this morning was that most of
5 the Kimberly output was coated ground wood paper and
6 web rolls, not coated sheets. Sappi made the same
7 point when it announced its own closure. It makes no
8 sense to continue operating high-cost facilities, when
9 you can produce the same amounts at lower-cost
10 facilities. Moreover, these closures reflected
11 broader trends in consumption for all coated papers,
12 not the very specific trend of coated sheets that
13 account for such a small portion of total production
14 at these mills. That is why the industry was able to
15 increase its sheet capacity and production even as it
16 was reducing capacity of other products.

17 By 2010, domestic sheet capacity was up 13
18 percent. Employment was down, but by no more than one
19 would expect given the plant closures. Most of this
20 decline reflects the decline in the much higher volume
21 web roll production and other products, not changes in
22 sheet production. If plants were closed, it was
23 because of the lost web roll volume and the
24 opportunity to consolidate, not the much smaller loss
25 of sheet volume.

1 Domestic industry operating profits were
2 unaffected by subject imports. When subject imports
3 were fully present during 2009 and 2011, the domestic
4 industry performed well and indeed had even stronger
5 performance in 2009, once one includes the payments
6 from the black liquor tax credit. Given the NewPage
7 statements that have viewed the tax credits as a
8 direct pass through, adding back the black liquor
9 credits makes sense. The operating cash during 2009
10 was both the lower prices on the coated paper, but
11 also the direct cash payments from the U.S. Government
12 on every ton produced.

13 On the other hand, when subject imports
14 declined in 2010 and the black liquor tax credit
15 ended, domestic industry performance weakened. This
16 slide compares interim 2010 to the prior year, but
17 without black liquor tax credits. The sharp drop in
18 subject imports had no effect on the domestic industry
19 operating income in interim 2010. Volumes were
20 stronger, but prices remained weak. Moreover, this
21 strong performance has understated -- has been
22 understated since the Commission is still missing
23 questionnaire responses from some domestic producers.
24 As this slide shows, based on public estimates, the
25 total volume of paperboard for packaging that meets

1 the scope definition adopted by the Commerce
2 Department, the current coverage is only about 40
3 percent. We urge the staff to redouble its efforts to
4 gather this critical missing information.

5 Thus, the continued weak performance in
6 2010, even after subject imports had left the market,
7 should be no surprise. The domestic industry saw
8 increase in shipment volumes because consumption
9 increased. When subject imports left, non-subject
10 imports simply replaced them. The domestic industry,
11 however, saw continued weak prices because the
12 underlying demand remained weak and the essential
13 intra-industry competition continued. NewPage
14 continued to need volume to generate cash flow to
15 service its huge debt. Excluding subject imports,
16 which are quickly replaced by other imports, does not
17 change these essential dynamics, nor does the final
18 evidentiary record justify finding of threat.

19 Petitioners provided quite a bit of
20 speculation in their pre-hearing brief, but
21 speculation is not positive evidence. The final
22 record now before the Commission provides something
23 not seen every often, excellent coverage of Chinese
24 exporters. Indeed, the pre-hearing report confirms
25 that the record has certified questionnaire responses

1 from those Chinese companies representing almost all
2 total imports from China. The coverage for Indonesia
3 is even better. The Commission has traditionally
4 relied on specific questionnaire data, particularly
5 when the coverage is so high. The record also
6 includes questionnaire responses from all the Chinese
7 mills with new capacity coming on line in 2010 or
8 2011. With specific information about how much
9 capacity is actually coming on line, the Commission
10 thus has an unusually complete evidentiary record.

11 The starting point for considering future
12 trends is to review what has been happening recently.
13 As noted earlier, subject import volumes were
14 extremely stable over the period, increasing less than
15 one percent. Moreover, subject imports dropped over
16 the interim period. As we approach the fourth
17 quarter, it seems virtually certain that subject
18 imports will remain low for all of 2010 and into 2011.
19 These past trends in no way suggest any imminent
20 surge. Moreover, Chinese suppliers actually lost
21 major national accounts before the petition was filed
22 and even replacing this historical volume in the
23 future will be challenging. The Commission has the
24 most unusual situation of Petitioners snatching major
25 customers from subject import suppliers before the

1 trade case has even begun. Again, these facts confirm
2 the unlikely of any imminent rapid increase.

3 Chinese and Indonesian producers do not
4 depend on the U.S. market. Petitioners attempt to
5 give the impression that the U.S. market is the only
6 market of any significance to the Chinese and
7 Indonesian industries. In fact, the record
8 demonstrates in no year did U.S. exports exceed 10
9 percent of total shipments, rather shipments to other
10 markets consistently accounted for the overwhelming
11 majority of total shipments.

12 None of the Respondent producers have
13 significant excess capacity. Capacity utilization for
14 subject Chinese producers increased throughout the
15 period, averaging 93 percent. By 2009, unused
16 capacity was only four percent, hardly indicative of a
17 likelihood for substantially increased imports in the
18 future. Neither the questionnaire data nor the RISI
19 data projects significant excess capacity going
20 forward. And excess capacity for Indonesian suppliers
21 was similar.

22 Petitioners rely heavily on speculation
23 about dramatic future increases in Chinese capacity.
24 Chinese suppliers will increase their production
25 capacity in 2010 and 2011, but this increase needs to

1 be put in context. The Commission has responses from
2 all of these Chinese mills. It has detailed
3 explanations for each mill's plans for capacity
4 expansion. This is all relevant record evidence. The
5 Chinese producers have reported to the Commission the
6 actual details of what capacity they are adding, when
7 it will come on line, and what practical constraints
8 will limit their actual production capacity. There is
9 simply no credible basis for the 2.5 million ton
10 increase in capacity that Petitioners have alleged.

11 This capacity must also be considered in
12 light of the booming Chinese market. Everyone, from
13 independent analysts, to investment firms, to the
14 Petitioners, themselves, note the rapidly increasing
15 coated paper consumption in China. This growth fully
16 justified the additions to capacity and the Chinese
17 consumption will absorb a substantial portion of this
18 increased production.

19 This increasing focus on the Chinese market
20 and other markets in Asia will be reenforced by shifts
21 in the nature of U.S. market demand. U.S. paper
22 customers are increasingly concerned about
23 environmental and sustainability standards,
24 particularly those of the FSC. The inability of the
25 largest Chinese and Indonesian suppliers to offer FSC-

1 certified products limits their ability to increase in
2 the U.S. market in the future.

3 Finally, there is overwhelming evidence that
4 any increases in subject imports will simply displace
5 non-subject imports. When subject imports declined in
6 2010, non-subject imports quickly seized the
7 opportunity and completely replaced subject imports.
8 Petitioners may wish to avoid this evidence of direct
9 and complete import substitution, but the Commission
10 should not. The Commission must reflect this critical
11 role of non-substitutable imports in its analysis.

12 Finally, we would like to close our
13 presentation with some comments by other industry
14 experts. There is the economist who studies Asian
15 markets, just released comments about the Chinese
16 markets, stressing the importance of Asian markets and
17 the declining importance of North American markets.
18 The markets in Asia are just growing much, much more
19 rapidly. And just a few weeks ago, Sappi was
20 presenting its views to the investing public about
21 future trends. Sappi officials repeatedly stressed
22 that new capacity in China was going to stay in the
23 Asia regional market. Sappi officials also noted the
24 improved forecast for the industry. These latest
25 forecasts are inconsistent with Petitioners'

1 allegations of vulnerability in this case.

2 Thank you for your time. Our entire panel
3 is now ready to answer your questions.

4 MR. PORTER: Madam Chairman, before turning
5 the microphone over to you, I would like to introduce
6 two other witnesses, who are part of the panel, but
7 who picked long straws last night and so, therefore,
8 we're not pressing to service today. They are Mark
9 Dragoo and Anthony Atamimi, who are in the third row
10 in the back. And I notice Mark submitted a detailed
11 statement to the Commission, as part of a request for
12 a subpoena. So, he is here to answer any questions
13 about his information that he gave. Thank you.

14 CHAIRMAN OKUN: Thank you. And before we
15 begin our questions, I want to again thank you all for
16 being here, for your participation, for your
17 willingness to stick it out and answer questions. We
18 greatly appreciate your participation at the
19 Commission. We will begin our questions with
20 Commissioner Pearson. I will just remind parties --
21 remind witnesses that when you answer questions, if
22 you could just identify yourself for the court
23 reporter. Commissioner Pearson?

24 COMMISSIONER PEARSON: Thank you, Madam
25 Chairman. Welcome to the afternoon panel. I

1 congratulate you on your perseverance.

2 The record seems to indicate that web rolls
3 are not being imported from China and Indonesia. Is
4 this correct?

5 MR. HUNLEY: This is Terry Hunley. That is
6 correct. If they are imported, in very, very limited
7 quantities.

8 COMMISSIONER PEARSON: Why aren't we seeing
9 more of them imported?

10 MR. HUNLEY: A couple of reasons. One, our
11 operations are actually set up to produce sheets.
12 Most of the world is a sheet market. The United
13 States is a little bit different, in that we rely
14 heavily on web rolls.

15 The second thing is that the cost of
16 transporting web rolls is actually more expensive per
17 ton, so that reduces the competitiveness of the
18 product in the United States. We're really not
19 competitive on web rolls.

20 COMMISSIONER PEARSON: Is that because of
21 just the physical logistics of putting them into
22 containers?

23 MR. HUNLEY: Yes. You know, round peg,
24 square box, you're shipping a lot of air.

25 COMMISSIONER PEARSON: Okay. For post-

1 hearing, do you have any information you could put on
2 the record regarding the production of web rolls in
3 the subject countries, in China and Indonesia?

4 MR. HUNLEY: I'm sure we can.

5 MR. PORTER: Yes, Commissioner Pearson. I
6 believe, let me check with Zheng Rui, does the China
7 Paper Association have that data?

8 MR. ZHENG: Yes.

9 MR. PORTER: Yes, we will submit it in our
10 post-hearing brief.

11 COMMISSIONER PEARSON: Okay. And then
12 perhaps in the same submission, contrast that with the
13 market in the United States, the production and
14 availability of merchant web rolls, that sort of thing
15 --

16 MR. PORTER: Absolutely.

17 COMMISSIONER PEARSON: -- just to give some
18 perspective.

19 MR. PORTER: Yes.

20 COMMISSIONER PEARSON: Thank you. Turning
21 to volume, the record does show growth in subject
22 imports between 2007 and 2009, somewhere in the
23 neighborhood of, I think, around nine percent. Let's
24 see --

25 MR. DURLING: Actually, I think you're

1 comparing 2007 and 2009, which is about a 3,000 ton,
2 about a one percent increase, or 2008 to 2009, which
3 is a somewhat larger percentage increase, because in
4 2008, imports had gone down a little bit. It's where
5 you're starting from, Commissioner.

6 COMMISSIONER PEARSON: Yes; yes, you're
7 correct. I looked at the wrong number. It's late.
8 Give a guy a break.

9 Okay. Even that relatively modest increase
10 is a little bit unusual in the context of
11 investigations we've dealt with recently where the
12 recession is a big factor. And so what was going on
13 that caused even that modest increase in subject
14 imports, rather than having a decrease commensurate
15 with what we were seeing happen to apparent
16 consumption?

17 MR. HUNLEY: This is Terry Hunley, again.
18 In 2009, the market was declining, but it was
19 declining faster in those other grades of products,
20 number one and number two. We are just in the --
21 well, we call it the value grade or the number three
22 grade on our product. That part of the market did not
23 decline as much and, therefore, our sales did not
24 decline as much.

25 COMMISSIONER PEARSON: Okay. But that part

1 of the market didn't actually increase, did it?

2 MR. HUNLEY: But the increase that we're
3 talking about, from 2007 to 2009 or 2008 to 2009, is
4 actually relatively small. We can see that variation
5 in literally one month's worth of orders.

6 COMMISSIONER PEARSON: Okay.

7 MR. HUNLEY: Three-thousand tons is nothing.
8 One merchant needs to -- you know, finds a new printer
9 that's running a particular product and all of a
10 sudden you can easily move -- you have that much
11 variability in your order patterns.

12 MR. KLETT: Commissioner Pearson, this is
13 Dan Klett. I think also there was displacement. Most
14 of the increase in imports from China, you saw
15 corresponding decrease if not more in imports from
16 Korea. Now, we heard from Dr. Kaplan that there is
17 some -- that's inconsistent with some overall
18 macroeconomic trends, but I don't necessarily see the
19 linkage between that and this industry. I think the
20 description given by Mr. Harris as to why you saw that
21 displacement makes a lot more sense, in terms of this
22 particular industry.

23 MR. PORTER: If I may, Commissioner?

24 COMMISSIONER PEARSON: Go ahead.

25 MR. PORTER: Again, total imports came down,

1 just as you would expect. I think what you heard from
2 the industry witnesses today, in general, okay -- I've
3 been here a long time; I'm not going to overstate it,
4 but there is a little bit of domestics, compete with
5 domestics and imports compete with imports. So total
6 imports follow the general macroeconomic trends. The
7 fact that subject imports took share from non-subject
8 is a very important fact because it had no effect on
9 the domestics.

10 This industry needs imports. As you can see
11 from your staff report, consumption is well, well
12 beyond the domestic capability to produce, so imports
13 need to be present in the market. And so the idea of
14 substitution is, I think, an important point,
15 considering -- just to consider when -- and analyzing
16 the effect of the so-called small increase.

17 COMMISSIONER PEARSON: Okay. Well, I have
18 to admit that I'm starting to confuse the data we have
19 in this investigation with seamless pipe, which was
20 Tuesday's exercise. And so I just don't recall, do we
21 have on the record data that break down the shipments
22 of the number three value grade paper versus the rest
23 of the market? Because I hear what you're saying
24 about some grades being -- responding differently in
25 the marketplace than others and I just don't know

1 whether we have that.

2 MR. PORTER: Honestly, I do not know whether
3 it's on the record but the good news is it's
4 available. AF and PA tracks this data and we will
5 provide it in our post-hearing brief.

6 COMMISSIONER PEARSON: Okay.

7 MR. DURLING: Commissioner Pearson, we will
8 supplement the record with the available data about
9 these trends because it is available and we can give
10 you for the complete industry. But even in the record
11 you have now, if you compare the total volumes in the
12 different pricing products, you can basically see much
13 of volume declines in the higher bright products. So
14 if you just sort of look at the relative volume trends
15 within the pricing products, you can see these broader
16 trends, which we can then confirm more generally for
17 you with the overall industry data and we'll provide
18 that post-hearing.

19 COMMISSIONER PEARSON: Okay. Thank you, Mr.
20 Durling. Let me shift to price. There's a lot of
21 underselling on this record. It's there. It's all
22 over the place. The domestic industry indicates that
23 it has had a really significant influence on their
24 ability to sell product. How do you respond to that?

25 MR. KLETT: This is Dan Klett, again,

Heritage Reporting Corporation
(202) 628-4888

1 Commissioner Pearson. You had underselling over the
2 whole period. You had underselling prior to 2009 and
3 U.S. prices were going up. You had underselling after
4 2009, prices were going down. I mean, the Commission
5 requires more than just underselling to show a causal
6 effect between imports and prices, either price
7 depression or price suppression. And furthermore,
8 there was some testimony this morning about the delta
9 that was required because of the logistical additional
10 cost of buying imports, which is higher than carrying
11 costs and things of that nature. And I think when you
12 adjust for that, the underselling is not as
13 significant as the actual nominal levels that you see
14 in the staff report.

15 COMMISSIONER PEARSON: Okay. But, we do
16 have an increase in the COGS to sales ratio, which is
17 one indicator of price suppression. You may wish to
18 explain that more, but that's there. And then in
19 addition, we have, I would say, a higher than average
20 percentage of confirmed lost sales, lost revenues.

21 MR. KLETT: Well, I think these were two of
22 the components that Dr. Kaplan relied on. With regard
23 to the increase in COGS to sales ratio, that's a
24 mathematical exercise. I mean, it is increasing. But
25 the key point is the increased COGS to sales ratio,

1 how much of that increase is due to prices declining
2 due to subject imports. And as we know, a good part
3 of our presentation by Mr. Durling was that we think
4 other factors, such as demand factors, cost factors,
5 explain the price -- a much better explanatory -- much
6 better explained price decreases and, therefore, the
7 increase in COGS to sales ratio than do subject
8 imports.

9 COMMISSIONER PEARSON: Okay.

10 MR. KLETT: And in terms of the lost revenue
11 allegations, again, I mean, in every investigation,
12 you have -- you generally have confirmed lost sale
13 allegations. You have confirmed lost revenue
14 allegations. I mean, those are kind of anecdotal
15 instances of particular purchasers and the question
16 is, is that material with respect to adverse price
17 effects or volume effects for the industry overall.
18 And I think when you look at the overall trends,
19 notwithstanding some of these anecdotal instances
20 reported by purchasers, we don't think that imports
21 are a material cause of prices being depressed or
22 suppressed. A better explanation of what happened
23 during 2009 were the other demand and supply factors.

24 COMMISSIONER PEARSON: Okay. Well, thank
25 you, very much for those responses. I have a feeling

1 -- I will come back to this, if my fellow
2 Commissioners don't learn enough about it. Thanks.

3 CHAIRMAN OKUN: Commissioner Aranoff?

4 COMMISSIONER ARANOFF: Thank you, Madam
5 Chairman. Welcome to this panel. We appreciate your
6 enduring to this point and hope to ask you lots of
7 questions, so you think it was worth your time.

8 I want to go back to the like product issue.
9 I can't speak for my colleagues, but as far as I'm
10 concerned, the one factual issue on which this really
11 hangs in the balance is this issue of practical
12 interchangeability, the question of whether cutting up
13 web rolls and feeding it into sheet presses is a
14 common occurrence or a very occasional unsanctioned
15 and irresponsibility occurrence. We, obviously, have
16 testimony on the record from a number of people in the
17 industry from this morning's panel to the latter
18 effect. We have some declarations on the record from
19 various people represented on this panel to the other
20 effect. Putting the best spin on it, we've got two
21 groups of people, who from where they view the market,
22 are drawing very different conclusions from what
23 they're seeing.

24 Now where that leaves me right now is I have
25 to make a credibility determination about which of you

1 I think is seeing the market more reliably. It would
2 be better from my perspective if I had something
3 objective on which to base -- not that I'm not an
4 objective person, but I'd rather have some data or
5 something. Is there anything that you can suggest to
6 me, is there anyway to track this behavior or measure
7 it?

8 MR. HANSCOM: This is Andrew Hanscom. You
9 know, I was trying to come up with, you know, building
10 total tonnage to be able to share and that's very
11 difficult because we're not selling web rolls. But
12 what I can -- I can probably shed a light on to this
13 instance is that much of the other companies, Sappi,
14 NewPage, and Appleton here today, they sell
15 exclusively through merchants. And so they're not
16 selling directly to the printers. Eagle Ridge Paper
17 has an advantage that we are selling directly to the
18 print community. We are in those print shops. We see
19 the paper running. We see the sheeted product, the
20 non-labeled products sitting in press rooms. I did
21 state specific instances where there is a company that
22 manufactures only web, heat set web offset rolls,
23 located on the west coast -- they're not here, they're
24 not present as the Petitioners -- that clearly has
25 sold multiple truckloads of paper to keep their

1 capacity full, selling to converters, who, in turn,
2 will determine if they need to either sell that paper
3 into a web printer or to sheet that down and run that
4 on a sheet-fed press.

5 And, you know, again, I think this was
6 pretty powerful because when I was challenged on my
7 testimony, that it's not being done, I think it's what
8 they didn't say, because they -- as Mr. Nelson said,
9 that we don't guarantee the paper and I think it was
10 brought up later, yes, of course they don't guarantee
11 it if it's cut down because they're manufacturing it
12 to web specs. But the product is sheeted. It is
13 being sold to printers, who are very price sensitive.
14 And when there's a market differential of sheet-fed
15 pricing in the marketplace versus web pricing in the
16 marketplace, meaning if sheet-fed skids are sold at
17 such a higher rate that it is economically viable for
18 a printer to install a real sheeter on the end of
19 their price, they will do that. And there are
20 printers that consistently are looking at those
21 opportunities, so that they can carve out seven to
22 eight dollars, a hundred weight savings.

23 MR. PORTER: Can I add one comment,
24 Commissioner Aranoff?

25 COMMISSIONER ARANOFF: Certainly.

1 MR. PORTER: You asked for objective
2 evidence. I have the brochure. The fact that there
3 is an equipment manufacturer specifically offering
4 tools to sheet -- web offset rolls to sheet-fed
5 printers, I think is objective evidence that is at
6 least prevalent enough for this person to invest in
7 offering this machinery. And so that's item one.

8 Item two is, I understand your position. At
9 least from where you sit, you're looking at a he said
10 -- well, he said, he said, rather than he said, she
11 said. And what we will do in our post-hearing brief
12 is we will attempt to get as many printers, who have
13 this type of equipment, to get an affidavit saying I
14 have this equipment, this is what I do. We know those
15 printers exist because Andrew talked to them all the
16 time. In fact, I have talked to many of those
17 printers, as well. So, it is certain that they are
18 out there and we will do our best to quantify it, so
19 that you can have that objective evidence that you
20 seek.

21 COMMISSIONER ARANOFF: Okay. I appreciate
22 that, very much. The second similar factual situation
23 where we have a kind of a he said, he said going on
24 here, or there may actually have been a she involved
25 in this one, is this issue of the importance of FSC-

1 certification and how much of the market that
2 represents. We have testimony from this panel saying
3 that it's in the 20 to 30 percent of the market, at
4 least in some parts of the country. We have testimony
5 from a number of people on the Petitioners' panel,
6 that it's one to two percent. And, again, those are
7 very different numbers based on people's personal
8 experiences. So, I'm open to suggestions again there
9 on how to resolve that.

10 MR. PORTER: A couple of comments and I will
11 ask my colleagues to join in. Again, understand where
12 you sit having what you perceive to be conflicting
13 statements. All I can say is that we've done our best
14 to both have the statement and have some supporting
15 backup. Ian, he's very passionate about this. This
16 is his job, okay. His actual job is to try to
17 convince the world that APP is not such a bad guy,
18 okay, and he's having a hard time at that. And so, he
19 was -- he was the perfect person to say, you know,
20 tell me -- explain to me how it's difficult for APP to
21 sell their paper. And so, he did what he knows. He
22 went to the sales people and say, tell me what's
23 happening out in the marketplace, and that's the basis
24 of his declaration that was submitted. So, it's not
25 only sort of direct people, who were out there in the

1 market saying this is what I'm reporting, we also have
2 provided you names of actual printers, who have said
3 we will not buy from you because you do not offer FSC-
4 certified. So that's just what we've offered.

5 There are other things, though, that can be
6 done, which we will attempt to do. One is to go
7 through and look at all of the -- I guess it's not
8 brands, but the names of the papers that NewPage,
9 Sappi, Appleton offer, what they say is FSC-certified
10 and we will try to come up with a quantity of that
11 paper being sold.

12 But the last point I want to make is
13 something that Ian mentioned, okay, and that is I
14 understand you want to get a quantification, but
15 sometimes the quality aspect is important. Sappi,
16 NewPage and Appleton, on their websites, promote FSC-
17 certified as being, number one, a growing thing and,
18 two, having a competitive advantage over their
19 competitors who don't have it. So it is an important
20 aspect of the competitive dynamics, even though it
21 might be difficult to quantify.

22 COMMISSIONER ARANOFF: Okay. Well, I take
23 all of those points and I guess I would say let's just
24 suppose all of that is true and it is an important
25 competitive advantage and let's just say a meaningful

1 part of the market. We know that the subject imports
2 sold a quite a respectable quantity in the market here
3 prior to 2010 and clearly that portion wasn't affected
4 by these concerns. So perhaps in the end, the answer
5 to my question is going to be it doesn't really matter
6 if it's two percent or 30 percent because there's
7 another 70 percent of the market out there.

8 MR. PORTER: Aha, Commissioner, understood.
9 We anticipated this response, which is why we put this
10 discussion in our threat section, not our material
11 injury section, okay. Threat it all about the future.
12 Threat is all about does the evidence suggest that
13 there will be an imminent increase to a level causing
14 material injury. And we're saying because of all the
15 difficulties that APP has in selling their product
16 here, that's not going to happen.

17 COMMISSIONER ARANOFF: Okay. I will come
18 back to this. Thank you, Madam Chairman.

19 CHAIRMAN OKUN: Commissioner Williamson?

20 COMMISSIONER WILLIAMSON: Thank you, Madam
21 Chairman. I do want to express my appreciation to the
22 witnesses for coming today. I guess on this last
23 point you made about you're putting these FSC-
24 certification in the threat, I guess what is the
25 evidence, particularly in these hard economic times,

1 that this use is going to accelerate, you know, it's
2 going to make a difference, particularly given, as
3 they stated, the economy, the pressure people are
4 under about prices?

5 MR. PORTER: Let me tell you what we have
6 given you and ask our industry witnesses to elaborate.
7 We've given you a couple of things. First, we have
8 given you growth of sort of companies, who have become
9 FSC-certified. We have given you growth of forest
10 that have become FSC-certified. So, clearly, others
11 are seeing this is going to -- because they are
12 seeking FSC-certification.

13 The second thing is something that Ian
14 mentioned, I think it was International Paper --

15 MR. LIFSHITZ: xpedx.

16 MR. PORTER: -- sorry, xpedx, that they
17 reported a tremendous growth in their sales of FSC-
18 certified. So, there is evidence on the record
19 suggesting that it is growing and that growth is
20 recent and it's dramatic. And I'd like to ask, I
21 guess, Ian to follow up and others to elaborate.

22 MR. LIFSHITZ: Just to quickly add on that.
23 We've seen recently large major retailers, huge users
24 of printing, such as WalMart, Staples, actually issue
25 public statements about their requirements and their

1 demand to purchase FSC paper only. We see that in the
2 banking industry, as well. When people receive their
3 banking statements, you'll notice it's on FSC paper or
4 most of the time it is on FSC paper. And, again,
5 that's a market price. And now as a result of our
6 inability to achieve FSC-certification, we can't
7 deliver on that product and we are shut out of that
8 business, as well. So, we are seeing that.

9 There are other certifications in the
10 marketplace. However, North America, as I've been
11 told many times by many customers, if it's not FSC-
12 certified, it's nothing and it doesn't count in their
13 experiences.

14 MR. MCCULLOUGH: Commissioner Williamson,
15 one more point because I think it's important to
16 understand that the certifications, themselves, you
17 know, it's not just a feel good or good corporate
18 citizen dynamic involved. I mean, the reason you're
19 seeing an increase here and you're going to see more
20 use of these certifications is because there are both
21 civil and criminal sanctions involved in handling
22 contraband material. And there are strict liability
23 provisions that flow all the way down to customers
24 that can lead to the seizure of product that's found
25 to be in violation of the Lacey Act. And you can't

1 forget that. And whether or not a certification
2 applies to a product, you may be subject to the Lacey
3 Act and that's a major concern for any one purchasing
4 material.

5 COMMISSIONER WILLIAMSON: Okay. Thank you.
6 I will take a look at that. I want to turn to another
7 question. This concerns price timing and price
8 movements. Petitioners claim that the price data
9 shows that imports began to fall in price first and
10 that domestic producers were forced to follow. I was
11 wondering , what is your response to that argument?
12 We heard it a number of times this morning.

13 MR. DURLING: We tried to get it --
14 Commissioner Williams, this is Jim Durling. We tried
15 to get at that with our slide, basically kind of
16 showing what precisely the timing of price movements
17 and trying to put Petitioners' theory to the test,
18 which is kind of their theory is we lower the price
19 and then they lower the price and then they kind of
20 pretend that nothing else was going on. But what the
21 data actually shows is a disconnect; that in 2008,
22 we're going kind of up and down and they're not
23 reacting and we actually imported slower their price
24 at the end of 2008 and the domestic prices remained
25 relatively high. They did not react for quite some

1 time. In other words, it wasn't us lowering prices.
2 Us lowering prices, they were quite happy to continue
3 increasing their price. It was only when the other
4 factors begin to kick in, that we saw their price
5 reaction, right. I mean, there's the price point.
6 There's the big drop that they were complaining about
7 and I note that during that period -- again, this is
8 an index. We'll do this later with the actual data.
9 But what the index pretty strongly suggests is that
10 the domestic prices are still going up quite happily
11 and then two slides after this, John -- and it's
12 basically -- so prices are going up and it's only
13 going into 2009, right, imports have already lowered
14 their price. That's not what is causing the price
15 reaction. What causes the price reaction is when
16 demand falls off the cliff.

17 The most compelling evidence I can point you
18 to is the very telling e-mail traffic between xpedx
19 and Sun Paper, which really -- it's very nice granular
20 contemporaneous documentation that's telling you
21 what's going on. That e-mail documentation tells you
22 about the reaction to these very different demand
23 factors. It talks about the relative pricing levels
24 of different folks in the market. You know, it points
25 out that, yes -- I mean, subject imports had lower

1 prices, but Koreans were in there offering prices at
2 exactly the same level as the subject imports, at
3 least according to their publicly redacted information
4 that's available. And so, it's a very nice kind of
5 capsulation of what's really going on in the market,
6 what's really going on in the first quarter. It's
7 these guys reacting to the demand to the inventory
8 trends.

9 COMMISSIONER WILLIAMSON: Okay.

10 MR. PORTER: One more piece of evidence.
11 The questionnaires asked the purchasers who is the
12 price leader in the market. And they do that,
13 Commissioner Williamson, to get at your very question,
14 to see whether -- you know, if someone -- who is
15 followed up or down and I assure you that the answers
16 were not subject imports. They were the domestic
17 producers. And so, yes, Petitioners have been able to
18 find one point in time in which the subject imports
19 moved a little bit differently and they seized on
20 that. But as the evidence here demonstrates, that
21 single instance cannot explain their theory of the
22 case.

23 COMMISSIONER WILLIAMSON: Okay. In fact, my
24 next question was going to be what about -- there have
25 been a number of questionnaires, who were saying that

1 the domestic industry reduced prices in competition
2 with subject imports. So, wouldn't that tend to sort
3 of say at least some of the purchasers believed that
4 was happening? And the charts you had, the first one
5 you showed me where it looked like the -- for me,
6 right, the subject imports, that that price went down
7 first; right? There is a lag before the --

8 MR. KLETT: That's correct, Commissioner
9 Williamson, and I think Mr. Hunley pretty much
10 admitted that's what happened and he explained why.
11 And he was reacting to macroeconomic forces, that the
12 domestic producers ultimately reacted to, as well. He
13 just reacted -- saw the decline first in the market.

14 COMMISSIONER WILLIAMSON: So even with the
15 shipping delays, he was more fortunate than the --

16 MR. KLETT: Well --

17 MR. PORTER: These are not shipping delays.
18 This is actual market pricing here. This is not
19 import values. There's no shipping delays.

20 COMMISSIONER WILLIAMSON: Okay.

21 MR. DURLING: Commissioner Williams, this is
22 Jim Durling, again. I mean, I guess the other point I
23 would note is, yes, subject imports went down first,
24 but everything else is also happening. And so
25 domestic prices stay high. Really the question is

1 given the complete evidence on the record, given the
2 collapse in demand, given the inventory adjustments,
3 given the fact that the major national distributors
4 stopped placing orders, given the black liquor credit,
5 given everything else that is happening 2009, do you
6 really think that even if subject imports had not
7 changed their price, that there would be any change in
8 the domestic price levels with all of those other
9 things going on in the market? I think there's so
10 much else going on in the market, it's simply not
11 credible to believe that none of that other stuff
12 mattered and that all that mattered was the subject
13 imports dropped their price by Commission standards,
14 was actually a small decline.

15 COMMISSIONER WILLIAMSON: I think the
16 question is how much did -- if the drop of the subject
17 import prices contributed to the effect, not that the
18 other things aren't there.

19 MR. PORTER: But, yeah, Commissioner -- I'm
20 sorry, John go back to the price chart. One of the
21 reasons the Commission asked for three or more years
22 of data is to look at trends.

23 COMMISSIONER WILLIAMSON: Yes.

24 MR. PORTER: And trends are important
25 because they tell what's happening and whether -- as

1 we're trying to say, whether sort of theories hold up.
2 Petitioners' theory is that subject imports lead the
3 price down. Well, look at here, subject imports went
4 up and down over the 2008 period, yet no reaction from
5 domestics. And so if it's not happening in the past,
6 we have one instance, why do we assume that that's
7 what caused prices to go down? And so what we're sort
8 of saying, the evidence on the record shows a lot of
9 other economic factors at work that, in our view,
10 explain both the left side of the graph and the right
11 side of the graph. And so that's our economic
12 explanation.

13 COMMISSIONER WILLIAMSON: Okay, thank you.
14 I appreciate all of those answers. My time is about
15 to expire. Thank you.

16 CHAIRMAN OKUN: Commissioner Pinkert?

17 COMMISSIONER PINKERT: Thank you, Madam
18 Chairman, and I'd like to thank all of you for being
19 here today and helping us to understand the conditions
20 in this industry. I want to begin with a question
21 about subsidy pass through and this is particularly in
22 reference to the black liquor subsidies. If you
23 assume that there is full pass through of the
24 subsidies, could there be, even conceivably be any
25 impact on operating margins when the costs go down by

1 x and the prices are just by that same amount? Could
2 there be any impact on operating margins in that
3 situation?

4 MR. KLETT: Commissioner Pinkert, this is
5 Dan Klett. I mean, I think it depends where you put
6 the black liquor credit. I mean, right now, the black
7 liquor credit is being reported below the operating
8 level, so that even if you -- if you assume there is
9 full pass through, so that there is a price decline
10 that completely offset any gains from the black liquor
11 credit, you're taking all the hit on the revenue side.
12 But because the credit is being recorded below the
13 operating level, you are capturing none of the
14 benefit. So, basically, that is the reason we're
15 saying that if you're going to -- if there is complete
16 pass through and the effect of the black liquor credit
17 is on price and revenue --

18 COMMISSIONER PINKERT: But isn't it also on
19 cost in your hypothetical? It drives down the cost
20 and the adjustment to the price is by the same amount.

21 MR. KLETT: No. It drives down the cost,
22 but if it's -- it's not driving down the operating
23 cost, as it's now being reported, because it's being
24 reported below the operating level. So based on the
25 operating profits as recorded in the staff report, it

1 actually isn't driving down costs because it's being
2 reported below the operating level. It's being
3 recorded -- so, it's not being captured as an
4 operating cost the way the data is currently being
5 reported.

6 MR. PORTER: Commissioner Pinkert, can I
7 take a stab? I think we're a little bit talking about
8 apples and oranges here and I want to try to at least
9 how we sort of view this. One aspect of our analysis,
10 why do prices go down, and are saying, well, because
11 the domestics got this huge bundle of cash from Uncle
12 Sam and they use that, you know, to lower price. And
13 that explains the price decline.

14 But then we go to looking at a point in time
15 or several points in time about profitability. And
16 the question is, what do you do with that bundle of
17 cash. Now, the Commission staff correctly said, we
18 want to see it. And I believe that different
19 companies for accounting purposes treat it
20 differently. So, you have a situation where companies
21 are treating it a little differently for their own
22 internal accounting. But the question is, what should
23 the Commission do in looking at profitability of the
24 industry? What should it do with this bundle of cash?
25 As we showed in our slide, we believe because the

1 industry, itself, says it's either directly related to
2 cost or it's directly related to sales, it is related
3 to operations of this industry, it should go into the
4 calculation of operating profit.

5 And, Commissioner Pinkert, I knew you in a
6 former life. You used to work for the Commerce
7 Department. And they do this all the time, as you
8 know, in dumping investigations, where they take a
9 foreign exporter's books and records and say, okay, we
10 see that you, in your accounting, have classified this
11 as an indirect expense, but we're, because we think
12 it's more appropriate as a direct expense. And so,
13 we're sort of saying the Commissioner should do the
14 same thing, look at essentially all the revenue, all
15 the cost, and put it into what makes sense for your
16 analysis.

17 COMMISSIONER WILLIAMSON: Mr. Durling?

18 MR. DURLING: Thank you. I just want to
19 clarify and underscore that this is a variable
20 element. This is an element that is changing. The
21 black liquor credit payment increased, as you
22 increased your tonnage. So the logic for
23 distinguishing operating results, which is something
24 that varies depending on the output being generated by
25 the industry, as opposed to below the line things,

1 which tend to be kind of large, fixed non-variable
2 cost, like interest expenses, it makes sense to think
3 of this variable element as being an above the line
4 element, because, quite frankly, as the NewPage
5 document show -- and, again, I'm pointing to the
6 contemporaneous business documents, not the testimony
7 you heard this morning, but the contemporaneous
8 business documents, the way they presented it was, as
9 basically kind of think of it as an offset. They put
10 it right -- it's basically the first offset they do,
11 right next to the price adjustment. So, they're
12 saying to the investment community, yeah, we have
13 lower prices; but, look, the alternative fuel credit
14 essentially was a one-for-one match. And you put this
15 slide together with their testimony about it being a
16 pass through on the price, they view it, you know, at
17 least vis-a-vis the investment community, they're
18 viewing it as an adjustment to how to evaluate their
19 operating results. Maybe that's the clearest way to
20 think about it. When they're describing the results
21 to the investing public, they want the investing
22 public to give them credit for having received the
23 black liquor credit. And we're making a similar
24 proposal.

25 COMMISSIONER PINKERT: Thank you. Now

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1 turning to the 2008 period, you heard a lot of
2 discussion earlier in the day about the first half of
3 2008 and the second half of 2008. What caused the
4 increase in subject imports from the first part of
5 2008 to the second part?

6 MR. HUNLEY: Sorry, you mean the actual
7 number? Pardon? The actual increase in the first
8 half 2008, second half 2008?

9 COMMISSIONER PINKERT: The first and the
10 second half of 2008.

11 MR. HUNLEY: The first half of 2008, as you
12 saw our prices were increasing, as well, which had an
13 impact on our demand. In the second half of 2008, the
14 market was in complete disarray, to be quite honest
15 about it. What we saw coming up in the last part of
16 2008 was the market falling apart, customers not
17 knowing what to do, and we made just a typical
18 business decision to drop our price. Some customers
19 took advantage of that and bought a little extra
20 paper.

21 COMMISSIONER PINKERT: And perhaps this is
22 more appropriate for the post-hearing, but what was
23 the impact on the domestic industry of the increase in
24 the subject imports from the first half of 2008 to the
25 second half?

1 MR. PORTER: We will definitely address it
2 in post-hearing, Commissioner Pinkert, but I would
3 like to just sort of repeat an answer that we did
4 earlier and that is because there was one-to-one
5 substitution with non-subject imports, we think there
6 was actually little to no effect on the domestic
7 industry. Again, the domestic industry gained market
8 share during this period.

9 COMMISSIONER PINKERT: Thank you. Now, you
10 heard me ask earlier today about apparent U.S.
11 consumption in 2008. And as you know, there's a
12 decline in the apparent U.S. consumption during that
13 year. I'm wondering, in your view, is the apparent
14 consumption figure a valid measurement of demand for
15 2008?

16 MR. KLETT: This is Dan Klett, Commissioner
17 Pinkert. The activity variable we're using is U.S.
18 commercial print. And from 2007 to 2008, U.S.
19 commercial print activity also declined from 2007 to
20 2008. So the decline in U.S. apparent consumption
21 from 2007 to 2008 is consistent with the underlying
22 demand indicator. Sometimes -- I mean, changes in
23 apparent consumption don't exactly match one-for-one
24 changes in the actual underlying demand indicators,
25 although usually there's a pretty good proxy. So, I

1 think that the decline in apparent consumption in
2 2007, 2008 does reflect declines, slight declines in
3 demand.

4 MR. PORTER: One quick point. The whole
5 inventory adjustment highlights the difference between
6 underlying demand and consumption. Obviously, as
7 merchants sort of -- merchants can gear up and turn
8 down their inventory, that may or may not directly
9 correlate with the underlying demand drivers.
10 Actually, we think that's what also is going on here.

11 COMMISSIONER PINKERT: Thank you. One other
12 point about the 2008 apparent consumption. As you
13 know, Mr. Klett, the GDP was flat for the 2008 year.
14 So what, other than overall economic conditions, would
15 be driving the apparent consumption figure for 2008?

16 MR. KLETT: We think -- I mean, overall GDP
17 is a very broad indicator and roughly there's a
18 correlation between that and commercial print. But if
19 we go back to the commercial print, which we think is
20 the best demand driver for apparent consumption, the
21 commercial print indicator actually was going down
22 from 2007 to 2008. So there was a disconnect between
23 what we think to be a better demand driver for coated
24 paper and GDP, at least between 2007 and 2008. But,
25 we think commercial print is a better indicator of

1 underlying demand than overall GDP.

2 COMMISSIONER PINKERT: Thank you. Thank
3 you, Madam Chairman.

4 CHAIRMAN OKUN: Before I forget, Mr.
5 Hanscom, I wanted to ask, the brochure that you have
6 up with the machine, is that one that's already in the
7 pre-hearing exhibits or is that something that we'll
8 be provided post-hearing?

9 MR. HANSCOM: We'll provide it post-hearing.

10 CHAIRMAN OKUN: Okay.

11 MR. HANSCOM: I didn't think of it.

12 Fortunately, it was in my briefcase.

13 CHAIRMAN OKUN: Okay. I wanted to see
14 exactly what the cover was. I just wanted to make
15 sure if I had seen it or no. So, I appreciate it you
16 putting that in the record.

17 My next question is for a representative
18 from APP China, Mr. Rui Zheng. You had, in your
19 testimony, discussed some of the RISI data and
20 critiqued what you think is -- I think of as
21 unrealistic assumptions on a couple of points and I
22 just wanted to go through that again, to make sure I
23 understood. Was that just with respect to your
24 company or do you have more -- do you have information
25 about the other capacity that would have gone in to

1 the RISI estimates on Chinese capacity increasing by
2 24 percent from 2010 to 2011?

3 MR. ZHENG: So you're talking about the
4 capacity growth?

5 CHAIRMAN OKUN: Yes.

6 MR. ZHENG: Firstly, the concrete example is
7 our company, but believe there are other similar
8 situations with other Chinese producers. Normally,
9 they announce the capacity increase is the ideal
10 capacity increase. And I also want to address -- a
11 point I want to address is normally when you put a new
12 machine, for example, announce 400,000 pounds in 2011,
13 normally, the new mill needs a kind of normal up-time
14 period. So, actually, the whole year 2011 does not
15 really deliver this whole capacity estimate. So this
16 is also an additional point I want to make. And also
17 it stopped in July. It's just half of the -- for the
18 year, it's just half of the effective capacity coming
19 out. So, there are a few points to add.

20 CHAIRMAN OKUN: Yes, Mr. Porter and then Mr.
21 Durling.

22 MR. PORTER: I just want to -- what Zheng
23 Rui is saying is that RISI has sort of a capacity
24 projections, increases in capacity obviously from
25 information that they assemble, which is primarily

1 announcements by the company when they announce new
2 capacity. What Zheng Rui is saying is all companies,
3 when they announce it, the only thing they can do
4 right then is to say this is the rated capacity of the
5 machine. And they have to pick a number and they
6 typically pick if you ran the machine at one product,
7 straight out, and that's all you did, what was that
8 number and, obviously, companies like to show a high
9 number.

10 Well, since this is important, your
11 questionnaire asked for actual practical capacity of
12 the very product at issue. And if you look at, and
13 Zheng Rui was in charge of this, what his company did,
14 they started with that number that was sort of
15 announced to the public, 1.4 million. And then he
16 said, this is how our engineers calculated the actual
17 practical capacity for the subject merchandise. And
18 in the questionnaire, they go through that and show
19 that calculation. And so all he was saying is when
20 you're looking at this, you have different data. We
21 believe your questionnaire responses in which the
22 companies actually did what you asked them to, which
23 is to give you practical capacity for the very price
24 at issue, is a little better evidence than the
25 weighted capacity, which is being reported by RISI.

1 MR. ZHENG: Maybe I can put that -- the
2 entire industry, when they say past fuel consumption,
3 they put a number, a gallon, how many miles. But, it
4 is also the ideal case, right. It's less constant,
5 speed, no brake. Actually, the consumption is there.
6 In this case, you burn more fuel. And like in the
7 same situation, the capacity they announced, it's the
8 highest basis rate, at the highest possible speed.
9 So, actually, it's not going to happen. Thank you.

10 CHAIRMAN OKUN: Mr. Durling? Okay. Then I
11 had also wanted to make sure if I understood you.
12 With respect to the RISI data on Chinese consumption,
13 the projections about that period of growing by 8.6
14 percent, do you think that's a good figure or would
15 you take issue with that figure, as well?

16 MR. ZHENG: We are actually more optimistic,
17 and our internal analysis we've taken few point into
18 consideration. Firstly like I addressed the forced
19 closure of inefficient mills, they will bring some
20 structural change of the paper market. And secondly
21 the Asian, around Asia, around China, all those
22 countries around China, they will have also a lot of
23 additional demand growth.

24 CHAIRMAN OKUN: Okay. For posthearing, and
25 I know you have information in your prehearing brief,

1 but for posthearing if you could just go through
2 again, you know, the specifics with regard to both the
3 capacity and consumption information if there's
4 anything else, I know there's questionnaire data but
5 if there's any other internal documents that would
6 talk about forecast in the region I think that would
7 be helpful. I mean, you know, often in these cases we
8 use our best data because we don't have anything else.
9 Here we fortunately do have other information, but I
10 want to make sure that I understand what, you know, if
11 there's something that we're missing in any of the
12 comparisons if you could point that out and be as
13 specific as you can, that would be really helpful.

14 MR. PORTER: Absolutely.

15 CHAIRMAN OKUN: Okay, appreciate that. Then
16 let's see, I think I'll go to, well one question back
17 on these, on the certifications, the environmental
18 certifications. One of the points made, and you've
19 had some chance to respond just on the specifics of
20 the numbers and talked about that with Commissioner
21 Aranoff, one thing that I had heard the Petitioners
22 say is that this isn't difficult to get because, you
23 know, if you're buying from these different forests
24 that are certified that it shouldn't be as difficult.

25 I mean I understand the testimony from your

1 witness that you've not able to do that because they
2 were taken off the certification list, but I was just
3 trying to understand that just generally for other
4 producers is it, if you're just getting on the list is
5 it easier than if you've been taken off? I mean I
6 don't know if that's the right question, but.

7 MR. PORTER: If I may, Zheng Rui, can you
8 talk about if it's difficult or easy for other Chinese
9 manufacturers to get certified by FSC?

10 MR. ZHENG: Getting the pulp it's not,
11 everyone can buy FSC certified pulp, but the
12 producing, for example for us producing like Ian or
13 you said that we are not able to label our, even when
14 we use FSC pulp we are not allowed to label our
15 product with FSC certification. And there are also
16 other Chinese producers in the similar situation like
17 we are.

18 MR. PORTER: If I may, we're talking about,
19 can you put the FSC logo on your paper, okay. In
20 order to do that you have to go to the essentially for
21 -- an actual entity and you have to say, we would like
22 to be able to offer your logo because the logo is very
23 accepted and people want that. And so you need to
24 convince them, and I believe he will elaborate on
25 this, they have said, we will not give it to AP&P at

1 all. And, Ian, why don't you talk about why other
2 Indonesian and Chinese would have difficulty getting
3 it as well.

4 MR. LIFSHITZ: Yeah, as Dan mentioned -- Ian
5 Lifshitz. As Dan mentioned, in order to get FSC
6 certification and to sell FSC certified paper you have
7 to have a TNF custody FSC certified, which means it's
8 from start to finish you have to guarantee that
9 product is FSC certified by third party auditors that
10 come in and validate where the timber is harvested,
11 how that harvested, how the timber is processed, how
12 it's turned into paper, how it's shipped, and so
13 forth.

14 And then once all those, once you can follow
15 the chain of custody then you are able to more or less
16 get your FSC certification. However, FSC has looked
17 at countries like Indonesia, China, and so forth, and
18 said any plantations, forest converted after 1994
19 shall not get FSC certification. I am paraphrasing
20 their exactly bylaw, but that's more or less the gist
21 of it, which makes it impossible for companies like us
22 to receive that certification.

23 CHAIRMAN OKUN: Okay, thank you, and I also
24 listened to the earlier responses and understand that
25 it's, you focused on as the threat argument and I'll

1 look for the additional data on that, so I appreciate
2 that. And then on pricing, Mr. Klett, let me just go
3 back, I just want to make sure I understood a couple
4 of points that you were making in respect to Dr.
5 Kaplan's analysis which we spent some time on and
6 you've had some earlier responses on pricing.

7 But one of the things that I'm still trying
8 to work through is, you know, what the critique is of,
9 you have critiqued the three points he focused on, the
10 three things that he sees as most important in the
11 market. Is there agreement on that? Because I think
12 he started with that premise that Petitioners and
13 Respondents agree that those are all important and
14 then it's just?

15 MR. KLETT: One thing that I haven't
16 mentioned with respect to his analysis, and it is his
17 econometrics statistical analysis. I agree
18 conceptually that econometrics is a useful tool if
19 you're trying to statistically disentangle these
20 alternative factors affecting price. We have a major
21 problem with the reduced form specification that he
22 used. We think that he included some explanatory
23 variables that should be on the right hand side of the
24 equation on the left hand side of the equation.

25 Anyway, we will present an alternative

1 reduced form statistical analysis using his data but
2 what we believe to be a more appropriate reduced form
3 equations. You have very capable economists here at
4 the Commission that can look at why we did what we
5 did, what Dr. Kaplan did, and, you know, come to your
6 own conclusions in terms of which is most appropriate.

7 CHAIRMAN OKUN: Okay. Well I appreciate
8 that. My time, I might come back with a couple of
9 other follow ups, but I'll turn to Commissioner Lane.

10 COMMISSIONER LANE: Good afternoon. I was
11 excited this morning to be the first questioner, I
12 can't say I'm quite so excited to be the last
13 questioner because everything seems to have been
14 asked, but that doesn't mean that I understood all of
15 the answers so I get to ask some of the questions
16 again. But first I want to start on web rolls. It's
17 my understanding that there are no web rolls coming in
18 from Indonesia and China, is that correct?

19 MR. PORTER: Very little.

20 COMMISSIONER LANE: So the domestic industry
21 is not competing or alleging that they are competing
22 with less than fair value or subsidized web rolls from
23 Indonesia and China, is that correct?

24 MR. PORTER: That's correct, Commissioner
25 Lane. They have structured their case to only target

1 sheets.

2 COMMISSIONER LANE: Okay. And they brought
3 the case and so that was their prerogative, right?

4 MR. PORTER: It was definitely their
5 prerogative to identify the imported targeted
6 merchandise. It's obviously the Commission's
7 responsibility to decide which industry in the United
8 States produces a like product.

9 COMMISSIONER LANE: Well I want to go back
10 to some of Mr. Hanscom's testimony. I looked at, I
11 had here my notebook my dissenting opinion in the
12 earlier case in which the definition of web rolls and
13 sheeter rolls were a big issue at the hearing and who
14 made what and whether or not they were
15 interchangeable. And I saw that in my dissenting
16 opinion we had mixed people, we had printers that said
17 they could use it, we had printers that said they
18 couldn't use it, and I think I decided that at least
19 50 percent of the printers might be able to
20 interchange back and forth. And so, Mr. Hanscom, is
21 that sort of what you're saying or are you saying that
22 they're interchangeable one for one on every machine?

23 MR. HANSCOM: Well, I think -- this is
24 Andrew Hanscom. I think your question has two sides.
25 The question is the usability of the web rolls for

1 heat set web printing, so what printers have the
2 capabilities of using that type of product and they
3 have to use that on a specific web, heat set web
4 offset press. So I don't know the exact numbers as
5 far as what printers, I think the data shows that the
6 total consumption or usage of the coated free product,
7 80 percent of that product is heat set web.

8 Now there are significantly more sheet fed
9 printers out there in the marketplace. So it's
10 disproportionate there. The second part of I think
11 your question is the manufacturing process. And in
12 the manufacturing process many of the machines that
13 are actually making sheet fed product are also making
14 sheet fed web. And as they discussed earlier a few of
15 the Petitioners discussed in the manufacturing process
16 they change a little bit of the coating formulation,
17 basis weight becomes a big differential.

18 But if you're talking about for example 70-
19 pound text basis weight, they'll make that product
20 exactly on the same paper machines and all they do is
21 switch over to their newer coating formula if in fact
22 they do change the coating formula. Now the
23 interchangeability is another issue where you can't
24 use a sheet fed product on a web press because of the
25 moisture content, and you, because of the concern for

1 blistering.

2 But you can use a heat set web offset roll
3 and cut that into a sheet and run that through a
4 press, and many printers do do that, use that,
5 successfully run that. And so that's why when I
6 believe when you're looking at this whole marketplace,
7 when there's a steep decline in the demand for web
8 rolls, those paper companies are looking for business
9 to be able to sell out their paper machines, and so
10 they look to the sheet fed market.

11 Now again you look, you take my example that
12 I used with the annual reports. That was a huge, huge
13 market for web offset printing. They've lost that.
14 Basically what I understand in the industry is that
15 annual reports now are about 10 percent of the
16 consumption that they used to be several years ago.
17 And so paper companies, and I worked for Sappi, I know
18 they built their business around web. The Somerset
19 mill has three state-of-the-art heat set paper
20 machines that were built in the early '90s, late '80s
21 early '90s. But, you know, now they're looking for
22 where do you go and how do you build a business if
23 business now is moving more towards sheet fed?

24 COMMISSIONER LANE: Okay, thank you. Mr.
25 Porter, most of this information I'm assuming is

1 business proprietary so I'm going to just talk in
2 general terms. But I'm looking at subject imports
3 over the three-year period 2007 to 2009 relatively
4 high and relatively stable except that in 2009 it is
5 higher than in 2007. And then I look at the domestic
6 units sold and those 2007, okay, then they went down
7 in 2008 and went down more in 2009.

8 Now the units sold went down but their
9 market share went up. But it's the units that I'm
10 looking at. Then I look at the prices of the domestic
11 sales, those unit prices went down. So at the same
12 time that their volume in units went down, their
13 prices went down and their profitability went down.
14 So I'm having a hard time understanding how you are
15 saying that the presence in the market of subject
16 imports that are being sold at less than fair value
17 and their subsidized are not having an effect upon the
18 U.S. industry.

19 MR. PORTER: Commissioner Lane, I obviously
20 have not done my job at least with respect to you, and
21 so I'm going to try again. A couple of points. Let's
22 go back to the subject where you have the subject, the
23 timing point, pricing with the favorite time, yeah,
24 here. Commissioner Lane, you did a very nice job of
25 summarizing sort of Petitioner's theory of the case.

1 And their theory of the case is exactly that, the
2 presence of less than fair value subsidized imports
3 which are underselling the domestics, that must have
4 caused the price decline in the market and their
5 depressed profitability, that is their theory.

6 And if you had nothing else and that's all
7 you had, you just had those facts, dumped and
8 subsidized imports, little bit increasing,
9 underselling, and then market price decline, you could
10 make an assumption A caused B. But what we're saying
11 is that the Commission has a responsibility to look at
12 all economic factors, and they have a responsibility
13 to look at everything what's going on in the market.
14 And what we say is when you look at that, that theory
15 doesn't hold up and we believe this, shall I go back,
16 John? That chart supports it.

17 Because if their case, why are they
18 increasing when subject import prices are going up in
19 down? Similarly, why could they not raise price when
20 subject imports disappeared from the market? So that
21 suggests that something else is going on. And what
22 we've tried to do is to explain what we believe that
23 something else is, and not only that, we tried to
24 explain why we believe that something else actually
25 supports the entire period. And that we've tried to

1 do, and that something else is the collapse in demand,
2 the Black Liquor subsidies, the inventory adjustments,
3 the substitution you have the subject and nonsubject.
4 And you take all those into account, that's why we
5 believe Petitioner's case doesn't work.

6 MR. KLETT: Commissioner Lane, this is Dan
7 Klett, I just want to make one other point. You've
8 also got nonsubject imports in the market. And that
9 is that it's incorrect I think to assume that you've
10 got, you can't just look at subject imports alone
11 because nonsubject imports are also in the market, and
12 imports in general have always been a part of this
13 market. So I think it's incorrect to assume that
14 imports should be out of the market because that's
15 never been the case.

16 Also going to 2010 you see a big shift in
17 nonsubject imports, and one of the points they made
18 for 2009 was, yes total imports didn't go up but
19 subject displaced nonsubject and there was an adverse
20 price effect. Well look at 2010, you had the complete
21 reverse, subject imports pretty much went out of the
22 market, nonsubject imports increased almost on a one
23 for one basis, and you had no positive price effects,
24 you had no positive profitability effects.

25 And in terms of their theory for why that

1 happened with respect to price, they said there was
2 inventory overhang of imports. You've actually got
3 inventory numbers from your purchaser questionnaires
4 of Chinese inventory. You can look at that versus,
5 and I don't think that's an explanation of kind of
6 residual import effects in 2010.

7 COMMISSIONER LANE: Okay, thank you.

8 CHAIRMAN OKUN: Commissioner Pearson?

9 COMMISSIONER PEARSON: Thank you, Madam
10 Chairman. Back to lost sales and lost revenues. In
11 reading from the public version, and this is just one
12 example, you know, of a certain purchaser was named in
13 a lost sales allegation valued at X dollars. It
14 agreed with the allegation, it further reported that
15 it has switched from purchasing certain coated paper
16 from U.S. producers to suppliers of imports from China
17 and Indonesia due to price, and that U.S. producers
18 have reduced their prices in order to compete with
19 subject imports.

20 Now I read similar statements to that pretty
21 much throughout the whole lost sales lost revenues
22 section. In other investigations it's not unusual to
23 see, particularly when there's intense price
24 competition in the marketplace, that one domestic
25 producer loses sales to another domestic producer

1 thinking that it lost a sale to imports. I'm not
2 picking that up here. I mean I'm just impressed with
3 the consistency of what I'm reading here, and so
4 whatever you can do to shed light on it would be
5 great.

6 MR. PORTER: Thank you, Commissioner. We
7 will obviously address this again in our posthearing
8 brief. I have to disagree with you on sort of your
9 read of the data, and I'm going to be real careful
10 here. But I guess I can say is that when we look at
11 it and we look at, because I believe that there are
12 other examples in which they were not confirmed, how
13 about that, I think I can say that, and you look at
14 who was saying that they're not confirmed and who was
15 saying confirmed and you look at relative volume, I
16 think you get a little different perspective.

17 And again I'm sort of probably approaching
18 the line and I don't want to cross it, and we will
19 address this in posthearing. But, you know, you can
20 ask ten and if eight say, oh yeah I can confirm it,
21 but two are five times the volume of the eight, the
22 fact that eight out of ten confirm it doesn't tell you
23 a whole lot, and I think I'll just leave it at that
24 and we'll address that more in posthearing.

25 COMMISSIONER PEARSON: Okay. Mr. Hanscom?

1 MR. HANSCOM: This is Andrew Hanscom. You
2 know, relative to your question and I think what
3 you're trying to get at and what Dan touched upon is
4 the size of the customers. And if we're talking about
5 the print community who are the ultimate, you know,
6 consumers of this paper, if you look at the top 25,
7 they are buying, R.R. Donnelly being number 1 clearly
8 above.

9 As the person in charge of selling directly
10 to these national accounts who have multiple
11 locations, I'm kind of putting myself in an
12 embarrassing situation because I was unsuccessful
13 being able to sell them because I was told that our
14 pricing was too high. And their volume rebates and
15 their pricing didn't support them putting a program
16 together with us to buy from us.

17 Now and I'm buying directly from the mill
18 and in turn selling to them at lower margins, not
19 selling to a merchant who in turn is marking that
20 paper up, you know, X percentage. So why was I unable
21 to sell to these and be competitive? And, you know,
22 the standard question I ask is, well where do I need
23 to be as a salesperson? And they, you know, the
24 answers were, that were given to me, that we couldn't
25 even touch. It was below what our cost was coming

1 into the U.S. and to be able to in turn, you know,
2 ship to them. So the whole pricing issue really has
3 me perplexed.

4 COMMISSIONER PEARSON: Okay, well thank you
5 for that. Mr. Durling?

6 MR. DURLING: Yeah, I would just, and again
7 in detail posthearing because we can do it
8 confidentially, but what we do know publicly is that
9 Unisource, one of the two large national distributors,
10 was doing just the opposite during this period. So
11 that's part of understanding the overall record of
12 lost sales during this period, who's swapping to whom
13 and why and what reasons are given. And with all due
14 respect you have a pretty complete record now on the
15 Unisource situation.

16 You have, you know, you have a bunch of
17 questionnaire data, you have, you know, the testimony
18 of Mr. Hunley who was basically involved in that
19 particular commercial situation. You have a pretty
20 clear picture of what's going on and you can include
21 that in your overall assessment. The fact that there
22 may be a large number of extremely small volume
23 purchasers who are confirming, again we can, you know,
24 do it in detail in the posthearing, but Unisource is
25 huge, Unisource was 50 percent of his business. If

1 you think he's big in the market and Unisource was
2 half of his business, that one went the other way.
3 And so we just would urge you to take all of that into
4 account if you evaluate the lost sales. It's not just
5 about counting the number of allegations.

6 COMMISSIONER PEARSON: Right, no I
7 appreciate the points you're raising and I look
8 forward frankly to reading your assessment in the
9 posthearing brief. Mr. Durling, chart 36 which you
10 had up there earlier, it shows the Black Liquor Tax
11 Credit and the effect on margins for coated paper. My
12 question is, is this done allocating just the portion
13 of the Black Liquor Tax Credit that applies to the
14 production of coated paper to the profitability of
15 that paper?

16 MR. DURLING: Absolutely. This simply takes
17 your staff report information on operating income and
18 the Black Liquor Credits allocated to certain coated
19 paper for only the companies for which you already had
20 the data. In other words this is conservative.
21 Because again I can't go into the details because
22 they're BPI, but if you read the footnotes to the
23 staff report you'll realize that there are amounts for
24 Black Liquor that haven't been included here because
25 of the way people answered, you know, questionnaires

1 and you didn't have the information.

2 And even more importantly some of the
3 biggest beneficiaries of Black Liquor are other
4 integrated producers who may or may not have yet
5 answered questionnaire responses. So remember the
6 slide I showed you on coverage, that our best estimate
7 from public information is that you've actually only
8 gotten responses from domestic producers that
9 represent roughly 40 percent of the industry.

10 Commissioner Aranoff, this was the point
11 that you raised, there seem to be a lot of missing
12 questionnaires that could dramatically change the
13 picture. This in our view shows that there really is
14 a potential out there. We won't know for sure until
15 we actually get the questionnaire responses from these
16 guys and we can see what the data is, but my slide
17 including the Black Liquor doesn't include any of the
18 Black Liquor credits that would have gone to any of
19 these other producers who haven't responded yet.

20 So thinking back to the morning testimony
21 about these guys would be happy if they were earning,
22 one set of testimony was 10 to 12 percent, the other
23 testimony was 15 percent. Look at the second half of
24 2009. Even on a conservative basis they're hitting
25 their intended target rates. Admittedly it's not

1 coming in the form of dollars for every ton of paper
2 sold that were -- no, it is. It's for every ton of
3 paper they sold they got some dollars from the
4 customer who paid a certain amount and then they got
5 some dollars in a check from Uncle Sam.

6 The other point that's critical about this
7 is at least in 2009 you need to think about how does
8 this affect the incentives of domestic producers when
9 they're thinking about their business strategies,
10 their pricing decisions. Think about the incentive
11 this gives them to basically slash prices to maintain
12 the volume because it's a good tradeoff, they do
13 better. There's no point in keeping prices high and
14 maybe having a slightly higher operating margin if
15 you're foregoing the opportunity to get all these
16 dollars on the volume side through the Black Liquor
17 Credit.

18 COMMISSIONER PEARSON: Okay, so part of your
19 theory is that because of the incentive provided by
20 the Black Liquor Credit, at a senior level in the
21 company there could have been a decision saying, for a
22 certain number of months we really need to run the
23 mill or mills as close as we can to full tilt, do the
24 best allocation among products as you can, and but go
25 ahead and produce the stuff and we'll figure out how

1 to sell it later, is that?

2 MR. DURLING: Well I think it's a matter of
3 structuring the business to recognize the extra
4 benefit associated with pushing out the volume. And
5 especially a company like NewPage that we know from
6 public information has extremely high debt burden,
7 right, so they have very significant interest costs,
8 and so their particular incentive to run their
9 business that way is even more compelling because as
10 you can see in the email traffic from xpedx to Sun,
11 you know, the email traffic from, it was actually the
12 April email, they were basically talking about kind of
13 ramping up machine time because they wanted the
14 volume.

15 COMMISSIONER PEARSON: Okay, well thank you.
16 My time is expired. Mr. Hanscom, you have --

17 MR. HANSCOM: Chairman Pearson, yes.

18 COMMISSIONER PEARSON: No, just
19 Commissioner. The Chairman is over here and it's her
20 time that I'm protecting here. But if you have a
21 quick comment I think she won't be too disappointed in
22 me.

23 MR. HANSCOM: Commissioner Pearson, I
24 apologize. I apologize, Chairman. To your point
25 about the mills, would they run their pulp mills to

1 maximize their ability to get taxpayer's dollars?
2 Absolutely. But the problem is they can't, they need
3 to do something with that pulp when they're running
4 their pulp mills so they're going to manufacture paper
5 and they're going to figure out how to sell it. And
6 it was moving, it was in rail cars, it was all over
7 the country. They were moving product and then
8 figuring out how to sell it, and therefore that's why
9 we see such a huge decline. Because, you know, as
10 they're holding on to that inventory, why not get rid
11 of it and just get cash flow? They needed cash flow.

12 COMMISSIONER PEARSON: Okay, but just to
13 clarify then, the incentive was to run the pulp mill
14 hard, then you've got the pulp supply and the question
15 how do you handle that, do you make more paper or do
16 you sell it as merchant pulp?

17 MR. HANSCOM: No, you probably run it as
18 paper because they probably weren't selling it as pulp
19 or couldn't sell it as pulp because they couldn't,
20 they didn't have the demand there.

21 COMMISSIONER PEARSON: Yeah, okay. Thank
22 you very much and thank you, Madam Chairman, for the
23 indulgence.

24 CHAIRMAN OKUN: That's all right, and no
25 apologies necessary. Commissioner Pearson's been a

1 Chairman too and the other day I got a letter
2 addressed to Chairman Deanna Tanner Aranoff. So we
3 all merge. So now it's Commissioner Aranoff.

4 COMMISSIONER ARANOFF: Can someone provide
5 for me, and this may be posthearing, an estimate of
6 the amount of money that APP has spent during the
7 period of investigation investing in the establishment
8 of Eagle Ridge, including salaries, facilities,
9 marketing, whatever else goes into getting that
10 operation up and running?

11 MR. PORTER: Yes, we can do that, but
12 obviously posthearing. Thank you.

13 COMMISSIONER ARANOFF: Absolutely. And the
14 point of that question obviously is to go back to the
15 conversation we were having at the end of my last
16 questioning period, which is if future prospects in
17 this market are as limited as you're trying to argue
18 that they are, what's the thinking that goes into that
19 investment?

20 MR. HUNLEY: Terry Hunley. Eagle Ridge was
21 initially set up as a long term replacement for the
22 Unisource volume that we lost. And it was set up
23 prior to the case being initiated against us. So we
24 thought that over a number of years we would be able
25 to replace our large national distributor with Eagle

1 Ridge, but we were well aware that this was going to
2 take, you know, quite some time.

3 If you look at it, there's really only two
4 national distributors, there is xpedx which is owned
5 by International Paper, and APP and International
6 Paper do not get along well, we do not play well
7 together, so there is very very limited opportunities
8 for us to do business with them. And then there's
9 Unisource, which was taken away from us by NewPage.
10 So we had to have a replacement for that, and there
11 are no others. So we established Eagle Ridge to do
12 that, but as I said we were well aware that that was
13 going to take a very long time to come to fruition.

14 COMMISSIONER ARANOFF: Okay, now if I were
15 the domestic industry I would probably respond to that
16 by saying, well wait a minute here, you lost this big
17 customer, you've said that your prospects for gaining
18 other customers are limited, and you've also told us
19 that, you know, honestly you don't have that much
20 volume to send to the U.S. market because there's
21 better markets out there. Why invest in the U.S. to
22 sell more paper here? Why not just cancel some of the
23 expanded capacity back at home that now you have to
24 sell somewhere?

25 MR. ZHENG: Yeah, I think we were constantly

1 around 8, 9 percent of our total shipment. But by
2 loss of these big account we really lost half of our
3 business. So that strategy is actually to maintain
4 around 8, 9, around 10 percent.

5 MR. HUNLEY: In addition, Eagle Ridge is
6 available to sell other products that APP manufactures
7 as well, so it's not just for coated paper.

8 MR. PORTER: And, Commissioner Aranoff,
9 it's, obviously in the world nothing is black and
10 white. You raise some very good questions, but my
11 sort of response is, APP is a business. They, you
12 know, they want to sell paper in this, for this
13 investigation they want to sell coated paper. What
14 we're talking about really is in the threat context
15 does the evidence suggest there will be a surge, a
16 huge increase that would cause material injury in the
17 future?

18 And we're just saying all the evidence
19 suggests that that's not going to happen. Doesn't
20 mean that APP is going to disappear, it doesn't mean
21 it wants to disappear. It just means we look at
22 everything and the importance of the U.S. market
23 relative to other markets and their difficulty selling
24 here, you don't see the big increase that in other
25 cases the Commission has said is need for a threat

1 determination. That was the whole sort of discussion
2 with Eagle Ridge.

3 COMMISSIONER ARANOFF: Okay. I respect the
4 balancing act that goes into that answer. Mr.
5 Lifshitz, let me turn to you. I know that you
6 answered some questions from my colleagues about this
7 issue of why it's difficult for your company or maybe
8 other Asian companies to have this certification. And
9 I didn't entirely understand your answer, which had to
10 do with something about conversions after 1994. Can
11 you just go back and explain that?

12 MR. LIFSHITZ: Sure. Hi, it's Ian Lifshitz.
13 Essentially one of the bylaws within FSC to obtain FSC
14 certification specifically states that companies that
15 convert plantation forests, which APP does when it
16 harvests its pulp, that's converted after 1994 from
17 natural forest shall not receive FSC certification.
18 So we as a company in Indonesia for example, you know,
19 we're a young company within the foresting and the
20 harvesting industry. In that time we've, you know,
21 converted our plantations after 1994, as a result we
22 can't receive that certification.

23 COMMISSIONER ARANOFF: Okay. Now when
24 Petitioners were testifying earlier today, they
25 suggested that basically the certification just

1 certifies chain of custody, that all you have to be
2 able to do to get the certification is be able to keep
3 good records about where your wood came from. So
4 you're suggesting that that is not in fact true, that
5 there are other sort of broader requirements that
6 apply?

7 MR. LIFSHITZ: It's actually a complicated
8 issue to get FSC certification, there is multiple
9 assessments that has to be accomplished both on the
10 way the wood is harvested, where it's stored, how it's
11 treated, how it's shipped, right from start to finish.
12 So again in order to get chain of custody
13 certification there is third party assessments,
14 environmental assessments et cetera, so it's not as
15 cut and dry as we keep good records of how the
16 material was harvested.

17 COMMISSIONER ARANOFF: Okay. Let me turn --
18 oh, I'm sorry, Mr. Hanscom?

19 MR. HANSCOM: One of the things I think that
20 maybe you're trying to get at is that APP, certain
21 products of APP were FSC certified. And they changed
22 the bylaws, and I don't know exactly what year that
23 was, but they changed the bylaw and a new bylaw came
24 in that said the forest needed to be certified prior
25 to 1994. So that therefore they pulled FSC

1 certification away from all of us. So that's
2 confusing, so because of the bylaw.

3 COMMISSIONER ARANOFF: Okay, okay.

4 MR. ZHENG: This is Rui Zheng, just an
5 additional comment here. That was actually in
6 December 2007, it was published in the press what
7 Andrew mentioned, so there was a so called
8 disassociation. So FSC disassociated with us and we
9 are not allowed to use the logo.

10 COMMISSIONER ARANOFF: Okay. I think I
11 understand that. Let me turn now to the questions I
12 was asking Petitioners' panel about the Lacey Act.
13 Ms. Miller testified that the compliance is no big
14 deal for U.S. and European companies. There's just
15 some paperwork, and it doesn't change the way you do
16 business at all. Well, I don't want to put words in
17 her mouth, but that's sort of my paraphrase. Can you
18 comment?

19 Well, I note in your brief you talked about
20 the Lacey Act was a problem. I wanted to understand a
21 little bit more about why it's a problem, and I wanted
22 to understand a little bit more about whether you
23 think it's a problem now or you predict that it will
24 be a problem in your threat argument in the future
25 because of changes in the regulatory regime that may

1 be upcoming?

2 MR. PORTER: I'll start, Commissioner, and
3 then I'll ask my colleague, Mr. McCullough, to
4 amplify. Your last comment is absolute bingo. That's
5 exactly correct. Essentially, we raised the Lacey Act
6 because what we're seeing is we anticipated this sort
7 of she said, he said about the quantity of FSC-
8 certified. I mean, we're doing our best to get all
9 this information, and we want to say well, it's not
10 just about putting a logo on.

11 There are other things going on in the
12 regulatory regime that quite honestly are putting the
13 fear of God into purchasers, and that is the Lacey
14 Act. I believe you're familiar with the Lacey Act,
15 fundamental changes in the so-called Lacey Act
16 Amendment. Now, it's true that they originally were
17 going to impose this importer declaration on paper
18 products, on wood products and because of the outcry
19 and still some confusion about it, they pulled back on
20 that, but as my colleague explained, the Lacey Act
21 still is in effect.

22 If you violate the Lacey Act provisions, you
23 get criminal sanctions and civil sanctions. We're
24 saying that it's creating an atmosphere to push people
25 to think about the green environmental issues more,

1 and that will enhance FSC certification in the future,
2 which will limit APP's ability to increase their
3 sales.

4 COMMISSIONER ARANOFF: Okay. But right now,
5 APP when it imports a product into the United States
6 is providing the necessary certifications without
7 undue difficulty?

8 MR. PORTER: Yes. The Lacey Act is not
9 preventing APP from shipping their product to the
10 United States now, that is correct.

11 MR. MCCULLOUGH: Commissioner Aranoff, if I
12 could clarify a little bit? The Lacey Act amendments
13 came into effect in 2008 and were effective at
14 enactment. Anyone who's handling products using plant
15 materials is already subject to the Act. If you are
16 not exercising due care in understanding whether or
17 not the products you're bringing in are violating or
18 compliant with both U.S. and foreign laws, you run the
19 risk of getting into trouble both in terms of civil
20 penalties or criminal penalties.

21 There is a separate component to this, which
22 is the importer declaration, which for paper has not
23 come into effect yet, but that does not mean that the
24 Lacey Act doesn't already apply to anyone bringing in
25 paper products. It will be enhanced moving forward,

1 but it's already effective now.

2 MR. PORTER: I know your time is up. Can I
3 have 10 more seconds, Commissioner Aranoff?

4 COMMISSIONER ARANOFF: I'll ask the
5 indulgence of the Chairman.

6 CHAIRMAN OKUN: Okay.

7 MR. PORTER: Thank you. Just with respect
8 to Petitioner's comment about European countries well,
9 yes. If you look at what's going on in the world,
10 Indonesia and China were sort of cited for the reason
11 that the Lacey Act was applied in the first place to
12 wood products. Indonesia and China unfortunately have
13 a reputation of not being particularly good with
14 illegal logging, and that's a fact that's out there,
15 and that fact contributes to the climate that APP is
16 operating under.

17 CHAIRMAN OKUN: Before turning to
18 Commissioner Williamson, I understand that we have our
19 last Congressional witness.

20 MS. ABBOTT: Yes, Madam Chairman. The
21 Honorable Al Franken, United States Senator,
22 Minnesota.

23 CHAIRMAN OKUN: Good evening, Senator.

24 MR. FRANKEN: Good evening. Thanks for
25 letting me come back to testify. I was here a little

1 earlier, but we had a vote, and Senator Rockefeller
2 had a lot to share. Thank you for this opportunity
3 once again to testify. As you know, I represent the
4 state of Minnesota, and my concern in this case is
5 that Minnesotans have been affected by dumped and
6 subsidized imports of paper products. The outcome of
7 this case will have a significant impact on Minnesota
8 businesses and workers and their families.

9 Both NewPage and Sappi have significant
10 operations in Minnesota. NewPage's pulp and paper
11 mill is located in Duluth. It's very efficient and
12 includes a recycled pump mill that recycles almost one
13 million pounds of recovered paper every day. Sappi's
14 mill is in Cloquet and has been in operation since
15 1898. It's an outstanding integrated mill that
16 supports the livelihoods of hundreds of workers and
17 their families.

18 I'm here to support the anti-dumping and
19 countervailing duty petitions with respect to the
20 coated paper from China and Indonesia. I've heard
21 concerns about unfair imports from my constituents,
22 and the Commission has made a preliminary
23 determination that the domestic industry is in fact
24 materially injured by reason of these imports from
25 China and Indonesia.

1 At the time the petitions were filed, the
2 Minnesota mills and those in other states were
3 negatively affected by imports from China and
4 Indonesia, and my understanding is that they continue
5 to be negatively affected. That is no surprise.
6 Available information on sales volume and depressed
7 prices shows clearly that it hasn't been a good period
8 for our paper producers and their workers, and the
9 record suggests why.

10 Your own preliminary report found that U.S.
11 imports from China increased by over 40 percent from
12 the first half of 2008 to the first half of 2009.
13 Those are stunning numbers. Indonesian imports had
14 increased in an earlier phase before decreasing during
15 that 2008 to 2009 period. Meanwhile, as your
16 preliminary report notes as well, there was downward
17 pressure on prices in the domestic industry. Such
18 pressure has very real affects in Minnesota and
19 elsewhere. NewPage and Sappi have already shut down
20 mills in other states which did not stop prices from
21 dropping.

22 Lower prices have also affected capital
23 investment, which in turn harms businesses over the
24 long term. Sappi, for instance, has had to forego its
25 planned addition of a new paper machine at the Cloquet

1 mill. That machine would have been run on clean,
2 natural gas, and scrapping it means the loss of jobs
3 that could have been there for the operators in these
4 tough economic times.

5 No doubt there may be other factors at work
6 aside from dumping and subsidized imports and the
7 declines in demand for coated paper, including of
8 course the economic recession and the ongoing
9 development of the internet, but those do not change
10 the fundamental question of whether there is injury by
11 reason of the imports. As your preliminary
12 determination found, even as U.S. consumption
13 declined, it appears the volume of subject imports
14 increased significantly into 2009 as did the imports
15 market share here in the United States.

16 Similarly, downward pressure on prices may
17 come from several sources, but that is not to deny
18 that such affects have clearly resulted from the
19 dumped and subsidized imports from China and
20 Indonesia. Economic opportunity for American workers
21 and a fair, competitive environment for our businesses
22 depends on the proper enforcement of our laws. Anti-
23 dumping and countervailing duty laws exist for good
24 reason.

25 I understand that some people may fear a

1 trade war with China in particular if China retaliates
2 against possible action by the U.S. China is also a
3 significant market for our paper producers, but fair
4 is fair, and it ultimately serves no one's interest to
5 shy away from ensuring fair trading practices. I
6 strongly believe that our businesses can compete with
7 those in any other country if there's a level playing
8 field, so let's make sure that we're playing on a
9 level playing field.

10 I appreciate your determination to follow
11 the facts, and I thank you again for the opportunity
12 to testify. Thank you all very much.

13 CHAIRMAN OKUN: Thank you, Senator, and
14 thank you for taking the effort to make it here twice.
15 I'm sorry? Senator?

16 COMMISSIONER PEARSON: Senator, if I may?

17 CHAIRMAN OKUN: Not that you're here, we may
18 as well keep you here.

19 MR. FRANKEN: Now it's my third time here.

20 COMMISSIONER PEARSON: It's my custom to
21 greet fellow Minnesotans, and so I wanted to do that,
22 and if I may?

23 MR. FRANKEN: Well, then you know where
24 Cloquet is.

25 COMMISSIONER PEARSON: I came through

1 Cloquet on September 5 on Highway 33 coming south from
2 fishing, so yes, I've been there quite often.

3 MR. FRANKEN: Fish?

4 COMMISSIONER PEARSON: Yes.

5 MR. FRANKEN: In Minnesota?

6 COMMISSIONER PEARSON: No. Technically, I
7 was north of the border in Ontario, Quetico Provincial
8 Park.

9 MR. FRANKEN: I've been in Quetico. It's
10 beautiful. It's in the boundary waters area. It's
11 north.

12 COMMISSIONER PEARSON: Yes. We did find
13 some walleyes, but I told that story earlier for
14 Congressman Oberstar.

15 MR. FRANKEN: Yes. Why? Why did you tell
16 that earlier? It has nothing to do with --

17 COMMISSIONER PEARSON: I thought that
18 Congressman Oberstar didn't understand the supply and
19 demand balance in the walleye market, and I had to
20 explain to him that the supply of walleyes had been
21 not as great as the demand, and so we were
22 disappointed in that, but in the small mouth market,
23 the demand was really abundant.

24 MR. FRANKEN: Gosh. I'm not an economist.

25 COMMISSIONER PEARSON: I'm not much of a

1 fisherman, but we caught some anyway, but I just
2 wanted to note so that you don't feel slighted that
3 when Senator Klobuchar was here, I indicated that this
4 was the first time in my tenure that there had been
5 two members of Congress from Minnesota at the same
6 hearing. Now you're here, and you've made it three,
7 and I wanted to thank you for that and also to note
8 that we saved you a prime-time, late evening slot.

9 MR. FRANKEN: I appreciate that.

10 COMMISSIONER PEARSON: Come back again.

11 MR. FRANKEN: I'm very honored to have
12 appeared in this special time slot. Thank you all.

13 CHAIRMAN OKUN: And thank you, Senator. No
14 more fish stories. Commissioner Williamson, do you
15 have questions?

16 COMMISSIONER WILLIAMSON: I can't follow
17 that. Okay. I just want to go back. I'm glad the
18 FSC sign is still up there. Just a couple of
19 clarifications. I understand if you're sourcing the
20 wood for your plants in Indonesia from Indonesian
21 forests, that's a problem, but if the wood is coming
22 into China, a lot of the pulp is being imported from
23 Brazil and places like that, why isn't it possible to
24 import pulp and follow all the rules and regulations
25 to get the FSC certification for exports?

1 MR. LIFSHITZ: Hi. It's Ian Lifshitz again.
2 To receive FSC certification, you have to be the
3 entire process, so yes, we can import FSC pulp, but
4 the pulp that we mix with it to produce our paper is
5 not FSC-certified. It has to be 100 percent FSC
6 certified pulp, and the entire process of making the
7 paper has to be verified by FSC.

8 COMMISSIONER WILLIAMSON: So you're saying
9 it's uneconomic to do that?

10 MR. ZHENG: Let me answer these questions,
11 okay?

12 MR. LIFSHITZ: Okay.

13 MR. ZHENG: Because I was actually tending
14 the situation, I was negotiating with FSC. I flew to
15 the FSC headquarter in 2007. Actually, the APP
16 Chinese mill got FSC COC certified exactly like you
17 described. We are able to purchase FSC pulp, and we
18 are following the standard with 100 percent
19 compliance, but there was some political decision
20 inside FSC. They say because APP Indonesia has bad
21 reputation, APP China we don't want our name linked
22 with APP, so that was the main reason, so APP
23 technically we are certified by independent
24 certification body.

25 In the certification database, we are still

1 present, so they cannot cancel our certification, so
2 our status is just suspended because they say you
3 cannot use our name. You cannot use our logo. That's
4 our right, so that was FSC's one cite deficient.
5 There was a lot of mistaking around that, so that's
6 the situation even when we are 100 percent in
7 compliance with, we have today no possibility. Even
8 we buy 100 percent FSC pulp we cannot label our
9 product with FSC logo.

10 COMMISSIONER WILLIAMSON: Unless you're able
11 to get FSC changed.

12 MR. ZHENG: Unless you can move the FSC
13 Board to agree they -- the litigation, this other
14 Asian policy.

15 MR. LIFSHITZ: It would require FSC Board to
16 change their bylaws to let that happen.

17 COMMISSIONER WILLIAMSON: Okay. Since this
18 hearing is not really about FSC, I won't go into more
19 questions. I haven't had a lot of experience in
20 international organizations. I've been wondering
21 about this, but at least I have a better understanding
22 of it.

23 MR. LIFSHITZ: Thank you.

24 COMMISSIONER WILLIAMSON: I just had one
25 other question. I guess it's been asserted that the

1 growing Chinese market will provide a ready outlet for
2 Chinese production, but I was just saying taking a
3 look at the Table 272, it really doesn't show any
4 increase in home-market shipments from '07 to '09 or
5 between '09 and the first half of '09 and the first
6 half of 2010, and I was just wondering how do you
7 square that assertion about the growing Chinese demand
8 with the data?

9 I mean, I guess in the U.S. you think with
10 media and all that, the prospects for what's happening
11 with demand in the U.S. and the reasons why the threat
12 from alternative media and things like that, which I
13 assume would be also happening in places like China,
14 what's the basis for saying that all this increased
15 production is going to be used in the home market?

16 MR. ZHENG: Actually, we are very confident
17 like I lay out in my testimony. Firstly, also the
18 Petitioner this morning mentioned that the net
19 increase of new consumption in Asia surrounding China
20 with over 600,000 homes, and we forgot the old Asia
21 imports was over 20 percent from known Asian exporters
22 to Asia, and because we believe we are very close to
23 the Asian market like our competitor here in U.S.,
24 they have competitive advantage here in U.S. over us.

25 We have the same situation because it's like

1 our home market. It's very close. We have shorter
2 time. We have lower freight cost, so we will be able
3 to go after these 20 percent more or less slowly from
4 the known Asian exporters.

5 COMMISSIONER WILLIAMSON: Is that in the
6 Chinese home market, or is that just in the Asian
7 market?

8 MR. ZHENG: Surrounding China, which like
9 Vietnam, for example, they have no coated free sheet,
10 Laos, Cambodia and Thailand has not enough, India, who
11 is very fast-growing. You have also far less capacity
12 than they need that demand helps the oldest because we
13 are much shorter than European and most American
14 producers in that Asian market, so it's not a home
15 market, but it's very close to us. It's just next
16 door.

17 MR. PORTER: Commissioner, can I make just
18 an additional point?

19 COMMISSIONER WILLIAMSON: Yes, please.

20 MR. PORTER: With respect to the Chinese
21 market, I think we have a bit of an evidence issue,
22 and it goes as follows: When you're looking at the
23 U.S. market, and assuming, which actually I'm not so
24 sure it's here, but assuming you have very good
25 coverage in your questionnaire of all U.S. producers,

1 you can look at shipment data for the United States
2 and make some assumption one way or the other about
3 growing demand in consumption.

4 In what we have the questionnaire data is we
5 have excellent, excellent coverage for those exporters
6 who have historically shipped to the United States.
7 We virtually have them all. We also have excellent
8 coverage about those producers who have increased
9 capacity recently, but needless to say, there are a
10 lot of Chinese producers that only produce and sell in
11 China, and so if they've got a question, they probably
12 don't understand it, and so you don't have that.

13 What we've done then is to say because the
14 questionnaire data itself about the Chinese market may
15 not be as robust, we look to other sources of data
16 that show a very significant increase in demand for
17 Chinese-coated paper, and one of the things that Zheng
18 Rui said a little bit earlier, the reason for the
19 optimistic growth is because presently per capita,
20 Chinese consumption of coated paper is dramatically
21 less than it is in industrial countries, so while you
22 have some decline in industrial countries, you're
23 having dramatic increase in China. That's the reason
24 for the optimism.

25 COMMISSIONER WILLIAMSON: I'm tempted to say

1 I hope they don't get flooded with the same amount of
2 junk mail we've been getting. But that's not the
3 subject of this hearing. I'm sorry, Mr. Durling?

4 MR. DURLING: Just one additional point,
5 Commissioner Williamson. Again, just looking at Table
6 7-2, I think what's important is not just to focus on
7 China, I mean obviously we have data on China but to
8 look at the strong growth to Asia and the strong
9 growth to all other markets. In other words, what's
10 stable is exports to the U.S. have been relatively
11 stable, and at least during this period of time,
12 shipments in China were stable, but there was
13 significant growth to non-U.S. export markets, and
14 that's a big part of our argument. There are markets
15 in Asia. There are other markets where there are no
16 domestic producers with paper, and there are a lot of
17 opportunities, and that's where a lot of the growth is
18 going to come.

19 In addition to that, there's very strong
20 prospects in China, and I would just call your
21 attention to a very key point from Rui's testimony,
22 which is think about paper consumption on a per capita
23 basis. Right now, the U.S. is at about 300. China is
24 at 60. Then think about the size of the Chinese
25 population and imagine even just a small increase in

1 the per capita consumption. It's easy to see why
2 there are very aggressive prospects in the Chinese
3 market.

4 MR. ZHENG: Zheng Rui again. I would like
5 to comment. I remember there was a case 2006, 2007
6 case when we were here. We prepared a market, and at
7 that time China perhaps consumed 45 kilos. Now, two
8 years later we already have 60 kilos, so I think just
9 at two more other year it will be at 70 kilos or 75
10 kilograms. It's a very huge increase, big potential.

11 COMMISSIONER WILLIAMSON: Okay. Okay.
12 Thank you very much for those answers, and I have no
13 further questions. Thank you.

14 CHAIRMAN OKUN: Commissioner Pinkert?

15 COMMISSIONER PINKERT: Thank you, Madam
16 Chairman. I have a few more questions. Is there
17 record evidence that the prices of the non-subject
18 imports are comparable to the prices of the subject
19 imports?

20 MR. DURLING: This is Jim Durling,
21 Commissioner Pinkert. The questionnaire data on non-
22 subject imports is a lot less complete and a lot
23 spottier, and to be honest, some of it, it's kind of
24 hard to make sense out of. I think a particularly
25 good example of the ability of non-subject imports to

1 be available essentially at the same price point, you
2 can see it in the email traffic between xpedx and Sun
3 because xpedx is basically talking specifically about
4 certain Korean suppliers offering very attractive
5 prices that are kind of in the same range as everyone
6 else, so you have that.

7 What I like about that piece of record
8 evidence is that it's at the key period of time that
9 we're interested in, and it's the merchant basically
10 using kind of the relationship the merchant has with
11 different import sources and how that's all playing
12 out, so you can see the Koreans very much in the thick
13 of things with prices that are completely competitive
14 with other Asian suppliers during this period of time.

15 The other evidence that's not price
16 specific, but we'll try to supplement the record on
17 this, the other evidence is just kind of looking at
18 what's been happening in the market. Well, think of
19 it this way. When you have the non-subject
20 substitution on the massive scale that we've had, if
21 it wasn't substituting at about the same price as the
22 subject imports they were chasing away, we would have
23 expected to see some significant changes in the market
24 prices.

25 The combination of two facts that prices

1 have remained relatively constant, and you have a huge
2 volume shift suggests pretty strongly to me that most
3 of that is substituting in at roughly comparable
4 prices. Otherwise, the record evidence doesn't make
5 sense, but we'll try to supplement on that specific
6 issue as well.

7 COMMISSIONER PINKERT: Thank you. Now, one
8 other question related to evidence. Do we have a
9 business plan that shows how Eagle Ridge Distributors
10 are likely to expand or stay the same or contract in
11 the imminent future?

12 MR. PORTER: Yes. In their questionnaire
13 response, Eagle Ridge provided both historical and
14 what the business plan shows for the next I believe
15 two years or possibly more. It's in the questionnaire
16 response.

17 COMMISSIONER PINKERT: Thank you, and
18 finally, I don't know who on the panel can answer this
19 last question, but do you believe that the U.S. market
20 is changing in a structural manner away from printed
21 media? In other words, it's not just a gradual
22 decline, but a reason structural shift in the needs of
23 the end users?

24 MR. HARRIS: Ken Harris. I believe this is
25 true. I believe it is very true with regards to very

1 specific products. When we look at products being of
2 higher-quality No. 1, or premium No. 1, No. 2, I think
3 this is where we're seeing the drop in demand, and the
4 reason being is that for the annual reports that were
5 discussed earlier, that it's usually a higher-value
6 grade, they want the best possible reproduction of
7 photographs for their CEOs and to show that the
8 corporation is a solid company, and they want it
9 glossy, and they want it to look nice.

10 You don't want that in a recession
11 necessarily, and at the same time, you can now post
12 your results on your website, and there is no need to
13 have your investors have a printed document within a
14 certain period of time, so this has taken a lot of
15 tons out of the premium No. 1 market.

16 MR. PORTER: Commissioner Pinkert, though I
17 must add it's hard to generalize. I'm going to ask
18 Mark Dragoo to comment about the paperboard sort of
19 segment of the market because I believe it's not
20 showing the same sort of trends. Mark, could you
21 comment about where you see future demand for
22 paperboard for packaging?

23 MR. DRAGOO: This is Mark Dragoo. In the
24 paperboard side of things, you see the packaging side
25 of it continuing to grow most definitely. I mean,

1 it's expanding. Well, just the graphic side of it is
2 taking over. People are printing more and more
3 higher-end graphics on it to attract more business to
4 it. Smaller type of runs, private branded types of
5 material you find being more and more coming into the
6 market like on the paperboard side, so it's growing,
7 or it's busier, if you will.

8 You'll also find on the bristle boards or
9 the lighter caliper type of stuff, you will find
10 smaller type of runs for people that are doing direct
11 mail-type of information, the stuff that you get in
12 the post office every single day. We do a lot of
13 that, so it's changing away from catalogs to postcards
14 a lot more.

15 COMMISSIONER PINKERT: Mr. Hanscom?

16 MR. HANSCOM: Yes. Along Mark's comment
17 about catalogs, yes. Clearly, I know it's hard to
18 believe maybe sometime around the holidays that we
19 have mailboxes full of catalogs, but that part of the
20 marketplace has just fallen off the cliff along with
21 magazines. If you look at the number of magazine
22 publishers that are closing and condensing and
23 eliminating titles.

24 Ad pages, you don't see the thickness of
25 those magazines anymore, so the page count is down

1 significantly. That's all significant tonnage when
2 you think of the level of printing, and you look at
3 the iPad and what that is doing right now and where
4 that potentially is going to go. That's making
5 significant changes, but on the packaging side, you
6 just see that moving in a different direction.

7 To his point, catalogers aren't mailing
8 multi-page catalogs. They're sending a nine-point
9 direct mail flier calling to action to get you to go
10 onto their website, and then therefore that's where
11 they're dying, so you have a huge decline in that web
12 marketplace, but you are having an increase in the
13 board side or the single mailing pieces.

14 MR. PORTER: Commissioner Pinkert?

15 COMMISSIONER PINKERT: Mr. Porter?

16 MR. PORTER: With your permission, what we'd
17 like to do is to take all of this in the post-hearing
18 brief and respond to your question about how different
19 trends in demand, long-term trends in demand for the
20 different segments of the market, how the Commission
21 should analyze for the purposes of this case.

22 COMMISSIONER PINKERT: It would be very
23 helpful. Thank you. Mr. Zheng, do you have a comment
24 on this issue?

25 MR. ZHENG: Yes. I think the electronic age

1 will affect printing and writing sectors sooner and
2 later, but how exactly? I think if you ask around in
3 the industry, it's more than speculation. I have been
4 in many events and symposiums people talking about
5 actually paperless office already in the early 2000s,
6 but it's not happening right, and I also still receive
7 a coated-paper worldwide. In total it's still
8 growing, and then there was a lot of discussion why
9 this is happening, so it's more or less speculating.
10 I'm certain I will save my comments for that.

11 MR. PORTER: Commissioner Pinkert, I'd note
12 for the record that we have not reduced the size of
13 our prehearing briefs.

14 COMMISSIONER PINKERT: Just to clarify for
15 the post-hearing, Mr. Porter, the focus here is on the
16 U.S. market, the structural changes.

17 MR. PORTER: Yes, absolutely.

18 COMMISSIONER PINKERT: Okay. Thank you.
19 And with that, I have no further questions. I thank
20 the panel. We didn't go quite as late as some people
21 predicted, but still, it's commendable that you stuck
22 through the hearing, so thank you very much.

23 CHAIRMAN OKUN: I think I just have a couple
24 of things left. First, I know that in your pre-
25 hearing brief you did spend a fair amount of time on

1 the commerce scope determination, possibilities, so
2 just such for purposes of completeness of the record
3 for post-hearing to make the same request I made of
4 Petitioners which is in particular to provide your
5 methodologies once we get that scope determination
6 both for the share of imports with the new HTS
7 numbers, if that's the finding, and also for total
8 non-subject imports for negligibility.

9 MR. PORTER: Of course.

10 CHAIRMAN OKUN: Okay. And then perhaps just
11 a followup on Commissioner Pinkert's question and your
12 post-hearing response, which is if you can talk about
13 that structural change and what that means for price
14 competition in the market for products, so I'd make
15 that request post-hearing. I'm trying to think of a
16 way to put that question because I guess in response
17 to some of the earlier questions about what you
18 produce like the premium product the 1 versus 3 or the
19 1 versus 2 and 3.

20 I'm still trying to sort through what our
21 record says about the price effect of subject imports
22 among the different products, and if there's a couple
23 of things you wanted to add now, I would look into
24 that. I know you talked about the lost sales, lost
25 revenue information as being you could look at it a

1 different, and obviously we'll look at what you say
2 post-hearing, and I'll go back to who the specific
3 customers are, but I think I was reading it in this
4 particular case thinking that it did lend credence to
5 the idea that it's not such an attenuated market if
6 that's what we're hearing and seeing.

7 Again, please address that, and you can do
8 so now but also post-hearing just to make sure I'm not
9 taking the wrong impression from that.

10 MR. PORTER: Let me start, Commissioner
11 Okun. I guess I ask my colleagues to join in. We try
12 hard not to overstate our argument. Sometimes, we're
13 not as successful.

14 CHAIRMAN OKUN: You mean to settle for --

15 MR. PORTER: Yes. Well, when we make
16 attenuated competition arguments, with all due
17 respect, it's in response to Petitioner's theory that
18 100 percent substitution and every ton sold by subject
19 imports is a ton that they would have produced, could
20 have produced and didn't produce, so they're, if you
21 will, starting with perhaps an unreasonable thing, and
22 we're sort of reacting, so we just want to say that's
23 not true. Let me tell you about competition in some
24 respects is attenuated.

25 What we're going to do on this demand is

1 also to try to relate it back to the products that
2 we're talking about, and one of the things again that
3 we highlighted is that when you're looking at these
4 demand trends, and you're talking about the catalogs,
5 and some of the other, that's for web rolls, and again
6 if demand is falling off a cliff for the product, if
7 you adhere to your preliminary determination for a
8 separate like product produced by the domestic
9 industries, well, that's a factor that you just need
10 to reconsider.

11 That's what we're saying, and so we're going
12 to try to do it to say okay, here is where we have
13 different demand trends, and here is how it affects
14 the products that you're looking at.

15 CHAIRMAN OKUN: Okay. And it's that latter
16 point that I'm still trying to make sure I understood
17 the argument within --

18 MR. PORTER: Right. I'm sorry. Then the
19 answer your very specific question is we're going to
20 try to give you more data with the products at issue,
21 not the web rolls, the very sort of sheets or at least
22 the grades, the data that shows the difference in
23 pricing and shipments for Grade 1 versus Grade 3,
24 which is where the subject imports are at.

25 CHAIRMAN OKUN: Okay. And how that relates

1 to the customers?

2 MR. PORTER: Yes, of course.

3 CHAIRMAN OKUN: Okay. That would be great.
4 With that, I don't believe I have any other questions.
5 Let me turn to Commissioner Lane.

6 COMMISSIONER LANE: I just have one
7 question. The black liquor tax credit, was that just
8 for the year 2009, or is it a recurring tax credit?

9 MR. PORTER: I'm pretty sure it ended
10 effective December 31, 2009. I believe that there is
11 another tax credit that is out there, but that's what
12 I call a real tax credit. You only can use it to
13 offset income, whereas the reason why black liquor was
14 so important, it was cash from Uncle Sam. Whether you
15 made money or lost money, as long as you produced the
16 pulp, you got a check from Uncle Sam. The new tax
17 credit that's talked about in the industry is just
18 simply you can offset taxable income, but I would like
19 to address that more in post-hearing after we get some
20 more information on that.

21 COMMISSIONER LANE: So it's more than a tax
22 credit. It was actual rebate?

23 MR. PORTER: Absolutely.

24 MR. DURLING: Yes, yes. This is Jim
25 Durling, Commissioner Lane.

1 COMMISSIONER LANE: Yes.

2 MR. DURLING: That's part of what made this
3 event such a big deal in the industry because normally
4 a tax credit isn't a check from Uncle Sam, but this
5 was an unusual tax credit, and that's why it was such
6 a major event in the industry, and frankly it's why
7 there's so much discussion of it in the public filings
8 by those companies that are publicly traded. I mean,
9 it became an obligatory part of the quarterly
10 disclosures. They talk it about it in their 10-Ks and
11 their 10-Qs. It was a really, really big deal because
12 it literally was a check from Uncle Sam.

13 COMMISSIONER LANE: Dare I ask where this
14 came from?

15 MR. DURLING: You mean the law?

16 COMMISSIONER LANE: Yes.

17 MR. DURLING: Some clever tax attorney
18 figured out that you could actually qualify for a kind
19 of biodiesel tax credit by essentially taking existing
20 black liquor, the waste product coming out of the pulp
21 production process, you add a little bit of diesel, so
22 the irony is you take a purely organic process, you
23 add the fossil fuel, and all of a sudden you have a
24 qualifying biofuel, and you could then claim the tax
25 credit.

1 It wasn't the intent of the writers of the
2 credit at the time. This isn't the way it was
3 intended, and again, that's why it was rather
4 controversial in the industry because it was a
5 massive, massive, hundreds and hundreds of millions of
6 dollars were paid out, billions of dollars paid out by
7 the U.S. government for something that wasn't really
8 intended, and it all went to these guys.

9 MR. HUNLEY: This is Terry Hunley. It was
10 actually, as Jim said, a clever accountant, but
11 essentially, if I remember correctly, it was in one of
12 the transportation acts, and it was to help people
13 that were using diesel fuel to replace part of that
14 with biomass. Now, the clever accountant and the U.S.
15 paper industry took their biomass and actually added
16 diesel to it, and the government certified that as
17 being the same thing, and they were able to get those
18 subsidies.

19 MR. ZHENG: Sorry. Zheng Rui. I remember I
20 have read article in the Washington Post or somewhere,
21 it was Maryland Senator?

22 MR. HUNLEY: Senator Kerry.

23 MR. ZHENG: Kerry of --

24 MR. HUNLEY: Massachusetts.

25 MR. ZHENG: Yes, was against that and then

1 was saying they want to keep the money for the health
2 bill or something. That was last year news, we can
3 probably find that article.

4 MR. HANSCOM: But I think originally the
5 credit was set aside to be less than \$100 million and
6 then after the paper industry discovered how they
7 could back into it the payout for all of 2009 was
8 estimated somewhere around \$9 billion of taxpayers
9 money.

10 COMMISSIONER LANE: Okay, so it's a tax
11 rebate or credit or whatever that came from the United
12 States government to these companies, but the bottom
13 line still is that the cost of production, they don't
14 really figure this tax rebate into their cost of
15 production or their selling price. I mean somehow or
16 other that is separate and it doesn't really figure
17 into what it costs to produce the product or in
18 figuring out their margins when they sell it?

19 MR. PORTER: Honestly, Commissioner Lane, we
20 believe it should be part of that analysis, and the
21 Commission staff has done a good job as Mr. Durling
22 explained earlier, of getting the actual amount,
23 because they obviously produce pulp for a variety of
24 products, getting the actual amount of the Black
25 Liquor subsidy that is attributed to the very product.

1 So we have that information. The question is, what
2 should the Commission do with it in its analysis.

3 Now we have two slides. One slide here is,
4 they themselves are saying, they are telling the
5 investment community, look it, we've got all these
6 dollars and we're considering to either an offset of a
7 price decline or cost. And so that's why, go back to
8 the other slide where we have the thing, we think you
9 should include it in the calculation of operating
10 profit. It is part of operations, it's a whole bunch
11 of money that they have, and we think when you're
12 analyzing the performance, the operating performance
13 of the industry, you need to account for it. And you
14 have it but obviously the question is, you know, what
15 you do with it.

16 COMMISSIONER LANE: Okay, Mr. Porter, I want
17 to ask one more question and I sort of feel like I'm
18 getting too tired and I should be quiet, but I'll ask
19 you. First you say that the credit goes, was passed
20 on to the customers, and now you're saying it ought to
21 be used to beef up their bottom line. Are these
22 inconsistent?

23 MR. DURLING: No. Commissioner Lane, let me
24 tackle that one. What we're saying is, because of
25 this change in 2009, this kind of quirk in the tax

1 law, they now had a tremendous economic incentive to
2 lower the price, you know, if they were otherwise
3 going to sell their paper for \$100 they can think to
4 themselves, okay if I sell the paper for \$100 and I
5 don't get the sale then I don't get the \$100 and
6 that's not a good thing. I can cut my price to \$90,
7 if that allows me to sell the paper to produce the ton
8 to get the tax credit.

9 I may lower my price from \$100 to \$90, but
10 if Uncle Sam's going to write me a check for \$8 or \$9,
11 that is a significant offset. As it turns out, when
12 you look at the net result, all right, the net result
13 of prices going down for whatever set of reasons but
14 extra cash coming into the company because of this
15 payment, the net effect is they actually did better
16 with lower prices and the Black Liquor Credit than
17 they did straight up before the tax credit was in
18 place. That's the whole point of this slide, right?

19 Before the Black Liquor Tax Credit their
20 operating income was about 6 and a half percent. Yeah
21 prices went down in '09, but the price decline was
22 more than offset by direct cash payments from the U.S.
23 government, variable cost, you know, variable payments
24 because it was based on the tonnage they were
25 producing. And this is the amount allocated to this

1 subject merchandise that the Commission is looking at.

2 And these amounts are just for the handful
3 of companies that have given you the data. I mean who
4 knows how much more they would have gotten and how
5 much taller these bar graphs would have been if we
6 actually had complete data from all the people who
7 received Black Liquor Credit associated with their
8 production of subject merchandise during the period.
9 As amazing as that 12.2 percent number is, that's
10 conservative.

11 COMMISSIONER LANE: Okay, thank you. Thank
12 you, Madame Chair.

13 CHAIRMAN OKUN: Let me see if there are
14 other questions. Commissioner Pearson?

15 COMMISSIONER PEARSON: One issue that I
16 think will be quite quick. Does APP have the ability
17 to produce grade 1 paper, high brightness high quality
18 paper?

19 MR. ZHENG: I think not yet at this moment.

20 COMMISSIONER PEARSON: Okay, so the company
21 in none of its plants really is producing the highest
22 grade of coated paper now?

23 MR. ZHENG: Not yet.

24 COMMISSIONER PEARSON: Okay, thank you,
25 that's all I wanted to know. Thank you, Madam

1 Chairman, and let me express my appreciation to the
2 panel for your continued participation throughout the
3 day.

4 COMMISSIONER ARANOFF: Any other questions
5 from my colleagues?

6 (No response.)

7 COMMISSIONER ARANOFF: Let me turn to staff
8 to see if staff has questions of this panel?

9 MR. CASSISE: Chris Cassise, Office of
10 Investigations. Madam Chairman, the staff has no
11 questions.

12 COMMISSIONER ARANOFF: Do counsel for the
13 Petitioners have questions for this panel?

14 MR. STEWART: No questions, Madam Chairman.

15 CHAIRMAN OKUN: All right, well before we
16 turn to our closing let me take this opportunity to
17 again thank all of you for being here, for your
18 answering our many questions and staying with it into
19 the evening. And again we very much appreciate your
20 participation, look forward to the posthearing briefs.
21 And now we'll just take a couple of moments to prepare
22 for the closing statements and I'll go through the
23 time remaining.

24 (Discussion was held off the record.)

25 CHAIRMAN OKUN: Time remaining, Petitioners

1 have 5 minutes total for the closing. Respondents
2 will have a total of 9 minutes, that's 5 for closing
3 and 4 from their direct. And I see that Mr. Kaplan is
4 up here and ready to go, you can proceed.

5 MR. GILBERT KAPLAN: Thank you very much,
6 Madam Chairman and members of the Commission, and
7 thank you for the time you've taken today to listen to
8 this case. I'd like to make a few brief points. I
9 know the hour is late and I don't have much time. How
10 did the Respondents, how did they get to 24 percent of
11 the U.S. market, 21.7 percent in 2009? If you listen
12 to their case it's obviously because of the Lacey Act,
13 Black Liquor, and falling demand. They haven't
14 attributed any of this change to anything else that
15 has gone on in the last few years.

16 Let me turn very briefly to like product.
17 Commissioner Aranoff, you suggested that it's a he
18 said she said situation. I'd just point out that it's
19 really a he said he said situation because Mr. Hunley
20 admitted himself at the staff conference that sheet
21 fed toted product assuming you are using sheeter rolls
22 is typically not suitable for web roll usage due to
23 temperature requirements for heat set web printing,
24 the paper would blister and fail. That's on page 132.

25 And then on page 188 he says "But in general

1 most printers tend to be web printers, sheet fed
2 printers. There are a few in the middle but it's not
3 the majority of printers." Says Commissioner Roth-
4 Roffy, "So do you know for those that have a dual
5 capability whether or not they use the web rolls,
6 split them up, and put it in their sheet fed or just
7 sheet fed goes into their sheet fed presses?" Mr.
8 Hunley, "I would say in general they would use web
9 rolls on their web presses and sheets in their sheet
10 presses." And this is on page 188.

11 And there was talk about a machine that you
12 can use to sheet right on the end of a press, but as
13 we testified in our part of the hearing, that's
14 sheeter roll that's being sheeted, not web roll, so
15 that doesn't really contradict anything we've been
16 talking about. And Mr. Porter's review of machines
17 won't tell you anything because that's sheeter roll.
18 There was also a question that Commissioner Pinkert
19 asked about the price levels of other imports.

20 If you look at table 4-2 in the public staff
21 report you'll see that for example in 2009 all others
22 had a unit value of \$1,014 while the subject imports
23 had a unit value of \$840. I would also say that the
24 Respondents talked briefly about the Petitioners being
25 price leaders. Well what the public staff report says

1 at page 5-5 is the Petitioners are typically first in
2 announcing price increases, not in announcing price
3 decreases.

4 There's also one other misstatement by the
5 Respondents. They say, and they like to quote this
6 quote from NewPage about how they used the tax credit
7 to lower prices, this is on page 51 of their
8 prehearing brief. They say "We believe that the
9 majority of the industry benefits from this
10 alternative fuel mixture tax credit has now been
11 passed on to our customers in the form of price
12 reductions." But that's a misquote.

13 The misquote which occurs also in their
14 brief at exhibit 6 on page 4, they leave out the word
15 "Unfortunately, we believe that the majority of the
16 industry benefit has been passed on," the implication
17 there being it's because of the low prices. And
18 that's exactly what chart 23 shows. It shows --
19 rather chart 22 -- it shows that they led the prices
20 down, that's what happened here.

21 They like to say, something else is
22 happening, it's not really that we led the prices
23 down. In the 337 area, which I know you're aware of,
24 that's what you call lawyer argument. There is no
25 economic analysis would show something else has

1 happened. What happened is they led the prices down
2 and then in 2009 we were forced to lower our prices to
3 keep any kind of market share, and that's when we went
4 into a total operating loss position.

5 You could say, well there is no showing, how
6 do you know that's what really happened? You'd have
7 to go out and ask the customers who was leading the
8 price down. Well that's exactly what your staff did.
9 You did go out and ask the customers who was leading
10 the price down, and they said over and over again as
11 you said, Commissioner Pearson, U.S. producers have
12 reduced their prices in order to compete with the
13 subject imports. "U.S. producers have reduced their
14 prices in order to compete with imports from China,"
15 this is at page 5 of our prehearing brief.

16 So what happened when that occurred was that
17 in 2009 we went from a operating profit of \$80 million
18 to an operating loss of \$6.8 million. So let me just
19 conclude. What you have here is an industry that is
20 suffering injury as a result of a surge of low priced
21 dumped and subsidized imports. Domestic industry
22 operating income plunged from \$106 million in 2007 to
23 operating losses of \$7 million in 2009 and \$11 million
24 in the first half of 2009. And the cause of the
25 industry's decline is clear. True underselling

1 subject imports have gained significant market share.

2 CHAIRMAN OKUN: Your light's on.

3 MR. GILBERT KAPLAN: Oh I see. Let me
4 conclude just by saying that the import increases
5 which were not talked about at all by the Respondents
6 in their presentation are very significant. The
7 market share increases, and the volume share on an
8 absolute basis increased when everybody else's imports
9 in a commodities type industry have dropped. I'll
10 just say response of the other side --

11 CHAIRMAN OKUN: You're a minute and 20
12 seconds over, Mr. Kaplan. I'm going to ask that --

13 MR. GILBERT KAPLAN: Then I'll just
14 conclude, I'm sorry.

15 CHAIRMAN OKUN: Thank you.

16 MR. GILBERT KAPLAN: But thank you very much
17 for your attention and thank you for this, listening
18 to us during this long day.

19 CHAIRMAN OKUN: Thank you. You may proceed.

20 MR. PORTER: Thank you, Madam Chairman. The
21 hour is late. Actually the hour is very late. And so
22 I'm going to do my best not to even approach my total
23 time of 9 minutes. One of the advantages of, of
24 course being on Respondent's panel is we get to
25 address a lot of our rebuttal points during our

1 discussion, so that's, and I'm not going to repeat
2 them here. Just want to make a few little points I
3 believe were not addressed.

4 I'm sorry, I can't let it go, I have to
5 respond to Mr. Kaplan. This brochure, the machinery
6 we talked about has a device right here in black and
7 white, it's a web moistening unit. And what it does
8 is it adds a little bit more moisture to web rolls so
9 they can go through the sheet fed presses easier.
10 It's a special device that's added so you can sheet
11 web rolls to go to sheet fed presses. It exists, they
12 sell it, it wouldn't be offered if it wasn't prevalent
13 in the market. That's on like product.

14 One comment on Dr. Kaplan's economic model.
15 Of course we will submit detailed comments in our
16 posthearing brief, but honestly we urge you, don't
17 wait until then. Please talk to your very competent
18 economists and ask them a simple question, and that is
19 to verify whether Dr. Kaplan properly included key
20 supply and demand factors as explanatory variables.
21 That's on the economic model.

22 Next point. There is actually something
23 that Respondents and Petitioners agree, and that is
24 the composition of the domestic industry. We all
25 agree that you need to get more responses the best you

1 can of those packaging paperboard producers that
2 produce paperboard sheets that meet the definition of
3 scope.

4 We believe as we've submitted repeatedly to
5 the Commission that it's a big volume and we
6 respectfully urge the Commission to do their best to
7 get the data. Lastly, I want to end with our first
8 page of our brief. It's all about the evidence. We
9 believe that the evidence strongly strongly favors a
10 negative determination and we ask you to reach that
11 conclusion. Thank you very much.

12 CHAIRMAN OKUN: Thank you. Posthearing
13 briefs, statements responsive to questions and
14 requests of the Commission and corrections of the
15 transcript must be filed by September 28, 2010.
16 Closing of the record and final release of data to
17 parties is October 13th, 2010, and final comments are
18 due October 15th, 2010. No other business before the
19 Commission, this hearing is adjourned.

20 (Whereupon, at 7:30 p.m., the hearing in the
21 above-entitled matter was concluded.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Certain Coated Paper
INVESTIGATION NO.: 701-TA-470-471/
731-TA-1169-1170 (Final)
HEARING DATE: September 16, 2010
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: September 16, 2010

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).

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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: Christina Chesley
Signature of Court Reporter