

UNITED STATES  
INTERNATIONAL TRADE COMMISSION

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In the Matter of: )  
)  
PURIFIED ) Investigation Nos.:  
CARBOXYMETHYLCELLULOSE FROM ) 731-TA-1084-1087 (Review)  
FINLAND, MEXICO, )  
NETHERLANDS, AND SWEDEN )

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P R O C E E D I N G S

(9:30 a.m.)

CHAIRMAN OKUN: Good morning. On behalf of the U.S. International Trade Commission I welcome you to this hearing on Investigation Nos. 731-TA-1084-1087 (Review) involving Purified Carboxymethylcellulose From Finland, Mexico, Netherlands and Sweden.

The purpose of these five-year review investigations is to determine whether revocation of the antidumping duty orders covering purified carboxymethylcellulose from Finland, Mexico, Netherlands and Sweden would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

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

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

1 directed to the Secretary.

2 Speakers are reminded not to refer in their  
3 remarks or answers to questions to business  
4 proprietary information. Please speak clearly into  
5 the microphones and state your name for the record for  
6 the benefit of the court reporter.

7 If you'll be submitting documents that  
8 contain information you wish classified as business  
9 confidential, your requests should comply with  
10 Commission Rule 201.6.

11 Mr. Secretary, are there any preliminary  
12 matters?

13 MR. BISHOP: No, Madam Chairman.

14 CHAIRMAN OKUN: Very well. Will you please  
15 call our embassy witness?

16 MR. BISHOP: Our first witness is Salvador  
17 Behar, Legal Counsel for International Trade, the  
18 Embassy of Mexico.

19 CHAIRMAN OKUN: Welcome back.

20 MR. BEHAR: Thank you very much, Madam  
21 Chair. On behalf of the Government of Mexico, I would  
22 like to appreciate the Commission, the Chair and the  
23 Commissioners too for the opportunity to appear before  
24 the court and express our views on the case. For the  
25 record, I am Salvador Behar, Legal Counsel for

1 International Trade at the Embassy of Mexico here in  
2 D.C.

3 Let me first say this is an important case  
4 that the Government of Mexico has been following  
5 closely. Mexico and the U.S. are trading partners,  
6 and both place the highest importance for the free  
7 flow of bilateral trade.

8 There is a meaningful bilateral trade  
9 between the industries of Mexico and the U.S. because  
10 of our geographical advantage. This is not based on  
11 low pricing. Instead, it is the need of alternative  
12 suppliers and ease of transportation, which we will  
13 resolve soon as well.

14 I would like to address three specific  
15 issues during my testimony. First, the record  
16 evidence does not support that imports have injured  
17 the U.S. industry. There is not competition between  
18 products. The ITC will be able to confirm that it  
19 does not compete with one manufactured by the  
20 Petitioner and the other countries under investigation  
21 as it serves different customers and markets.

22 Second, that in the threat of injury  
23 analysis the ITC should consider the existence of  
24 other factors explaining imports of CMC --  
25 carboxymethylcellulose, CMC -- in the U.S. market for

1 any potential cause of injury to the U.S. industry.  
2 Third, Mexico has no production capacity to increase  
3 its exports of CMC into the U.S.

4           Regarding competition between products, we  
5 consider that the ITC should evaluate if during the  
6 period when the antidumping duties on imports of CMC  
7 was in force the conditions that led to the cumulation  
8 of imports from Mexico and the rest of the  
9 investigated countries prevailed.

10           In particular, ITC should examine the  
11 conditions of competition between the CMC of Mexico  
12 with the CMC originating from the rest of the  
13 countries under investigation and the domestic like  
14 product according with Article 3.3 of the antidumping  
15 code.

16           B) As it was mentioned, since the initial  
17 investigation Mexican producer Quimica Amtex mainly  
18 supplies a specific sector of the U.S. food industry.  
19 Therefore, we believe that the ITC should evaluate  
20 whether the CMC exported by Amtex has a specific use  
21 or customers that are not served by other national or  
22 international producers for technical reasons, not  
23 price.

24           When analyzing the behavior of imports from  
25 Mexico and their purpose in the period of validity of

1 the antidumping duty, the ITC can confirm that it does  
2 not compete with the one manufactured by the  
3 Petitioner or other countries under investigation as  
4 it serves different customers and markets.

5           Regarding other factors of injury, we  
6 request that the ITC assess the existence of other  
7 factors explaining imports of CMC to the U.S. market  
8 -- for example, supply problems or lack of capacity to  
9 supply the local market -- for the following reasons:

10           Even with the imposition of the antidumping  
11 duties of 12.61 percent or with the current .83  
12 percent and the economic crisis, Mexico kept its  
13 presence in the U.S. market, attending to the same  
14 customers and has not expanded its market share.  
15 Mexican CMC offers significant advantages in its use  
16 independently from its price by serving customers on  
17 both sides of the border.

18           We request the ITC to verify the Petitioner  
19 has made imports of the CMC from nonsubject countries  
20 while the antidumping duty was in force. This could  
21 be associated to the fact that domestic production  
22 cannot supply local demand.

23           We note that the imports from Mexico tend to  
24 focus on specific market segments, specifically in  
25 food producers. The food industry and cosmetics must

1 meet strict quality standards, especially purity.  
2 Therefore, the ITC should consider whether the  
3 existence of these factors determined that the CMC of  
4 Mexico demand in the U.S. market and whether any  
5 potential cause of injury to the U.S. industry lies  
6 elsewhere.

7 We respectfully ask the ITC to determine  
8 that the possibility of continuance or recurrence of  
9 injury is not due to the imports of the subject  
10 countries, particularly Mexico, but imports from other  
11 countries not under investigation whose offer has  
12 increased significantly to the U.S. market and is  
13 expected to continue increasing.

14 With regard to the export capacity, the ITC  
15 must assess that Mexico has no production capacity to  
16 increase its exports of CMC in the immediate future,  
17 not even in the medium term, even with the elimination  
18 of the antidumping duty, according with the following:

19 Mexico has produced practically at near its  
20 maximum capacity, and we understand that there is no  
21 likelihood of an increase in the immediate future  
22 because of the high cost it represents. Amtex will  
23 address that issue today. Amtex has operated with  
24 normal levels of inventories.

25 The above shows that the elimination of the

1       antidumping duty would not be an incentive for Amtex  
2       to reduce their price and increase their exports to  
3       the U.S. market since it operates at full capacity.  
4       Therefore, Amtex exports are not a threat to the U.S.  
5       industry in the imminent future.

6               In conclusion, we consider that there are no  
7       elements to sustain that the elimination of the duty  
8       will be likely to lead to continuation or recurrence  
9       of injury. Therefore, the Commission should conclude  
10       the procedure eliminating the antidumping duty imposed  
11       on imports of purified carboxymethylcellulose from  
12       Mexico in accordance with Articles 11.1 and 11.2 of  
13       the antidumping agreement.

14               The Government of Mexico is confident that  
15       the Commission will carefully consider all the facts  
16       in the record and make a separate finding regarding  
17       Mexico in its final determination and further  
18       determining that Mexican imports are not the cause of  
19       alleged material injury or threat thereof.

20               Madam Chair, this concludes my remarks, and  
21       I thank the Commission for considering my testimony in  
22       this case. If you have any questions, I will remain  
23       in the court for quite a bit.

24               CHAIRMAN OKUN: Thank you very much for your  
25       testimony today, Mr. Behar. Questions?

1 (No response.)

2 CHAIRMAN OKUN: Thank you. Very well.

3 MR. BISHOP: Opening remarks in support of  
4 continuation of the orders will be by Edward M. Lebow,  
5 Haynes and Boone.

6 CHAIRMAN OKUN: Good morning and welcome.

7 MR. LEBOW: Good morning.

8 CHAIRMAN OKUN: Please make sure your  
9 microphone is on.

10 MR. LEBOW: There we are. Good morning.

11 CHAIRMAN OKUN: Thank you.

12 MR. LEBOW: Madam Chairman and members of  
13 the Commission, my name is Ed Lebow of the law firm of  
14 Haynes and Boone. I'm here with Dan Klett of Capital  
15 Trade representing Petitioner Aqualon Company.

16 When I tell people about the work I do, some  
17 contrarians -- usually theoretical, economist types --  
18 challenge me and contend that from a purely economic  
19 standpoint the theory of protection from dumping is  
20 fundamentally flawed. Perhaps others in this room  
21 have had similar experiences.

22 I'd like to respond with real world  
23 examples. One of the best examples is the experience  
24 of Aqualon Company at its Hopewell, Virginia, plant  
25 that produces purified carboxymethylcellulose or CMC.

1 The antidumping law has really made a difference to  
2 this company and its workers.

3           Look back at the situation before the  
4 antidumping duty orders were imposed. Between 2001  
5 and 2002, import volume share were increasing rapidly.  
6 Aqualon lost an additional 10 percent of the domestic  
7 CMC market in just one year. As a high fixed cost  
8 producer of a largely commodity chemical, Aqualon  
9 couldn't afford to watch its volume erode and its per  
10 unit cost increase.

11           In 2003, Aqualon was forced to make the  
12 strategic decision to reduce prices and take back some  
13 share. This was only partially successful. Prices  
14 from Respondents also went down, as did Aqualon's  
15 profits. Aqualon found itself in what looked like a  
16 death spiral and so Aqualon decided to file an  
17 antidumping petition against dumped CMC from Finland,  
18 the Netherlands, Sweden and Mexico.

19           In 2005, the Commission found that the  
20 domestic CMC industry had indeed been materially  
21 injured by dumped imports from all four countries, and  
22 antidumping duty orders were imposed. The cumulative  
23 impact of the dumped CMC was multiplied by the fact  
24 that one company -- then called Noviant, now called CP  
25 Kelco -- produced CMC in three countries and conducted

1 U.S. marketing as if from a single source.

2           Immediately after the orders were imposed,  
3 import prices rose quite moderately. Aqualon was able  
4 to increase its own prices too and return to  
5 profitability. Respondents didn't go away, however.  
6 The U.S. market remained important, and with one  
7 exception Respondents continued to sell substantial  
8 quantities of CMC, and to do so they had to continue  
9 to dump, often at quite substantial levels. They also  
10 continued to undersell the domestic industry in most  
11 instances.

12           Still, with higher prices, better product  
13 mix, increased volumes and better spreading of costs,  
14 Aqualon CMC's business has been profitable. Now  
15 Respondents point to that very profitability and  
16 contend that if the antidumping duty orders were  
17 revoked Aqualon would stay profitable.

18           As we have demonstrated in our brief,  
19 however, if the amount of the price increase that  
20 followed the imposition of the antidumping duty orders  
21 were to go away, Aqualon's performance would be  
22 seriously and immediately affected, even without the  
23 likely loss of volume that would also follow.

24           Our witnesses will be discussing the impact  
25 of revocation of antidumping duty orders from all

1 three countries currently under consideration -- the  
2 Netherlands, Mexico and Finland. It's no secret that  
3 while there is a material and consequential threat to  
4 the domestic industry from producers in all three  
5 countries, the greatest threat comes from CP Kelco in  
6 Finland with its huge facility in Äänekoski.

7           However, for reasons known only to CP Kelco  
8 it has chosen not to participate as a party in this  
9 sunset review. Thus, there will be no one from CP  
10 Kelco to answer any questions you might have about  
11 let's just generously call it its creative way of  
12 reporting its capacity and capacity utilization in its  
13 questionnaire response, and there will be no one to  
14 answer any questions you might have about why it  
15 continued to dump during the period of review with  
16 rates of up to 14 percent. On the contrary, you won't  
17 hear from CP Kelco at all.

18           Because Quimica Amtex and Akzo Nobel are  
19 here, it will be difficult for all of us in this room  
20 not to focus our attention on Mexico and the  
21 Netherlands. That's why I wanted to conclude my  
22 opening remarks by reminding everyone in this room, my  
23 own clients included, that CP Kelco of Finland is also  
24 very important.

25           In fact, the most important reason why

1 revocation of the antidumping duty orders on imports  
2 of CMC from Mexico, the Netherlands and Finland would  
3 be likely to lead to recurrence of material injury to  
4 the domestic injury within a reasonably foreseeable  
5 time. Thank you very much.

6 CHAIRMAN OKUN: Thank you.

7 MR. BISHOP: Opening remarks on behalf of  
8 those in opposition to continuation of the orders will  
9 be by Jeffrey S. Neeley, Barnes, Richardson & Colburn,  
10 and Matthew T. West, Baker Botts.

11 CHAIRMAN OKUN: Good morning and welcome.

12 MR. NEELEY: Good morning. I'm Jeff Neeley  
13 of the law firm of Barnes, Richardson & Colburn here  
14 this morning on behalf of Quimica Amtex.

15 The Commission has a tough job, as we all  
16 know, in sunset reviews. You're called upon to  
17 project out what's going to happen in the event that a  
18 dumping order is revoked and, while not speculating,  
19 it is a tough job to do.

20 Here we think that the projections with  
21 regard at least to Mexico are pretty straightforward  
22 and there's no great mystery. What we see with regard  
23 to Mexico is consistently low dumping margins from the  
24 only producer in Mexico, which is my client, Quimica  
25 Amtex. The current dumping margins are .3 percent.

1 They've been consistently 1 to 2 percent.

2 This is commercially insignificant dumping  
3 margins. What those dumping margins show is that they  
4 have no effect on Mexico, but at the same time they  
5 show that prices in Mexico are very slightly above  
6 those in the United States.

7 In addition, with regard to Quimica Amtex I  
8 should note that the company has operations in  
9 Colombia and Argentina as well. If the company had  
10 desired to sell much greater volume at low prices into  
11 the United States there's been nothing preventing them  
12 from doing it from those other countries for the last  
13 several years.

14 We can't say that there is absolutely no  
15 competition with the United States with Aqualon, but  
16 there is virtually none. It is very, very small,  
17 very, very little overlap with Aqualon. Quimica Amtex  
18 has its very distinct customers, and there's only a  
19 handful or not even a handful, and we see no impact  
20 whatsoever so far, and there would be no impact if the  
21 order were revoked. Quimica Amtex is operating at  
22 full capacity, and this fact has not been really  
23 questioned by Aqualon.

24 The U.S. industry is also in a far different  
25 position than it was at one time. The U.S. industry,

1 it is quite apparent from the public record and my  
2 clients told me this as soon as I began to review this  
3 case; that Aqualon has turned to its French affiliate  
4 to begin to import substantial amounts of CMC from  
5 that country because it's at full capacity in the  
6 United States.

7 It is doing so in what we consider to be  
8 frankly a very rational business decision. We're not  
9 criticizing that in any way, but we do point out that  
10 it shows a high capacity utilization and it shows that  
11 Aqualon is probably quite profitable. Mexico is not  
12 an export-oriented country or industry as some other  
13 places are. It's a huge home market, and that is  
14 where the concentration of Quimica Amtex has  
15 traditionally been.

16 For all these reasons, which we'll discuss  
17 in a few minutes, we believe there should be no  
18 cumulation of Mexico with other countries and  
19 furthermore that Mexico by itself or cumulated is  
20 showing no injury to the U.S. industry if this order  
21 were revoked. Thank you.

22 CHAIRMAN OKUN: Thank you. Good morning.

23 MR. WEST: Good morning. My name is Matthew  
24 West. I'm with the law firm of Baker Botts appearing  
25 of counsel for Akzo Nobel.

1           As we come before the Commission today, we  
2 will be reviewing a CMC market involving the  
3 Netherlands that is materially different than it was  
4 during the original investigation. In our  
5 presentation today we will focus on three points  
6 related to this difference.

7           First, as you've heard, with the  
8 construction of the CP Kelco plant in the Netherlands,  
9 Akzo Nobel is the sole producer of purified CMC from  
10 the Netherlands. You will hear how the conditions of  
11 competition between the three actively producing  
12 subject countries are now significantly different. No  
13 longer is there cross border control over the  
14 production of purified CMC, and with regard to the  
15 U.S. market each country is pursuing its own direction  
16 in optimizing its opportunities in the U.S. market.

17           Second, you will hear how in recent years  
18 Akzo Nobel has pursued and will continue to pursue a  
19 sales strategy around high value applications for  
20 purified CMC. This strategy does not solely rely on  
21 sales to the U.S. or even to its own domestic market  
22 in Holland, but rather is a global sales strategy  
23 where the company has pursued new customers through  
24 emerging markets in complement to its long  
25 established, high value customers in traditional

1 markets.

2 And, third, you will hear how the trends in  
3 the data for the past five years support and evidence  
4 these sales strategies pursued by the company's  
5 management, believing that these sales strategies will  
6 lead to a conclusion that does not support the order  
7 and rather continuation and reoccurrence of material  
8 injury to Aqualon -- if I may finish my sentence,  
9 Madam Chair?

10 CHAIRMAN OKUN: Please. Go ahead.

11 MR. WEST: Thank you. That the imports of  
12 purified CMC from the Netherlands will not lead to a  
13 continuation or recurrence of material injury to  
14 Aqualon in the foreseeable future if the order is  
15 revoked. Thank you.

16 CHAIRMAN OKUN: Thank you.

17 MR. BISHOP: Would the first panel, those in  
18 support of continuation of the antidumping duty  
19 orders, please come forward and be seated?

20 Madam Chair, all witnesses have been sworn.

21 (Witnesses sworn.)

22 CHAIRMAN OKUN: Thank you.

23 (Pause.)

24 CHAIRMAN OKUN: It looks like all your  
25 witnesses are seated. You may proceed.

1                   MR. PANICHELLA: Good morning, Madam  
2 Chairman and members of the Commission. My name is  
3 John Panichella. I am the president of Ashland  
4 Aqualon Functional Ingredients. Ashland Aqualon  
5 Functional Ingredients is the name under which Aqualon  
6 Company has been doing business since the acquisition  
7 of its parent company, Hercules, Inc., by Ashland,  
8 Inc. in November 2008.

9                   Like many of my colleagues at Aqualon, I am  
10 a chemist, as well as a business person, and have  
11 degrees in both disciplines. After a 25 year career  
12 with General Electric and Betz Dearborn, I joined the  
13 Aqualon unit of Hercules in 2006 and have led that  
14 business, which includes our purified  
15 carboxymethylcellulose operations, since that time.

16                  I was fortunate to take over this business  
17 after the antidumping duty order had been imposed on  
18 dumped imports from Mexico, the Netherlands, Sweden  
19 and, most importantly, Finland. Early in my tenure at  
20 Aqualon I had ample opportunity to review where the  
21 CMC operations had come from and where they needed to  
22 go.

23                  As CMC is part of a larger family of  
24 products manufactured at Ashland, its performance is  
25 evaluated against that of these other products and

1 affects decisions on where to invest and at the end of  
2 the day whether to continue operations. Our CMC  
3 prices had to be high enough to cover production  
4 costs, while our operations had to be made lean and  
5 efficient enough so that our costs would be as low as  
6 those of any producer anywhere. The successful  
7 antidumping investigations made both possible.

8           Before the antidumping orders were imposed,  
9 we saw our market share dwindle early in the  
10 investigation period due to lower pricing by dumped  
11 imports. Under the leadership of my predecessor, John  
12 Televantos, whom Commissioners Lane, Okun and Pearson  
13 may remember from his appearance before you in 2005,  
14 Aqualon made the strategic decision at that time to  
15 reduce its pricing to regain some of the market share  
16 and thereby keeping its volumes up and fixed unit  
17 costs down.

18           This strategy also helped us to minimize the  
19 reduction in our workforce, although some layoffs were  
20 required at that time as one way to reduce cost in the  
21 face of declining prices and profits. As the  
22 Commission stated in its June 2005 opinion, "All of  
23 these improvements in the industry's volume-related  
24 indicia were, however, more than offset by the very  
25 substantial decline in the industry's pricing and

1 profitability levels during the period of the  
2 investigation."

3           The benefits of the antidumping duty orders  
4 were immediate and profound. As the Commission has  
5 seen from our submissions, in the first year after  
6 the orders were imposed, 2005, CMC sales volumes,  
7 pricing and profits all had rebounded significantly.  
8 Moreover, with this return to normal profitability, we  
9 have been able to make meaningful investments to  
10 upgrade our facilities and improve production  
11 processes and efficiency.

12           For example, we increased the automation of  
13 a major CMC drying unit and we upgraded our CMC  
14 milling processes with the most recent investment  
15 being made for a diverter system that allows us to  
16 efficiently process CMC with different particle sizes.  
17 We have also been able to do a lot of research and  
18 development on ways to make CMC dissolve more quickly  
19 and evenly, plus we are providing formulation, product  
20 development and application support for our customers.

21           A thriving Hopewell, Virginia, CMC unit is  
22 also important for several of our other cellulose  
23 ether businesses, and it allows a more equitable  
24 sharing of some common fixed costs.

25           Perhaps because of their own desire to

1 maintain production and spread their fixed costs,  
2 Respondents have continued to make significant CMC  
3 sales into the U.S. market, even after the antidumping  
4 duty orders were imposed. Many of these sales have  
5 been at substantial antidumping duty rates.

6 This shows quite clearly that Respondents  
7 value the U.S. market and not only are willing to dump  
8 -- they have to dump -- to continue selling here. As  
9 my colleagues, Karen Gruber and Zissis Pappas, will  
10 describe to you shortly, Respondents show no  
11 hesitation, even in the face of antidumping duty  
12 orders, to take business by underselling Aqualon. I  
13 understand from the public version of the staff report  
14 that this underselling is quite widespread.

15 If the orders were revoked, the elimination  
16 of antidumping duties would mean that Respondents  
17 would be able to to lower their prices by the not  
18 insignificant amount of the dumping duties and without  
19 affecting their net return. Given the importance of  
20 price to our customers, this would put downward  
21 pressure on Aqualon's prices, sales and profits and  
22 also would make it harder for us to continue the type  
23 of investments and research and development needed to  
24 maintain the business in the future.

25 Although we saw a small uptick in our

1 business as we attempted to service customers caught  
2 short when CP Kelco's Netherlands plant experienced  
3 the fire that took it off line in July 2009, we are  
4 now finding that CP Kelco's Finland plant is more than  
5 taking up the slack.

6 That plant is the world's largest, with a  
7 publicly reported capacity of over 100 million pounds  
8 of purified CMC. That's nearly triple Aqualon's  
9 Hopewell plant capacity. CP Kelco's Finnish plant has  
10 government and customer approvals to make all types of  
11 purified CMC, including regulated grades used in food  
12 and personal care items.

13 I do understand that CP Kelco's Chinese CMC  
14 facility is not subject to an antidumping duty order.  
15 However, it is still relevant to this proceeding. CP  
16 Kelco opened a 15,000 ton CMC plant in China in  
17 November 2009.

18 Although the CP Kelco China plant is GMP  
19 certified, up to this point we have seen this facility  
20 focus on supplying nonregulated CMC to export markets,  
21 including the United States. This has the effect of  
22 freeing up CP Kelco's Finnish CMC capacity to supply  
23 higher margin regulated grades. If the antidumping  
24 duty order on CMC from Finland were revoked, we would  
25 see an immediate and profound impact on Aqualon.

1           We are also seeing significant underselling  
2 by Quimica Amtex at several accounts in both personal  
3 care and food industries with the latter already  
4 having resulted in Aqualon's loss of a major customer.  
5 Although the CP Kelco plant in the Netherlands has  
6 been shut down, Akzo Nobel Functional Ingredients is  
7 already qualified to sell purified CMC at some of our  
8 largest customers with business totaling several  
9 million pounds.

10           Among these are customers it has serviced in  
11 the past and to which it would no doubt attempt to  
12 sell once again if the antidumping duty order on  
13 purified CMC from the Netherlands were revoked.  
14 Notably, in its most recent antidumping review the  
15 Department of Commerce found that Akzo was dumping at  
16 a rate averaging over 9 percent. Price reductions of  
17 at least that amount by Akzo, if the antidumping duty  
18 order were revoked, would be devastating to Aqualon's  
19 business.

20           As I mentioned and as Ms. Gruber and Mr.  
21 Pappas will amplify, CP Kelco, Amtex and Akzo are all  
22 aggressively competing with and often underpricing  
23 Aqualon for regulated CMC business, notwithstanding a  
24 dumping duty for CP Kelco of over 6 percent and at  
25 times during the past few years as high as 13 percent.

1 For Amtex and Akzo, the Department of Commerce  
2 projected dumping in the event of revocation of 12  
3 percent and 13 percent respectively.

4 To assist the Commission in projecting what  
5 would happen if the antidumping duty orders were  
6 revoked, I have reviewed what did happen with our U.S.  
7 CMC operations during and shortly after the initial  
8 period of investigation. Immediately after the orders  
9 were imposed, there was a noticeable pop in our CMC  
10 prices and sales volume in the year 2005. Our U.S.  
11 price increased by an average of nine cents per pound,  
12 and our U.S. commercial shipments increased by 10  
13 percent in 2005.

14 Based on U.S. Census data, purified CMC  
15 imports from subject countries declined by 32 percent  
16 from 2004 to 2005. I can tell you that if the orders  
17 were to be revoked, these patterns certainly would be  
18 reversed with adverse financial consequences to our  
19 CMC business.

20 For example, a price drop of nine cents a  
21 pound alone will result in a decline in operating  
22 profits for this business of almost \$3 million. The  
23 actual adverse effect would even be greater as we  
24 surely would lose volume, which would have the  
25 additional effect of increasing our fixed cost and

1 squeezing our margins.

2 Before closing, I'd like to address a few  
3 words to Commissioner Pearson. I've read your  
4 dissenting view on the original investigation and  
5 respect your thoughtful analysis. There is one point,  
6 however, where things have definitely changed since  
7 2005, and I want to emphasize that for you and your  
8 colleagues.

9 You noted that at the time the underlying  
10 Commission determined CP Kelco in Finland was not GMP  
11 qualified and thus could not compete with Aqualon in  
12 the food and personal care markets for CMC. Looking  
13 forward from 2001, however, I ask you to give special  
14 attention to the fact that CP Kelco in Finland is GMP  
15 qualified and the fact that they became GMP qualified  
16 in short order after 2005.

17 Today, CP Kelco is shipping a wide array of  
18 regulated CMC grades from its Finnish plant and would  
19 hit us even harder across the board if the antidumping  
20 duties were revoked.

21 With these conditions in mind, I  
22 respectfully request that the Commission find that  
23 revocation of the antidumping duty orders on imports  
24 of purified carboxymethylcellulose from Finland,  
25 Mexico and the Netherlands would likely lead to the

1 recurrence of material injury to the domestic industry  
2 within a reasonable foreseeable time. Thank you again  
3 for your kind attention.

4 MR. LEBOW: Thank you. Our next witness  
5 will be Karen Gruber.

6 MS. GRUBER: Good morning. I am Karen  
7 Gruber, and I'm the Global CMC Business Director. I  
8 have a Bachelor's degree in Chemistry and a Master's  
9 degree in Chemical Engineering from Texas A&M  
10 University.

11 I worked for 12 years in the Specialty  
12 Minerals and Pigments Division of Engelhard  
13 Corporation, which is now BASF. In 2001, I came to  
14 Aqualon, and since 2004 I've been involved in the CMC  
15 business first as the CMC Business Manager and now my  
16 current position.

17 I joined the business in the year prior to  
18 the imposition of the antidumping duties. I have been  
19 fortunate to see the business recover and have worked  
20 hard since then to keep the business healthy. My  
21 colleague, Zissis Pappas, will be speaking to you  
22 shortly about the energy and specialties markets for  
23 CMC, but first I'll share some of my experiences about  
24 the food and the personal care markets, which use the  
25 regulated grades of the purified CMC.

1           Food applications for CMC include syrups,  
2           juices, cocoa, tortillas and even pet food. CMC is  
3           used to make the pet food gravy thicker and it allows  
4           it to cling to the morsels, making it more appetizing  
5           at least to humans like me that watch the TV  
6           commercials.

7           In human food it serves as a thickener, a  
8           stabilizer and a rheology enhancer, which means it  
9           affects how things stick together when they pour or  
10          how the final product feels in your mouth. In the  
11          U.S., the CMC used in these applications is required  
12          by law to be at least 99.5 percent pure. That's not  
13          the case in some of the emerging markets.

14          For personal care applications they include  
15          toothpaste and denture adhesives, laundry starches and  
16          detergents and other products. In these areas, CMC  
17          serves as a thickener, a flow facilitator, an  
18          antideposition or bonding agent.

19          In my role as Global CMC Business Director,  
20          I oversee the aspects of the Aqualon Hopewell,  
21          Virginia, CMC factory. I make sure that our products  
22          meet the customer requirements and the product  
23          quality.

24          It's also my job to maintain the  
25          profitability, which means I have to decide on pricing

1 and collaborate with the sales and marketing team on  
2 our business strategy. In this position I am  
3 constantly aware of the competitive threats and  
4 pressures and have to make decisions on whether to  
5 meet the prices of the import competition.

6 I would like to share with you several  
7 specific, recent examples of situations where  
8 Respondents, CP Kelco and Quimica Amtex, have  
9 attempted and in some cases succeeded in taking our  
10 business from Aqualon by underpricing. Our prehearing  
11 brief sets out the details of the customer names,  
12 quantities and pricing for each of these examples.

13 In one instance, a producer of laundry  
14 detergent approved our new product that we developed  
15 specifically for that customer. We made plant trials  
16 at Hopewell, but we ultimately lost the business to CP  
17 Kelco at pricing that was reportedly as much as 20  
18 percent below our price. If we were to meet that  
19 price, we would have lost money on every sale.

20 In another case, we stepped in to help a pet  
21 food customer of CP Kelco after the Netherlands plant  
22 went down, but recently due to the increased price of  
23 cellulose, which is a major component in our product,  
24 we had to raise our price, and as a result we were  
25 told that CP Kelco came in with a lower price from its

1 Finnish plant. We lost half of this business.

2 Besides indicating that CP Kelco is willing  
3 to underprice in order to take business from Aqualon,  
4 this shows that the CP Kelco Finnish plant is picking  
5 up the volume that had been produced by the  
6 Netherlands operation.

7 We have subsequently dropped our price,  
8 notwithstanding our increased cost, in order to hold  
9 onto this business. We're waiting for the customer's  
10 final decision, but revocation of this order will make  
11 it much less likely that we can retain this business.

12 Perhaps this is a good point to say a few  
13 words about the impact in general of CP Kelco closing  
14 its Swedish and Dutch plants. Closing the Swedish  
15 plant was a planned event, and it really had no impact  
16 on the market. CP Kelco had arranged for its  
17 scheduled production to be moved elsewhere, and  
18 customers were not left short.

19 The explosion and fire at the CP Kelco  
20 Netherlands plant was of course unanticipated, and it  
21 did have measurable short-term impact. We at Aqualon  
22 were approached by several of CP Kelco's customers,  
23 and we did our best to supply them at short notice.  
24 This contributed to good years for Aqualon in 2009 and  
25 2010, notwithstanding the recession.

1           However, CP Kelco appears now to have  
2           rationalized its production, and it is increasing its  
3           shipments in the U.S. It's able to satisfy all of its  
4           preexisting accounts. What's more, it appears to be  
5           moving more aggressively to capture business from  
6           Aqualon in the United States.

7           For example, when we tried to pass our  
8           recent cellulose cost increases to a U.S. producer of  
9           juice drinks, we were told that our price is higher  
10          than CP Kelco and we would have to share the business  
11          and could soon lose it all.

12          What's even more surprising, this grade of  
13          CMC uses either a high viscosity wood pulp or a cotton  
14          linter, which both have been seeing significant cost  
15          increases. My suspicion is that CP Kelco is probably  
16          just trying to keep its large plant full and spread  
17          its fixed cost.

18          And Quimica Amtex too has been quite active  
19          in the food, the oral care and other personal care  
20          submarkets. We recently learned that Amtex is bidding  
21          against us for business at a major dental care account  
22          and that we have lost part of our position at another  
23          producer of a home care item due entirely to price.

24          We've also lost our entire position at a  
25          domestic tortilla manufacturer where Amtex underbid us

1 by a significant amount. It has been mentioned that  
2 our products have quality issues in tortilla  
3 applications, but that is not the case. Several  
4 manufacturers were able to use our products. They  
5 cannot choose them when there is such a wide  
6 difference in price between us and Amtex.

7 As for Akzo, they haven't been able to sell  
8 as much CMC into the U.S. market due to their  
9 substantial antidumping margin. However, Akzo is  
10 selling a product that is not within the scope of this  
11 investigation, croscarmellose CMC.

12 This is going to a major U.S. customer where  
13 Akzo is already qualified to sell this subject CMC.  
14 Before the orders were imposed Akzo undersold us  
15 aggressively at this customer, and we can anticipate  
16 it doing so again if the order were revoked. The loss  
17 of this single customer would be very harmful to  
18 Aqualon.

19 As John Panichella described, the  
20 antidumping orders allowed us to go from a dramatic  
21 decline to a healthy financial state within a short  
22 period of time. Because of our improved position, our  
23 CMC business has been able to get the authorization  
24 from management to make several necessary investments  
25 and to spend on research and development and

1 application support for our customers and potential  
2 customers.

3 In recent years, that R&D has focused on  
4 producing CMC grades with improved characteristics  
5 such as ease of solution, speed and evenness of  
6 dispersal and uniformity of viscosity. Thus, for both  
7 the laundry care and the juice drink customer I just  
8 mentioned our R&D allowed us to develop new grades  
9 with enhanced performance. We immediately stepped in  
10 when there was an issue at the CP Kelco Netherlands  
11 plant, but we still find that price is a major factor  
12 when selecting the purified CMC.

13 On the personnel front, we were able to  
14 increase pay and by doing so employ more skilled  
15 people who are capable of performing a multiplicity of  
16 roles in our plant. Over the long term, after time  
17 for the requisite training and broad experience this  
18 personnel upgrade has allowed us to operate with fewer  
19 total staff.

20 I'd also like to take a few minutes to give  
21 you some more details of the capital upgrades that  
22 John mentioned that we have made as a result of our  
23 improved financial posture. At the Commission hearing  
24 in our original investigation, we spoke to the need  
25 for upgrading our dryer capacity.

1           As a result of our improvement in return and  
2 show that under fair market conditions we can have a  
3 sustainable business, we started a dryer automation  
4 project in 2010, and we are continuing that upgrade.  
5 This has allowed us to operate with more control and  
6 increased capacity.

7           Another place where the orders have helped  
8 us is in addressing the requirements of many of our  
9 customers for different particle sizes for their  
10 applications. As a result, we have changed our  
11 particle size control by investing in a diverter  
12 system, and this will allow us to provide the coarse  
13 particle size grades. These two investments wouldn't  
14 have been possible when the business was in a downward  
15 spiral because of the unfair market conditions.

16           We've also hired an engineer to optimize our  
17 milling systems and process technology, and along with  
18 the Hopewell team he is focused on making sure that we  
19 can meet the U.S. market demand. Without these  
20 orders, future investment in the business would once  
21 again be under great duress and we would not be able  
22 to continue to invest in our business to serve the  
23 U.S. CMC market.

24           I will now let Zissis speak to his market  
25 segments. Thank you.

1                   MR. LEBOW: Our next witness will be Zissis  
2 Pappas.

3                   MR. PAPPAS: Good morning. My name is  
4 Zissis Pappas. I'm currently Global Industry  
5 Director, Oilfield and Specialties Businesses, for  
6 Ashland Aqualon Functional Ingredients. I graduated  
7 from Temple University in 1989 with a Bachelor's  
8 degree in Finance and then joined DuPont, where I  
9 worked for three years in corporate finance.

10                   In 1992, I moved to Betz Laboratories as a  
11 financial analyst. Betz became Betz Dearborn, which  
12 in turn was acquired by Hercules. At Hercules I  
13 transitioned into the Corporate Development Group. My  
14 responsibilities included analysis of acquisitions and  
15 divestitures. Beginning in 2006, I was assigned to  
16 the Aqualon unit of Hercules where I moved from  
17 corporate development to commercial work.

18                   For the past five years I have been  
19 responsible for Aqualon's global oil field and  
20 specialties businesses. My responsibilities include  
21 setting marketing strategy and priorities, supporting  
22 global sales teams on negotiations and overall  
23 execution of our strategic plan for these two business  
24 segments.

25                   In my area of responsibility, the principal

1 markets for CMC are specialties and oil field.  
2 Specialties comprises a number of uses, but the  
3 largest two are paper coatings and civil engineering.  
4 The paper coatings marketing is just what it sounds  
5 like. We sell CMC to paper manufacturers to enhance  
6 the printing characteristics, handling characteristics  
7 and appearance of paper.

8 Civil engineering is a bit more diverse. We  
9 sell CMC for tunneling, horizontal drilling and  
10 special foundation projects used primarily as a  
11 thickener to provide wall stability.

12 In the oil field sector, CMC is an important  
13 component of many drilling muds. CMC is used  
14 primarily to improve hold cleaning and suspension  
15 properties.

16 Let me give you a bit more detail for each  
17 of the three principal markets for which I have  
18 responsibility. First, the paper coatings market.  
19 Paper coatings is not as cyclical as other markets  
20 such as oil field, as demand for paper is reasonably  
21 constant. In paper coatings, customers are willing to  
22 swap suppliers based on price, so we are always alert  
23 and sensitive to competition.

24 CMC imported from CP Kelco in Finland is  
25 prevalent in the west and midwest. We are now

1 starting to see more from CP Kelco's Chinese plant.  
2 This appears to be freeing up CP Kelco's capacity to  
3 sell into the paper market elsewhere and perhaps allow  
4 more of its Finland capacity to be used for regulated  
5 grades.

6 By the way, I note that Respondents allege  
7 that purified CMC can be replaced in some oil field  
8 applications with crude CMC. This in practice is very  
9 limited. I have seen some attempts to replace  
10 purified CMC with crude CMC, but these were not  
11 successful.

12 Turning to the civil engineering market, it  
13 is similar to the paper market in that we see CP Kelco  
14 competing widely on price. And here it is all from  
15 Finland, not China. Because these are often projects  
16 let out on bid, price is very important. Customers  
17 again are willing to swap suppliers solely on price.

18 Finally, I'll touch on the situation in the  
19 oil field market. As you would imagine, it is quite  
20 cyclical and fluctuates generally with rig count.  
21 Global price of oil and natural gas drive the amount  
22 of drilling activity. Based on current market  
23 conditions, activity in this segment continue to grow.

24 We see CP Kelco from Finland very active and  
25 offering to undercut our price. New entrants from

1 China are also putting on price pressure. Because  
2 demand has increased recently there has been some  
3 recovery in price, but not as much price recovery as  
4 demand would seem to suggest because both CP Kelco and  
5 the Chinese are undercutting strongly.

6 I'd like to ask Mr. Jeffrey Wolff, who has  
7 been with Aqualon for three decades, to interject a  
8 few words concerning the situation in the oil field  
9 market before the antidumping orders were imposed.  
10 Jeff?

11 MR. WOLFF: Thanks, Zissis. Good morning,  
12 Madam Chairman and members of the Commission. As  
13 Zissis mentioned, my name is Jeff Wolff, and I'm a  
14 vice president in Aqualon and responsible for one of  
15 the industry segments that sells CMC.

16 I just wanted to state that before the  
17 orders were imposed in 2005 we were faced with extreme  
18 aggressive pricing from CP Kelco, formerly known as  
19 Noviant, as well as Amtex. I was around at that time.  
20 Not responsible for that business, but involved in a  
21 lot of meetings where I was hearing the angst that was  
22 occurring at that time.

23 And actually we were struggling because a  
24 lot of the sales in the area that Zissis has talked  
25 about we were losing money, and it was very difficult

1 discussions. The antidumping duty order made a huge  
2 difference for our business and significantly changed  
3 the profitability. Zissis?

4 MR. PAPPAS: We are very concerned about the  
5 impact on our oil field sector business if the orders  
6 are revoked. As I've stated, price is critical in  
7 competition in this sector. Even with dumping duties,  
8 Respondents have continued to challenge us on price.

9 If the orders are revoked, Respondents will  
10 be able to lower their prices by the amount of the  
11 duties with no impact on their gross profits, and  
12 without the orders there will be no floor on their  
13 pricing. Judging by their past behavior, they will  
14 decrease prices however much is necessary to capture  
15 increased business. Thank you.

16 MR. LEBOW: Thanks, Zissis. Our final  
17 direct witness will be Dan Klett of Capital Trade.

18 MR. KLETT: Good morning, Madam Chairman,  
19 members of the Commission. My name is Daniel Klett.  
20 I am a principal with Capital Trade, Inc. testifying  
21 on behalf of Aqualon in this sunset review. My  
22 testimony will briefly address some general issues and  
23 some specific points made by Amtex and Akzo.

24 The orders clearly have been beneficial to  
25 Aqualon's CMC operations. Confidential details are in

1 your staff report, but the turnaround in Aqualon's CMC  
2 operations in 2005, the first year after the orders  
3 were imposed, were dramatic and validate the  
4 Commission's finding of a causal connection between  
5 subject import competition during the investigation  
6 period and the deterioration in Aqualon's CMC  
7 profitability.

8           Although declining from 2004 levels, CMC  
9 imports from Mexico and Finland have maintained a  
10 significant presence in the U.S. market during the  
11 review period. CMC import volume from Akzo, on the  
12 other hand, has been a relatively small part of the  
13 U.S. market during the review period.

14           Since the orders, CP Kelco's purified CMC  
15 plants in Sweden and the Netherlands have closed. To  
16 estimate the likely effects of revocation, I conducted  
17 a proforma financial analysis that included only the  
18 likely increase in subject import volume from the CMC  
19 plants now in operation.

20           My estimated increases in subject volume are  
21 justified based on the level of excess capacity at  
22 these plants or even a relatively modest diversion of  
23 shipments from the home market or non U.S. export  
24 markets to the United States. The analysis shows  
25 significant adverse effects to Aqualon's CMC financial

1 condition should the order be revoked.

2 Amtex asserts that absent the orders, its  
3 exports to the United States will not increase because  
4 the dumping duties are low and not a barrier for doing  
5 business in the United States. However, what Amtex  
6 does not say is that these low margins reflect some  
7 degree of price discipline and they're competing for  
8 sales in the United States. Amtex also argues that  
9 there will be no discernable impact if the order is  
10 revoked because its exports to the U.S. are  
11 concentrated to food application customers.

12 Two points. First, you heard Ms. Gruber  
13 testify that Amtex does sell or is competing for  
14 personal care application customers. Second, based on  
15 Census data, imports into the U.S. of purified CMC  
16 from Mexico increased to 3.1 million pounds in 2010, a  
17 39 percent increase over 2009 levels. The U.S. CMC  
18 market is important to Amtex.

19 Akzo contends that purified CMC imports into  
20 the U.S. from its plant in the Netherlands are not  
21 likely to increase, given the small volume of imports  
22 during the review period and overselling associated  
23 with those imports. However, another possible  
24 interpretation is the order has limited the volume of  
25 imports from Akzo's plant in the Netherlands and that

1 Akzo is concentrated on higher priced applications.

2 In this context, Akzo's behavior during the  
3 review period is not a good predictor of their likely  
4 volume and pricing absent the order. This will depend  
5 on such factors as the level of their excess capacity  
6 and the ability of their home market and non U.S.  
7 export markets to absorb purified CMC production in  
8 the Netherlands.

9 Based on the analysis I have conducted on  
10 these factors and concerns that Aqualon has for a  
11 customer of its purified CMC that also purchases  
12 nonsubject cross-linked CMC from Akzo, there is likely  
13 to be a commercially significant adverse effect for  
14 Aqualon's CMC business with revocation of the order on  
15 the Netherlands.

16 Both Akzo and Amtex contend that Aqualon is  
17 not vulnerable. To support its position, Amtex  
18 compares Aqualon's net profit margin and that of the  
19 U.S. chemical sector overall from 2007 to 2009. I  
20 have reviewed these operating profit relationships  
21 going all the way back to 2004, the last year of the  
22 investigation period, and they are very instructive.

23 What they show is that in 2004, Aqualon  
24 sustained an operating loss on its CMC operations when  
25 the operating profit margins to the U.S. chemical

1 sector were 7.9 percent. In 2005, Aqualon's operating  
2 profit margin for CMC improved significantly and was  
3 very similar to that of the overall U.S. chemical  
4 sector through about 2008, within a percentage point  
5 or two.

6 In 2009 and 2010, Aqualon's operating profit  
7 margin for CMC exceeded that of the U.S. chemical  
8 sector. Tighter market conditions, most notably  
9 resulting from the unexpected closing of Kelco's CMC  
10 plant in the Netherlands in July 2009 and a change in  
11 Aqualon's product mix, contributed to higher prices  
12 and profit margins for Aqualon in the last two years.

13 Regarding CP Kelco, who is not here today,  
14 the closing of their CMC plant in Sweden was planned  
15 in line with a strategic restructuring of their  
16 business, including building a CMC plant in China.  
17 The CMC plant closing in the Netherlands in July 2009  
18 was unplanned and resulted in tight supply conditions  
19 both in the U.S. and worldwide.

20 However, Kelco is adjusting to the decline  
21 in their Dutch capacity by having qualified its  
22 Finnish CMC for regulated grade applications. Ms.  
23 Gruber gave examples of competition in the market from  
24 Kelco in the regulated and personal care markets.

25 The additional capacity in China of 15,000

1 metric tons or 33 million pounds gives Kelco increased  
2 flexibility to supply the U.S. and world markets with  
3 unregulated grade purified CMC from this plant and  
4 therefore frees up the Finnish plant to supply more  
5 higher margin regulated grade CMC.

6 Full year 2009 import data are now available  
7 from Census, and purified CMC from Finland increased  
8 by 17 percent or by 1.7 million pounds in 2009 to  
9 2010. The fourth quarter of 2010 in particular was a  
10 large volume month for CMC imports from Finland.

11 Aqualon's concern with the revocation,  
12 notwithstanding the relatively strong financials from  
13 CMC now being reported, is that it is specifically in  
14 its higher margin regulated CMC markets that will be  
15 targeted by Kelco, Akzo and Amtex.

16 Although CP Kelco's Finland plant  
17 traditionally has served the U.S. paper market, it is  
18 increasingly active in competition from regulated  
19 grade customers. Akzo and Amtex likewise are  
20 targeting or can be expected to target the regulated  
21 grade market.

22 This is not to say that they do not compete  
23 in other markets. We know that CP Kelco's Finnish  
24 plant offers the full spectrum of CMC grades for all  
25 applications, but it is the risk to Aqualon's higher

1 margin regulated CMC sales that puts its profits most  
2 at jeopardy. Thank you.

3 MR. LEBOW: Thank you. Madam Chairman, that  
4 concludes our direct testimony. Our witnesses of  
5 course will be happy to answer questions from the  
6 Commission.

7 CHAIRMAN OKUN: Thank you very much. Before  
8 we begin our questions, let me take this opportunity  
9 to thank all of you for being here this morning. We  
10 very much appreciate those industry witnesses who have  
11 taken the time from your business to be here to answer  
12 our questions and better explain the state of the  
13 industry, so we appreciate that.

14 Let me begin, if I could, the questions this  
15 morning and just go back over some of the changes  
16 since the original investigation and how we take those  
17 into account. Ms. Gruber, I'll probably start with  
18 you because you mentioned a number of them in your  
19 testimony, but Dr. Klett as well in your last remarks  
20 on the analysis.

21 I'm just going to tick off a number and then  
22 just go back and ask you more specific questions. Of  
23 the number of changes since the original  
24 investigation, we have the closure of the CMC facility  
25 in Sweden, the fact that imports from Finland are now

1 GMP qualified to supply all grades of purified CMC, CP  
2 Kelco in the Netherlands ceasing production after an  
3 explosion, the recent decline in the oil field market,  
4 increase in nonsubject imports from China and France  
5 and an increase in the use of substitute products.

6           There might be a couple more that we can get  
7 into as well, but let's start just on the likely  
8 volume if the order were lifted. You had touched on,  
9 Ms. Gruber, the impact of the closure of the facility  
10 in Sweden and the one facility in the Netherlands, and  
11 I'm just trying to make sure I understand the argument  
12 for if the order is lifted. Dr. Klett, you can  
13 comment on this as well.

14           For purposes of the volume, the Swedish  
15 facility talked a lot about it shifting. Part of it  
16 is coming from China that has the nonsubject  
17 production, but what are we talking about in volume  
18 when we are looking as if Sweden is pretty much out of  
19 the picture and it's more just this impact of what  
20 it's sending from China, but it frees up some  
21 production in the other facilities?

22           MS. GRUBER: To start at the beginning, the  
23 Sweden plant, it was CP Kelco's initiative to close  
24 that and move to the Netherlands. At the time, those  
25 were those two regulated plants.

1           At the same time, in 2005 after the order,  
2 they started with the HACCP or the GMP certification  
3 of their Finland plant, so simultaneously I believe  
4 they were trying to balance them both. I can't speak  
5 for them.

6           But when the Netherlands plant went away  
7 that was probably on the order of 10,000 to 15,000  
8 tons estimate of capacity. That could now be split  
9 between the 15,000 tons in China and the Finland  
10 plant, which is the largest CMC plant in the world.

11           CHAIRMAN OKUN: Okay. Dr. Klett, this may  
12 be a part of your analysis. The volume you anticipate  
13 coming from the subject countries is greater or the  
14 same or less than during the original investigation?

15           MR. KLETT: The proforma analysis that I  
16 did, the proforma financial analysis, I estimated a  
17 likely volume increase. The actual number is  
18 confidential, but I can kind of just give you the  
19 methodology.

20           What I did was I looked at what the -- and,  
21 by the way, I looked at just the plants that are  
22 currently in existence during the investigation period  
23 and during the review period, so I controlled for the  
24 fact that the CP Kelco Dutch plant and the Swedish  
25 plant were no longer in existence.

1           And I looked at the relative market shares  
2 between the last year of the investigation period and  
3 the first three quarters of 2010 and assumed that they  
4 would revert back to the shares they had in the  
5 investigation period. That is just the three plants  
6 currently in operation. And based on that I estimated  
7 a volume effect, and I split it evenly between subject  
8 and nonsubject imports.

9           So I have an estimated volume effect. I  
10 can't give you the specific number, but that was kind  
11 of the methodology I used for estimating what the  
12 volume effect would be with revocation.

13           CHAIRMAN OKUN: Okay. I appreciate that.  
14 Obviously I'll be looking at that carefully, but I was  
15 just trying to understand just in terms of generally  
16 how it fit in with what I was hearing from the  
17 industry witnesses.

18           And then just before we move to a different  
19 area, with respect to the product mix tell me what you  
20 think the impact is on the product mix that would  
21 likely compete in the U.S. More higher value? Is  
22 that what I hear you saying?

23           I mean, you think that the reason that  
24 you've mentioned the Chinese plant several times is  
25 that it allows them to focus more or likely to sell

1 more of the regulated CMC?

2 MS. GRUBER: It provides more flexibility,  
3 and just like the Akzo plant it's able to in Italy  
4 make products that go into more of the lower margin  
5 markets, oil field and some of the specialties.

6 By having that flexibility you can free up  
7 the regulated plants and then service that market,  
8 which tends to be the high profit, higher net selling  
9 price.

10 CHAIRMAN OKUN: Okay. I may come back to  
11 some questions on that.

12 Let me turn now to the demand side and what  
13 was seen in the oil field market and how we should  
14 take that into account in looking forward. I know a  
15 couple of you have mentioned it. Mr. Pappas, I think  
16 maybe it's your area of expertise.

17 You talked about the increase now, that  
18 you're seeing an uptick in demand. What do you see in  
19 demand going forward in the various segments? First  
20 you and then Ms. Gruber. Future demand.

21 MR. PAPPAS: As you would imagine, the oil  
22 field industry is quite cyclical, so a lot of people  
23 are trying to still answer that question, how long  
24 will this activity occur in the United States.

25 Our expectations and what we hear from the

1 large, multinational service companies who are  
2 involved with this activity is that they expect it to  
3 continue at least for the next several years here in  
4 the United States.

5 So there's a lot of activity, a lot of  
6 growth for drilling fluids, which is where you find  
7 the use of CMC. We see more activity coming in from  
8 China. We're seeing CP Kelco China material coming in  
9 as well.

10 And as Ms. Gruber mentioned, that  
11 essentially is freeing up their capacity in their  
12 other plants to produce more of the higher value  
13 regulated products. So those plants are quickly  
14 filling up for them in China.

15 CHAIRMAN OKUN: And when you and Ms. Gruber  
16 sit down and look at production, assuming you do -- or  
17 maybe, Mr. Panichella, you can answer this one. But  
18 when you're looking at projections going forward in  
19 terms of what the product mix will be for what you are  
20 going to sell, do you see a change?

21 It looks like in our record that you did see  
22 a change in where more product was being sold, which  
23 parts of the market segments, Ms. Gruber or Mr.  
24 Pappas, is going to have more --

25 MR. PAPPAS: I'll let Ms. Gruber comment on

1 the product --

2 CHAIRMAN OKUN: Okay.

3 MS. GRUBER: We hope to continue to have the  
4 growth in the regulated markets which are key to us in  
5 civil engineering, like Zissis mentioned in the  
6 specialty side. Those all have added value.

7 The concern is with the order if it were  
8 removed that we would not be able to compete as much,  
9 and that's why I gave the examples of CP Kelco coming  
10 in already even when we're experiencing price  
11 pressures, cost pressures on the cellulose, and  
12 starting to try and regain the market share.

13 CHAIRMAN OKUN: And how does the use of  
14 substitute products play in either of or any of the  
15 fields, the different end uses that you have? Other  
16 Respondents have raised that as eroding.

17 MS. GRUBER: Not significant. There are  
18 multiple hydrocolloids that will go into food  
19 applications, but they all provide a different kind of  
20 functionality.

21 So in general for the oral care market, for  
22 a lot of the processed food market, we would see  
23 continued growth on a GDP type of level, and then for  
24 the other markets I'll let Zissis comment.

25 MR. PAPPAS: For what we call the industrial

1 side, the oil field and the specialties, there have  
2 been attempts, as I've mentioned in my testimony, with  
3 the use of crude CMC, but I'm not aware of any  
4 successes with alternative products.

5 MR. KLETT: Commissioner Okun, this is Dan  
6 Klett.

7 CHAIRMAN OKUN: Yes?

8 MR. KLETT: One specific substitute that  
9 Amtex mentioned in their brief was guar, and I think  
10 they mentioned that Aqualon was importing guar from  
11 India. We discussed that yesterday, and I think if  
12 they could just touch on that specific product?

13 CHAIRMAN OKUN: Yes. Thank you.

14 MR. PAPPAS: If you take a look at the oil  
15 field activity, there's many, many products that are  
16 used and sometimes there's confusion as to what is  
17 drilling. There's many components in the oil field.

18 The drilling segment is where we use CMC.  
19 You read quite a bit about hydraulic fracturing today,  
20 and this is an event where they use guar, a  
21 significant amount of guar that is imported from  
22 India. So all of our imports for guar are heading  
23 into the fracturing or stimulation segment of the U.S.  
24 oil field market. They're not being used as a  
25 substitute for CMC in the drilling application.

1                   CHAIRMAN OKUN: So the stimulation -- and  
2 the amount going in, the demand for the drilling  
3 versus fracturing.

4                   MR. PAPPAS: What you see mostly occurring  
5 in the U.S. market today is the hydraulic fracturing  
6 for the shale clays that are occurring throughout the  
7 U.S. Again, there you're using guar, not CMC.

8                   CHAIRMAN OKUN: Okay. And oil field and rig  
9 counts we're familiar with. In a number of cases  
10 they're looking at what future demand will be. For  
11 your other end uses, what are your indicators that you  
12 look at in forecasting demand in the immediate future?

13                   MR. PAPPAS: For our industrial side of the  
14 business?

15                   CHAIRMAN OKUN: Yes.

16                   MR. PAPPAS: Again, we expect continued  
17 growth. As I mentioned, in two of the segments where  
18 we use most of our CMC is in the paper coatings and  
19 civil engineering.

20                   I would say the civil engineering growth  
21 opportunity is better than the paper coatings market.  
22 We see much of the industry moving to the east, the  
23 actual production of paper leaving the United States  
24 and heading towards the east. So the civil  
25 engineering. We see quite a bit of activity there and

1 expect growth.

2 CHAIRMAN OKUN: Okay. My red light has come  
3 on, but perhaps for posthearing if you can just  
4 include any forecasts for future demand in the  
5 different market segments that we could make part of  
6 the record? I'd appreciate that as well.

7 Vice Chairman Williamson?

8 VICE CHAIRMAN WILLIAMSON: Thank you, Madam  
9 Chairman. I too want to express my appreciation to  
10 the witnesses for their testimony.

11 Just continuing on the Chairman's line of  
12 questioning, she had asked about forecasts, and I  
13 guess, Mr. Pappas, you talked maybe on your series and  
14 all of the product segments. I'd be interested in  
15 what are your indices and what do you use to track  
16 demand?

17 MR. PAPPAS: One key indicator that we use  
18 in the oil field business is the rig count. There are  
19 projections out there in the public domain regarding  
20 the number of rigs that are being put in place, as  
21 well as active rigs.

22 Our close contacts with the multinational  
23 service companies provide us indications on projected  
24 jobs that they will be in both onshore and offshore  
25 and so we use that as an indicator on the oil field

1 side of the market.

2           Regarding the civil engineering, as I  
3 mentioned, most of these are large projects that are  
4 underway, and there are many sources of information  
5 that you can go out again in the public domain,  
6 whether it be a dam project or numerous other civil  
7 engineering types of projects that we will use, plus  
8 input from our customers as well.

9           Paper coatings. As I mentioned, it's a  
10 little more constant in terms of the demand. We get  
11 most of our input from customers regarding new demand  
12 being placed on their assets, which then we respond to  
13 what their future needs are.

14           VICE CHAIRMAN WILLIAMSON: Thank you. Ms.  
15 Gruber, what about for the personal care and the food?

16           MS. GRUBER: For the personal care and the  
17 food it's pretty much a normal growth. You've got the  
18 toothpaste market where we work closely with the  
19 customers and denture adhesives, so all of those are  
20 growing on the 2 to 3 percent type of level.

21           As far as food, we don't see a large amount  
22 of substitution with other products. There are some  
23 places that you can use combinations of hydrocolloids,  
24 but that is typically more dictated by performance  
25 than it is by price.

1                   VICE CHAIRMAN WILLIAMSON: Okay. Thank you.  
2 Mr. Pappas, back to you for a second. We're talking  
3 about how energy prices are going up, but I guess  
4 natural gas is not. Those prices are different. So  
5 how do you factor that into your --

6                   MR. PAPPAS: Most of the activity today you  
7 read about is they're going after oil, not natural  
8 gas. The price of oil continues to rise. I'm not  
9 sure where it closed yesterday. It may have been down  
10 slightly. But that's sort of the sleek spot for the  
11 service companies to go after.

12                   The use of the guar, as well as CMC for  
13 drilling. Again, they can be used both for natural  
14 gas and oil. You can use the product in either event,  
15 but today most of the activity, if not all of the  
16 activity, in the United States is for oil.

17                   VICE CHAIRMAN WILLIAMSON: Okay. Thank you.  
18 I've seen some discussion about cross-linked CMC, a  
19 product outside the scope. Could you describe this  
20 product and explain how it differs from purified form  
21 CMC in its uses and production?

22                   MS. GRUBER: It's actually a cross-linked  
23 material, so it's not reactive in the same way as the  
24 standard purified carboxymethylcellulose. It can be  
25 used in combination in certain areas like

1 microcrystalline cellulose to provide similar  
2 rheology, fiber, things like that.

3 We do not make it in any of our plants so I  
4 don't have complete expertise with the production, but  
5 I believe that you can make it in similar equipment.

6 VICE CHAIRMAN WILLIAMSON: What impact? Is  
7 its use growing, and what impact does it have on the  
8 demand for CMC?

9 MS. GRUBER: Its use is probably growing.  
10 Not as much in the United States as it is in the  
11 emerging markets, but --

12 VICE CHAIRMAN WILLIAMSON: Is there a reason  
13 for that?

14 MS. GRUBER: Not that I know of.

15 VICE CHAIRMAN WILLIAMSON: Okay. Okay.

16 MS. GRUBER: I think a lot of it is because  
17 there's new companies that are making microstyalline  
18 silica in emerging areas for cost reasons.

19 But for us, the difference between the two,  
20 as Ed said, the one product actually swells and does  
21 something totally different than the CMC, which is  
22 going to give you the rheology, but there are probably  
23 better experts in the room to answer that question.

24 As far as uses together, it's primarily for  
25 applications that go into the food market, but each

1 product would have its own specific function.

2 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.

3 MR. PANICHELLA: I think the key reason for  
4 us, Commissioner Williamson, for putting that in our  
5 testimony was that the customers that buy both the  
6 cross-linked and the purified are the same.

7 So these companies have relationships with  
8 those accounts. They're approved with both purified  
9 and cross-linked, so it would be very easy for them to  
10 step in and get the CMC reapproved -- because it's  
11 already approved -- to resell based on price into  
12 those accounts, and that's the reason we kind of  
13 brought that point to light.

14 VICE CHAIRMAN WILLIAMSON: You're saying  
15 then that it may become a marketing advantage for your  
16 competitors who can provide a company both?

17 MR. PANICHELLA: Yes.

18 VICE CHAIRMAN WILLIAMSON: Okay. Any way we  
19 can measure that? I think, Mr. Klett, you had made a  
20 reference to this too, which I didn't quite  
21 understand.

22 MR. KLETT: Well, I think there is a way we  
23 can measure it, and we can provide that in our  
24 postconference brief, because one of the customers  
25 where this effect will occur is a customer of CMC of

1 Aqualon, so we can provide some information to you in  
2 terms of at least for that customer what the likely  
3 volume effect would be based on the dynamics that were  
4 just described.

5 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.  
6 I appreciate that.

7 Do you agree with Akzo that we should be  
8 looking only at the data for it and not for CP Kelco,  
9 that facility, when we think about the Netherlands?

10 MR. LEBOW: I think when you're going  
11 forward you can't look at the CP Kelco Dutch facility  
12 because everything we've read suggests that it's not  
13 going to be rebuilt and we're looking at a prospective  
14 injury so that the CP Kelco Dutch facility is not  
15 going to be contributing to that prospective injury.

16 VICE CHAIRMAN WILLIAMSON: I see. Okay.  
17 Akzo also makes some arguments regarding the relative  
18 market power comparing Akzo to CP Kelco. So do you  
19 agree with the characterization of the relative market  
20 power, and how should this affect our analysis?

21 MR. KLETT: Commissioner Williamson, this is  
22 Dan Klett. I don't agree because their analysis of  
23 market power relates to their current position in the  
24 U.S. market, and we believe that in large part that's  
25 due to the order.

1           So, yes, they are a small player in the U.S.  
2 market now due to the order and the dumping duties,  
3 and so based on that they may not have much market  
4 power, but, as Ed said, this is prospective and the  
5 question is what's likely to happen going forward.

6           You know, Akzo is a large company with not  
7 insignificant CMC in the world, so in that degree I  
8 don't think they are a price taker as they  
9 characterized as well.

10           VICE CHAIRMAN WILLIAMSON: How much credence  
11 should we give to their argument about focusing on the  
12 high end products?

13           MR. LEBOW: Maybe Mr. Panichella can add to  
14 that. I would just say that since there's a dumping  
15 order in the United States, the United States market  
16 perhaps is less attractive so that during the last few  
17 years other products or other markets became more  
18 attractive for them.

19           But there's no reason why in the future if  
20 the dumping order were revoked the United States  
21 market would not then become the most attractive  
22 market, and there would be substantial switchbacks to  
23 the kind of behavior we saw from Akzo prior to the  
24 imposition of the order.

25           MR. PANICHELLA: Yes. I think if you look

1 at the regulated market, Mr. Williamson, in the United  
2 States it's an attractive market.

3 So I could contend that my strategy today  
4 with a dumping order in place is to serve other  
5 markets, but my strategy can change depending on how  
6 the order is decided upon going forward, and if the  
7 order is revoked I think it would become very clear  
8 that the strategy would change.

9 The U.S. is an attractive market, and they  
10 would penetrate that market by changing customers out  
11 from other segments that they have to upgrade their  
12 product mix and sell into a more attractive space.

13 VICE CHAIRMAN WILLIAMSON: Okay. Thank you  
14 for those answers.

15 How useful are our AUVs for price  
16 comparisons and are there significant differences of  
17 product mix among the countries at issues or changes  
18 in product mix that you're aware of?

19 MR. KLETT: One of the advantages of the way  
20 the Commission collected data is that you collected  
21 volume and value data not only for total sales to the  
22 U.S. and export markets; you also collected the data  
23 for each of the different market applications -- food,  
24 regulated, oil.

25 So we looked at that as well to control for

1 possible product mix factors that might affect whether  
2 if you look at the AUV comparisons the U.S. is higher  
3 than alternative export markets, and I think even when  
4 you look at the AUV comparisons, U.S. versus other  
5 markets, for specific sectors it generally shows the  
6 U.S. market to be attractive.

7 So product mix can be a significant factor  
8 affecting overall AUV comparisons and can cause  
9 distortions, but I think you've collected some data at  
10 more precise levels to enable to control for that  
11 possible distortion.

12 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.  
13 My time has expired, so I'll have to come back to  
14 that. I thank the witnesses for their answers.

15 CHAIRMAN OKUN: Commissioner Lane?

16 COMMISSIONER LANE: Thank you, and thank the  
17 witnesses for coming here today.

18 Dr. Klett, you talked about an analysis that  
19 you had performed to determine what the effect would  
20 be if the orders were revoked.

21 MR. KLETT: Yes, Commissioner.

22 COMMISSIONER LANE: Can you provide that  
23 posthearing for us?

24 MR. KLETT: Yes. We had part of it in our  
25 prehearing and some of the detail was, but we'll

1 provide the detail in our posthearing.

2 COMMISSIONER LANE: Okay. Thank you. I  
3 want to make sure that I understood what you were  
4 saying. I think maybe it was Mr. Lebow.

5 Are you conceding that Sweden no longer has  
6 any production and should not be included in the order  
7 if we maintain the order?

8 MR. LEBOW: I am definitely conceding that  
9 Sweden should not be continued in the order. We said  
10 that in our filings previously. The plant is gone.

11 In response to Commissioner Williamson I was  
12 also saying that when you do your prospective analysis  
13 of the Netherlands you cannot include the CP Kelco  
14 because that also was gone, so your analysis for the  
15 Netherlands must be based entirely on Akzo.

16 COMMISSIONER LANE: Okay. Thank you. In  
17 the past five years have there been any technological  
18 developments either product-wise or process-wise that  
19 we should know about in looking at the economics of  
20 producing purified CMC?

21 MS. GRUBER: For us in the Hopewell,  
22 Virginia, plant, we've been able to do a lot of the  
23 things that we could not for investments before the  
24 order, so it hasn't been anything that's been  
25 tremendously innovative.

1           A lot of it is around dryer automation, the  
2 particle size control that we needed in order to  
3 service some of the customers that require coarse  
4 particles. But as far as anything that was  
5 groundbreaking, no, Ms. Lane. We don't have that.

6           COMMISSIONER LANE: Okay. Thank you. In  
7 the prehearing briefs there's some discussion of the  
8 raw material that's used to make purified CMC,  
9 including whether cotton linters or wood cellulose is  
10 used. Please explain why this matters and why this is  
11 relevant, if at all, to our analysis.

12           MS. GRUBER: It's not completely relevant.  
13 There's only certain cases in Europe where you have to  
14 use wood products because of genetically modified  
15 organism rulings. That's not common in the U.S.

16           That is part of the reason that we do bring  
17 some of the material from France, a small volume,  
18 probably less than 5 percent, is simply because  
19 customers have to comply with the European rulings.

20           COMMISSIONER LANE: Okay. Thank you.

21           MR. PANICHELLA: I think I'd like to add one  
22 other perspective to give you some broader perspective  
23 on that question and where it is maybe relevant.

24           If you look, it's been widely publicized  
25 what's happened to cotton prices in the world. In the

1 past 12 to 14 months, cotton prices have more than  
2 doubled. So what we used to pay around \$1,500 per  
3 metric ton for this raw material, they're now in  
4 excess of \$3,000 per metric ton.

5 So as it pertains to the dumping order, our  
6 ability to pass on those costs to customers is very  
7 relevant, and we think that part of the reason we've  
8 had some success in doing that is because of the  
9 dumping order, so I think it's very relevant that  
10 we're able to pass on what has been a very significant  
11 run up in raw material costs.

12 COMMISSIONER LANE: This next question has  
13 BPI information so I'm going to have to ask it very  
14 vaguely. But as I read the report, a lot of your  
15 product is sold from inventory, and some of it is sold  
16 based upon a specific order.

17 In looking at the lead times, why would it  
18 take so long to sell from inventory if the product is  
19 already there? Don't they just go in and say hey, I  
20 want that and take it?

21 MR. PANICHELLA: Well, I think the easiest  
22 way to think about that is we make somewhere in excess  
23 of 400 or 500 SKUs of individual products that go  
24 through a production cycle from A to Z that takes over  
25 60 days and so we do not inventory all of those

1 products, okay? That's not what we do.

2 We inventory some of the high volume  
3 products, but we clearly don't try to inventory all  
4 products that go in that production cycle of 60 days.  
5 So I think the answer to your question is we inventory  
6 the high volume products and we make the order in that  
7 60 day production cycle the other products that are  
8 not being inventoried.

9 COMMISSIONER LANE: Okay. But if it's in  
10 inventory, why would you not be able to make immediate  
11 delivery?

12 MR. PANICHELLA: I don't think there's any  
13 reason we won't, and we have data that tracks what we  
14 ship as far as customers on time based on their order  
15 date, so I don't think that's something that I  
16 understand.

17 MR. BEHAR: If we have material in inventory  
18 that meets the customers' requirements you can ship in  
19 advance of that.

20 The made-to-order products, which are  
21 generally customer specific materials -- it may be a  
22 special package, may be a special process -- those  
23 products typically have the extra lead time, but that  
24 way they can get into the production cycle and our  
25 customers are able to predict in advance so they order

1 in advance.

2 COMMISSIONER LANE: I would appreciate for  
3 posthearing if you would take a look at that table  
4 that shows the lead times for your sales out of  
5 inventory and give me an explanation. Thank you.

6 MR. LEBOW: Thank you. We'd be happy to do  
7 that.

8 COMMISSIONER LANE: Thank you. In the  
9 responses to the notice of institution and prehearing  
10 briefs, it appears that none of the parties are  
11 arguing for a different like product than the  
12 Commission found in the original investigation. Is  
13 this the case?

14 MR. LEBOW: That is the case as for Aqualon.

15 COMMISSIONER LANE: Okay, thank you. What  
16 is required in terms of time and money for a plant to  
17 be qualified to produce food-grade purified CMC?

18 MS. GRUBER: From a timing standpoint, it  
19 can depend. And we noticed after the first hearing  
20 that it came up on the website for Finland for their  
21 CP Kelco plant in 2005 that their HACCP program, which  
22 is the critical control point program, was underway.  
23 From the data that we've seen and from customer  
24 information, we believe that they were probably able  
25 to start selling in 2006-2007, but that's not

1 confirmed by anything in documents.

2 So you can probably do it in a matter of a  
3 year to two years. And as far as the cost, it depends  
4 upon whether you do things internally to certify  
5 yourself or how many external audits and things that  
6 you need.

7 COMMISSIONER LANE: Okay, thank you. When  
8 asked whether substitutes for purified CMC exist, a  
9 number of substitutes were listed in the questionnaire  
10 responses for certain applications. That's in the  
11 staff report, pages 210 and 211, and were also  
12 discussed in the Amtex prehearing brief. Are there  
13 any substitutes that closely compete with purified CMC  
14 in price or major application?

15 MS. GRUBER: No.

16 COMMISSIONER LANE: And has there been a  
17 trend toward increased use of substitutes for purified  
18 CMC since the order went into place?

19 MS. GRUBER: No.

20 COMMISSIONER LANE: Okay, thank you. Madame  
21 Chair?

22 CHAIRMAN OKUN: Commissioner Pearson.

23 COMMISSIONER PEARSON: Thank you, Madame  
24 Chairman. I also would like to welcome the witnesses,  
25 and I would agree with Mr. Panichella that if the

1 finished plant had been certified in the time of the  
2 original investigation, as it is certified now, it  
3 would have been challenging even for me to find a  
4 basis for decumulating Finland in terms of lack of  
5 fungibility.

6 MR. PANICHELLA: Thank you.

7 Perhaps Mr. Wolff is the best person to  
8 answer this question because it goes back to an  
9 allegation that was in the original investigation, and  
10 that is that we were being -- we were hearing from  
11 Respondents that there was kind of a lack of a  
12 customer service ethic in Aqualon at that time, and  
13 they saw that as a condition of competition.

14 Could you comment either whether there might  
15 have been some problems? And if so, do they still  
16 exist, or has there been a change in customer focus?  
17 Or do you just not think there is any credibility to  
18 those allegations, even going back to the original  
19 investigation?

20 MR. WOLFF: Excuse me. Is your question  
21 back in 2005 or recent?

22 COMMISSIONER PEARSON: No. I'm starting in  
23 2005, yes.

24 MR. WOLFF: Okay. Back in 2005, our service  
25 levels and support to the customers was actually very

1 good at that point. So I'm not sure where those  
2 allegations came from.

3 COMMISSIONER PEARSON: Well, from customers.  
4 Ms. Gruber, are you familiar with this?

5 MS. GRUBER: A little bit. And I think to  
6 answer the question that we didn't have a lot of  
7 investments specifically focused on CMC because we  
8 were in a spiral in the wrong direction from the  
9 business. And today I'm happy. In my presentation  
10 that I gave, I talked about two different new product  
11 developments that were made as a result of working  
12 closely with our customers. And we continue to be  
13 very proactive in looking for new opportunities and  
14 new applications for CMC.

15 So I might not have agreed with what they  
16 said back then, but I think that we've come a long  
17 way, and it's because of the order.

18 COMMISSIONER PEARSON: Right. And then the  
19 reason I raised this is because it strikes me as  
20 interesting that I don't see those allegations in the  
21 current record, unless I've just missed them.

22 MR. PANICHELLA: Well, one thing I will add  
23 that we have instituted in the past five years -- so I  
24 can't comment on the previous. But we now have a  
25 pretty rigorous measurement of our ability to serve

1 those customers. And while we still have room for  
2 improvement, we've made pretty significant in our  
3 capabilities, in our ability to meet their  
4 expectations. So room for improvement, but we've made  
5 a lot of progress.

6 COMMISSIONER PEARSON: Okay. Well, I have  
7 some experience in customer service, and it's just an  
8 ongoing challenge. So I have some empathy.

9 This question has to do with the reality  
10 that Aqualon is the sole domestic producer with the  
11 capacity to serve only a portion of the U.S. market,  
12 okay? So given that U.S. demand for CMC is  
13 substantially greater than Aqualon's U.S. production  
14 capacity, Ms. Gruber, wouldn't you expect to have to  
15 lose quite a bit of competition for business because  
16 you can't win all of the business that's out there.

17 MS. GRUBER: Well, I don't like to lose  
18 business. But in a competitive environment that's  
19 fair competition, I do agree that you have to find  
20 ways to differentiate yourself and service the market.  
21 So I think that without the order, if it gets back to  
22 the unfair basis that had been in the past, that's  
23 where we're at risk because I want to compete, but I  
24 want to compete fairly.

25 COMMISSIONER PEARSON: Okay. But, I mean,

1 from your testimony, I was getting the feeling that  
2 you thought that there was really -- that it was a  
3 surprise that Aqualon wasn't winning all the business.

4 MR. PANICHELLA: I think you have to look  
5 also, Commissioner, at the segments of the market.  
6 So, yes, while we can't serve the entire U.S. market,  
7 the markets that, you know, this order really revolves  
8 around are more the regulated markets, and we clearly  
9 have capacity to serve the entire regulated market.  
10 So while the U.S. market is larger than the regulated  
11 market, that's kind of the area of focus for us, and  
12 we do have capacity to serve that market.

13 COMMISSIONER PEARSON: Okay. In the  
14 original investigation, we didn't dig into the  
15 possibility of attenuated competition and trying to  
16 split the market into segments. And we acknowledged  
17 that there were different segments, but I don't recall  
18 that we had the view that some were more desirable  
19 than others.

20 In this investigation, should we putting  
21 more emphasis on the regulated portion?

22 MR. KLETT: Commissioner Pearson, this is  
23 Dan Klett. I think the point that's important, the  
24 imports, the subject imports, are in all segments of  
25 the market, the regulated and the nonregulated. And

1 so I don't think that you should split the market or  
2 segment the market among the different segments. I  
3 think the point that Karen and John are making is that  
4 the regulated markets -- and this is a point I made in  
5 my testimony as well, that the regulated markets are  
6 the higher margin markets for Aqualon.

7 So in terms of their -- or threats to their  
8 margin, that's where they see most of the risk. Now,  
9 because for them -- we were talking about this  
10 yesterday. You've got to fill your plant, so  
11 obviously filling your plant with the oil field and  
12 the nonregulated grades just so you're operating as  
13 close to full capacity as you possibly can is very  
14 important. But from a margin perspective, the  
15 regulated grades are far more important. And I think  
16 that's the distinction we want to make.

17 COMMISSIONER PEARSON: Okay. Thank you.  
18 Ms. Gruber, are you also in charge of selling CMC that  
19 Aqualon imports from France in the U.S. market?

20 MS. GRUBER: I'm globally responsible for  
21 the CMC business, yes.

22 COMMISSIONER PEARSON: Okay. So when you  
23 meet with a customer in the United States, are you  
24 able to offer them either product produced in the  
25 United States or produced in France?

1 MS. GRUBER: We can, although most of the  
2 product that's produced in France serves two purposes.  
3 One was the paper market, where they needed the coarse  
4 particle size, and the second one is the food grade  
5 for the non-GMO, the genetically modified. And that's  
6 not a large enough business to change over the plant  
7 in Hopewell to service.

8 As I mentioned, the imports for that would  
9 be probably less than 5 percent of the imports that  
10 we've had. And the new diverter system at Hopewell is  
11 going to help us to not have to bring in the material  
12 from France.

13 COMMISSIONER PEARSON: Okay. So then you  
14 would expect that Aqualon would reduce its overall  
15 sales in the U.S. market by no longer selling French  
16 product.

17 MS. GRUBER: We won't reduce our sales. We  
18 would supplement those with the material from  
19 Hopewell.

20 MR. PANICHELLA: Today, think about it like  
21 this. Today, we have a capability issue in Hopewell.  
22 We can't produce the coarse grade. So we put in  
23 capital to allow us to produce the coarse grade,  
24 therefore that we won't have to have the need to  
25 import French material. The only reason we had to

1 import the French material is we couldn't make the  
2 product in our Hopewell plant. So we put in the  
3 capital so now we can make the product, therefore we  
4 don't need to import the French material. We can make  
5 it in the Hopewell plant.

6 COMMISSIONER PEARSON: So are you  
7 anticipating in the reasonably foreseeable future that  
8 you'll be importing less from France?

9 MR. PANICHELLA: Yes.

10 MS. GRUBER: Yes.

11 MR. PANICHELLA: Because we won't need to  
12 import it. We can make it in the United States.

13 MR. LEBOW: In fact, I think if you already  
14 look at the last half of 2010, the imports from France  
15 are way down because of the new diverter capability  
16 for the coarse particle sizes at Hopewell.

17 COMMISSIONER PEARSON: Okay. Well, maybe  
18 the question should be addressed to Mr. Pappas,  
19 because you're the one who is out there dealing with  
20 paper customers. You're now in a position where  
21 you're able to offer a product from Hopewell that  
22 would meet the needs of most U.S. paper producers. Is  
23 that a correct way to understand it?

24 MR. PAPPAS: Correct.

25 COMMISSIONER PEARSON: Okay. And in the

1 past, you had been selling product from France for  
2 that purpose?

3 MR. PAPPAS: Correct.

4 COMMISSIONER PEARSON: And you're now  
5 selling less from France and more from the United  
6 States?

7 MR. PAPPAS: Yeah. Well, the intent is not  
8 to import the material into the United States because  
9 of the costs associated with it. It's a very price  
10 sensitive market, so we're looking at ways to optimize  
11 our position and have local production available for  
12 these paper customers.

13 COMMISSIONER PEARSON: Okay. Just out of  
14 curiosity, you know, since the original investigation,  
15 the dollar-euro exchange rate has shifted quite a bit,  
16 such that it is now relatively more expensive to bring  
17 product from Europe into the United States. Is that  
18 an issue in the whole interest of Aqualon in --

19 MR. PAPPAS: Well, it's certainly an  
20 incentive to have the material produced in the United  
21 States.

22 COMMISSIONER PEARSON: Okay.

23 MR. PANICHELLA: But I think the bigger  
24 issue is capability. We could not produce it in the  
25 United States at the original time. We've since

1 changed that. We can now produce it. Therefore, we  
2 will produce it in the U.S. for the U.S. market.

3 COMMISSIONER PEARSON: Right, okay. But Mr.  
4 Pappas had made note of the price sensitivity of  
5 bringing product in from France, and I can understand  
6 that, given the exchange rates.

7 Madame Chairman, my time has expired.  
8 Thanks.

9 CHAIRMAN OKUN: Commissioner Aranoff.

10 COMMISSIONER ARANOFF: Thank you, Madame  
11 Chairman. And I join my colleagues in welcoming all  
12 the witness on the panel here this morning. I want to  
13 pick up where Commissioner Pearson left off and just  
14 round out the question about nonsubject imports that  
15 Aqualon has been making.

16 Am I correct in understanding that all of  
17 the imports that you've brought in from France have  
18 been for these two applications, the coarse grain that  
19 you previously couldn't make and the non-GMO?

20 MS. GRUBER: The coarse grade and the non-  
21 GMO, and then there is a couple of multinational  
22 pharmaceutical customers that use very specific, very,  
23 very small amounts.

24 COMMISSIONER ARANOFF: Okay. So everything  
25 that you're bringing in from France or were bringing

1 in from France was something you didn't make here.

2 MS. GRUBER: That's correct.

3 COMMISSIONER ARANOFF: Okay. If there is  
4 anything else that you want to add about nonsubject  
5 imports -- because I don't want to get into  
6 confidential information about where they're coming  
7 from. But I would like to know with respect to all  
8 the nonsubject imports that you're bringing in whether  
9 they are products that you produce or could produce in  
10 the U.S. and are complementary, or whether they're  
11 things that you can produce here but have chosen to  
12 import for other reasons. That would be helpful for  
13 the record.

14 I want to switch gears for a minute and ask  
15 a question about cumulation. And particularly, Akzo  
16 Nobel makes an argument in their brief where they  
17 argue that because they're a smaller producer globally  
18 than either Aqualon or CB Kelco, that when they sell  
19 product in the U.S. market, they're a price taker, and  
20 they would always be a price taker, and that as a  
21 consequence of that, they would compete in the U.S.  
22 market if these orders were revoked under different  
23 conditions of competition than other subject  
24 producers.

25 Can you respond either to the premise that

1 they're a price taker in the U.S. market or to the  
2 argument with respect to whether that creates a  
3 different condition of competition?

4 MR. LEBOW: Let me begin, then perhaps Mr.  
5 Klett or Mr. Panichella would like to add something.  
6 I think the first thing you have to do is look back to  
7 the conditions of competition before the orders were  
8 entered because that is the better predictor of what  
9 Akzo is going to be doing afterwards and what they  
10 were doing during the period of the order.

11 As Mr. Panichella said, they can change  
12 their business plans to meet the enticement of a  
13 better market there in pretty short order. So I don't  
14 think that they had proved to be price takers in the  
15 past, nor do I think they will necessarily be price  
16 takers in the future, nor do I think that their  
17 capacity was particularly limited in the past to sell  
18 to the U.S., nor do I think it will be in the future.

19 MR. KLETT: No. I have nothing to add. I  
20 mean, I think I agree with the points made by add that  
21 I think the price taker argument is premised on their  
22 volumes in the U.S. market during the review period,  
23 and I think that was -- they were small due to the  
24 order. And you really have to look at their capacity  
25 and also go back to pre-order conditions.

1           MR. LEBOW: And in fact, during the last  
2 review, where they still were making some sales in the  
3 U.S. during the order period, they were found to be  
4 dumping at nine and a fraction percent. This is  
5 actual calculated margins during -- I think it was the  
6 2008-2009 period. So, you know, they were selling in  
7 the U.S., and they were selling at substantial dumping  
8 margins.

9           COMMISSIONER ARANOFF: I think in this case  
10 perhaps the elephant in the room that people aren't  
11 really talking about is the industry in China. And I  
12 wanted to ask some questions about that.

13                 First of all, do we know, and is the  
14 information available, to what extent the capacity  
15 that has been built up in China reflects investments  
16 by existing multinational producers versus new  
17 indigenous Chinese players that have come on the  
18 market?

19           MR. PANICHELLA: Well, there is a lot of  
20 information, but none of it by a published source. So  
21 it's compiled from a variety of different sources.  
22 There is not like a published report that you can go  
23 out and get on the CMC industry in China.

24                 However, the vast majority of the capacity  
25 that's in China is non-purified grades, low-purity

1 grades. There are several producers that have high  
2 purity facilities in China, but it's a less than 5  
3 percent of the market. The majority of the market is  
4 low purity. But there is no published public  
5 information. You have to piece information together  
6 to kind of get a picture and a perspective of what the  
7 Chinese market is like.

8 COMMISSIONER ARANOFF: Well, if there is  
9 information or market intelligence that you rely on  
10 that you would be willing to submit for the record  
11 that would help us to sort out, I'd really like to  
12 divide up what we know about the capacity in China  
13 between what is controlled by global companies, what  
14 is controlled by Chinese companies; and among that,  
15 what is produced in purified CMC versus other products  
16 that aren't as relevant to this review. Okay. So  
17 whatever you can offer on that.

18 MR. LEBOW: For the record, we will do so.

19 COMMISSIONER ARANOFF: Thank you. Are you  
20 aware of Chinese producers who are currently certified  
21 to provide food-grade or personal care product  
22 customers?

23 MR. PANICHELLA: I'm not.

24 COMMISSIONER ARANOFF: Ms. Gruber?

25 MS. GRUBER: There are differences in

1 regulations for food-grade in China versus food-grade  
2 in the U.S. And so in China, you can be at 95 percent  
3 purity. As I mentioned in my testimony, you have to  
4 be 99.5 percent purity in the U.S.

5 COMMISSIONER ARANOFF: Okay. So you're  
6 saying they can supply those applications in China,  
7 but not if the ultimate product is coming to the U.S.  
8 sale or if the CMC itself is coming to the U.S. for  
9 sale?

10 MS. GRUBER: That's correct. There are two  
11 different specifications and two different  
12 requirements.

13 MR. PANICHELLA: Many U.S. producers are  
14 very hesitant to approve Chinese products into food  
15 based on the melamine crisis that happened in China a  
16 couple of years ago. And so there are a lot of  
17 barriers, you know, based on risk profile that  
18 companies are willing to accept to approve Chinese  
19 producers, and most of them just aren't willing to  
20 take that risk.

21 COMMISSIONER ARANOFF: And if you're a U.S.  
22 company and you're producing -- well, purchasing a  
23 Chinese product, a downstream product, that uses CMC  
24 as an ingredient, the CMC that you use when you  
25 manufacture the product in China has to meet the U.S.

1 purity standard in order for the end product to be  
2 imported, or no?

3 MR. PANICHELLA: It depends. The China  
4 regulation for food, as Karen said, is 95 percent  
5 purity in the food. However, multinationals that go  
6 there have a different standard to protect their  
7 brands, et cetera. So if I were Procter and Gamble in  
8 China, I may operate above the China law standard of  
9 95 percent. I may operate to the high purity  
10 standard.

11 COMMISSIONER ARANOFF: But are you required  
12 to do so by U.S. law in order to import that product?

13 MR. PANICHELLA: No.

14 COMMISSIONER ARANOFF: No.

15 MR. PANICHELLA: It's a company-by-company  
16 standard in China, and you have to meet the minimum  
17 requirement at 95 percent, but then on a company-by-  
18 company basis, they dictate which -- you know, what  
19 their formulas call for.

20 COMMISSIONER ARANOFF: Okay, right. So do I  
21 take it from that that as marketers of the food-grade  
22 product in the United States, you're not that worried  
23 in the immediate future about competition from Chinese  
24 producers, or you are worried?

25 MR. PANICHELLA: I'm not that concerned.

1                   COMMISSIONER ARANOFF: Okay. My  
2 understanding is that the subject -- because of the  
3 two plant closures, the subject capacity of AP Kelco  
4 is lower now than it was at the time of the original  
5 investigation. Is that correct?

6                   MR. LEBOW: In terms of the company-wide  
7 subject total, which doesn't include their China  
8 plant, it would be lower, yes. But their capability  
9 has been restructured because of the GMP authorization  
10 in the other plant.

11                   COMMISSIONER ARANOFF: Okay. So that was  
12 actually the next thing I was going to ask, was  
13 globally, is their capacity higher or lower if you  
14 include their Chinese plant?

15                   MR. LEBOW: About the same, I think.

16                   COMMISSIONER ARANOFF: About the same.  
17 Okay. My time is almost up, so I will come back in  
18 the next round. Thank you.

19                   CHAIRMAN OKUN: Commissioner Pinkert.

20                   COMMISSIONER PINKERT: Thank you, Madame  
21 Chairman. And I join my colleagues in thanking all of  
22 you for being here today. I want to begin with some  
23 questions about Amtex, the Mexican company. What  
24 would Amtex likely do differently in the U.S. market  
25 in the event that the order on Mexico is revoked?

1           MS. GRUBER: I think that basically what  
2 would happen -- we've seen them in certain customers  
3 that are in the food market as well as in the personal  
4 care market, where they've come in and offered more  
5 aggressive pricing. If the order were not there to  
6 keep them understanding of the fair market value, they  
7 might continue to come in at lower pricing and  
8 underprice the Aqualon business.

9           MR. KLETT: Commissioner Pinkert, this is  
10 Dan Klett. I think also the premise of that question,  
11 I think, is that because the margins for Amtex are so  
12 low that the orders have had no restraining effect  
13 on --

14           COMMISSIONER PINKERT: I was going to get to  
15 that with my next question, but go ahead.

16           MR. KLETT: And I think there is a problem  
17 with that premise, and that is that even if you have a  
18 2 percent dumping margin, that may reflect price  
19 discipline in the market, their prices in the U.S.  
20 being higher than they otherwise would be in order to  
21 obtain low dumping margins.

22           So I don't think the premise that because  
23 the dumping margin is low that there is really no  
24 restraining effect, and therefore, if you take the  
25 dumping order off, their behavior will not change. I

1 don't think that's a correct premise on their part.

2 COMMISSIONER PINKERT: Now, staying with  
3 that, Mr. Klett, as you know, dumping margin is based  
4 on a comparison. And we don't have to get into the  
5 details of that comparison here. But rather than  
6 basing the point that you're making right now on a  
7 comparison, is there any way that you can show simply  
8 that the pricing of Amtex has been affected in some  
9 way by the order? In other words, not so much their  
10 pricing relative to their pricing somewhere else or  
11 relative to their cost, but just a time series of  
12 their pricing and how it might have been affected by  
13 the imposition of the order.

14 MR. KLETT: There is. We have data going  
15 back to the investigation period as well as the review  
16 period. And I've done this for imports overall, just  
17 to see if from '04 to '05, for example, there was a  
18 changing in pricing behavior. That would be a good  
19 test of what the effects of the order were on pricing.  
20 So the data itself are confidential, but that would be  
21 one methodology to evaluate the effects of the order  
22 on pricing.

23 COMMISSIONER PINKERT: And could you look at  
24 that specifically in regard to Amtex for purposes of  
25 the posthearing submission?

1 MR. KLETT: I will do so.

2 COMMISSIONER PINKERT: Thank you. Now, for  
3 purposes of cumulation, there has been some talk today  
4 about the cumulation issue. Is it your contention,  
5 Mr. Lebow, that there is any structural difference  
6 between the Dutch industry and the Mexican industry  
7 that might guide in some way our cumulation analysis?  
8 And by structural, I mean here differences that are  
9 likely to persist over time in terms of the way that  
10 they compete in the U.S. market or compete with regard  
11 to one another.

12 MR. LEBOW: Without getting into proprietary  
13 information, the thing that comes most rapidly to my  
14 mind is that -- well, two points. In the original  
15 investigation, you know, it was found that there was a  
16 cumulative impact, that they were in the same market  
17 segments, food especially, that similar patterns of  
18 distribution, similar geography -- I think if I were  
19 forced to point out a distinction going forward, I  
20 think it would have to do with the capacity. I think  
21 that probably given their overall size, that Akzo may  
22 have greater flexibility in reaching their capacity,  
23 given their structure.

24 COMMISSIONER PINKERT: Thank you. For  
25 purposes of the posthearing, if you could look at the

1 proprietary information and flesh that out a little  
2 bit, that would be helpful.

3 Now, turning to the issue of vulnerability  
4 -- and I understand that there hasn't been much  
5 emphasis on that question today. But I just wanted to  
6 nail it down. Is it your contention, just looking at  
7 a snapshot of the industry right now, that the  
8 industry is vulnerable? And by no means is this issue  
9 dispositive of the analysis that we're supposed to do.  
10 But I just want to get that question answered. And I  
11 see that Mr. Klett is smiling, so perhaps he has an  
12 answer to that.

13 MR. KLETT: This was a question that we send  
14 Mr. Lebow would answer, and that's why I was smiling.  
15 So I'll let Ed answer it.

16 MR. LEBOW: Okay. I'll go ahead then. You  
17 know, obviously with the positive results of the last  
18 couple of years, it's hard to come in and say the sky  
19 is falling, we're highly vulnerable. But we think  
20 that if you looked at the -- certainly during the  
21 earlier part of the review period, we would have been,  
22 or Aqualon would have been, and that as this spike in  
23 demand due to the closing of the Netherlands plant or  
24 this change in Kelco supply capability is worked out  
25 -- and it seems to be working out. In the last few

1 months, we've seen a lot more imports from Finland,  
2 for example, and fewer of Kelco's customers coming  
3 looking for help.

4 I think that we're returning, I would say,  
5 to the position of vulnerability. And as you've heard  
6 before, without overly differentiating the market, the  
7 place where Aqualon makes much of its profit is in the  
8 regulated grades, and that's a strong area for CP  
9 Kelco. It's a strong area for Akzo. And with the  
10 worldwide rationalization -- I think that's the word  
11 they use for it -- that Kelco has for their production  
12 -- and they are able to help themselves with lower  
13 margin production from China -- we think that  
14 particularly there is a vulnerability on the regulated  
15 end from Finland and the Netherlands.

16 COMMISSIONER PINKERT: Now, in regard to  
17 Akzo Nobel's prospective participation in the U.S.  
18 market, I note that today this panel has placed a lot  
19 of emphasis on Akzo Nobel's pre-order behavior as a  
20 better predictor of how they might behave if the order  
21 were revoked. And I understand that. But is there  
22 anything on the record that is not pre-order that can  
23 help us?

24 And I heard you refer to some degree to  
25 capacity utilization figures. Is there anything that

1 you want to add to flesh out what is on the record,  
2 not pre-order, that helps us understand their behavior  
3 going forward?

4 MR. LEBOW: I think the one thing -- and I  
5 again have to be very careful about BPI. We've  
6 mentioned a particular customer in our brief. This  
7 customer was a very large customer of Akzo Nobel's.  
8 They are currently a customer of croscarmellose. They  
9 have an ongoing business relationship. The subject  
10 CMC is qualified there. It's custom revised in the  
11 millions of pounds a year. In that customer's  
12 questionnaire's response -- and I'm not going to quote  
13 the language, just to be super careful, and we've  
14 quoted this in our brief. The customer has said  
15 things that indicate that price is an important factor  
16 in their decision making once quality threshold is  
17 met.

18 So we think that from the information in the  
19 U.S. market from that customer, I think that it's fair  
20 to suggest that there is a record information that  
21 Akzo Nobel would be back.

22 COMMISSIONER PINKERT: Thank you very much.  
23 Thank you, Madame Chairman.

24 CHAIRMAN OKUN: Ms. Gruber, let me turn to  
25 you. You had in your testimony talked about the

1 ability of Aqualon to compete with -- in all of the  
2 accounts, where the Mexican company is competing.  
3 There has been discussion in Amtex's brief about  
4 Azteca, which I think you had referenced. And I just  
5 wanted to make sure that I understood exactly what  
6 your argument is with respect to your ability to meet  
7 that customer's needs, or whether there is anything  
8 else on the record that we could look at to determine  
9 whose description of this customer is accurate.

10 MS. GRUBER: In my testimony, I mentioned  
11 the fact that we do sell to other tortilla or masa  
12 manufacturers, or we had been selling until we were  
13 underpriced at the particular account. So for us, we  
14 have the ability to make the high-viscosity grain. We  
15 have the ability to make the particle size that is  
16 necessary. We have had some conversations with the  
17 particular account that you mentioned, Azteca. But I  
18 don't believe since 2004 -- I'm not sure whether we've  
19 provided them any additional samples or anything that  
20 they could get a reading on what our quality looks  
21 like.

22 So I can't give you further insight into  
23 their perspective.

24 CHAIRMAN OKUN: Okay. Thank you. Then  
25 again I think I'll follow up to some of Commissioner

1 Pinkert's questions about post-order, where there  
2 would be competition. And let me ask this in kind of  
3 a cumulation context, which is with respect to the  
4 segments of the market where the Mexicans have stayed  
5 in versus what -- those segments of the market where  
6 we have production from the Dutch. Do you think there  
7 would be more competition in all segments if the order  
8 were lifted, and if so, what evidence is on the record  
9 that we could look at?

10 MR. LEBOW: I'm not sure I totally  
11 understand your question. There certainly is  
12 competition in food and personal care across the  
13 board, which as far as we're concerned is wide enough.  
14 I'm not able to speak to their participation in oil  
15 field or paper, and perhaps Mr. Pappas can do that.

16 CHAIRMAN OKUN: Mr. Pappas?

17 MR. PAPPAS: Yeah. Very limited. We mostly  
18 see activity from CP Kelco in the United States. But  
19 the other two, limited activity in the oil field  
20 markets.

21 CHAIRMAN OKUN: Okay. I just wanted to make  
22 sure whether that had changed, or whether you saw  
23 competition that is not on the record there. And then  
24 with respect to the competition in the market -- and  
25 again, I think was more Ms. Gruber, although Mr.

1 Pappas as well. Both today and in your prehearing  
2 brief, you had talked about competition with subject  
3 imports at specific accounts. And first, I just  
4 wanted to make sure, is the information that you  
5 described, both in the brief and today, are those all  
6 accounts for U.S. sales?

7 MR. LEBOW: Yes. On the attachment 1 to our  
8 brief, so it's all U.S. business within the last  
9 several months really.

10 CHAIRMAN OKUN: Okay, okay. And so  
11 everything that you've talked about is included in  
12 that exhibit?

13 MR. LEBOW: Yes, that's correct, yes.

14 CHAIRMAN OKUN: Okay. All right. And I'll  
15 go back and look at then and make sure. I mean, I'm  
16 not sure if you can talk about this in public. But  
17 with respect to the acquisition of Ashland in 2008,  
18 can you describe the impact of that on your  
19 operations?

20 MR. PANICHELLA: I think we've been really  
21 pleasantly -- with, you know, the investment that  
22 they're willing to make in our company, it has been  
23 positive. So there has been really very little change  
24 in the business. So I think for purposes of how we  
25 run the company, almost no change.

1                   CHAIRMAN OKUN: Okay. And then you had  
2 talked about your capital expenditures during the  
3 period of review and how that helped you, and a couple  
4 have since competed in product lines that you didn't  
5 previously -- were not previously able to produce.  
6 Can you talk about -- I'm not sure if you can in a  
7 public session -- but in terms of your planned capital  
8 expenditures in the reasonably foreseeable future and  
9 how that might impact competition or where you would  
10 put your focus?

11                   MR. PANICHELLA: Yeah. I think we'd prefer  
12 to, you know, give you that kind of information in a  
13 follow-up.

14                   CHAIRMAN OKUN: Okay. I appreciate that. I  
15 understand that. Just make sure -- just you can do  
16 that in a follow-up. But I'll take a look at that as  
17 well. And then there has been some discussion about  
18 raw materials. And I think it was you who had  
19 discussed about the ability to pass on these rising  
20 costs. You had talked about cotton in particular, I  
21 think, in those remarks.

22                   What about for cellulose? What do you track  
23 on that, and what evidence is there that those prices  
24 increases have --

25                   MR. PANICHELLA: Yeah. The two major raw

1 materials that CMC -- that we make our CMC with is  
2 dissolving wood pulp and cotton linters. And they  
3 track pretty careful -- I mean, they track pretty  
4 closely as they -- you know, there are different price  
5 points for the raw materials, but they pretty much  
6 rise in unison because they're substitutes. You can  
7 make the products either way.

8 The high viscosity products, however, you  
9 can only make with cotton linters. And so -- but to  
10 answer your question, the two have risen almost in  
11 parallel up and down. They kind of move together.

12 CHAIRMAN OKUN: Okay. And are those indexes  
13 that are available? They might be in the hearing  
14 report, but I didn't see it.

15 MR. PANICHELLA: Cotton is an index that's  
16 available.

17 CHAIRMAN OKUN: Right.

18 MR. PANICHELLA: I don't think wood pulp,  
19 dissolving wood pulp, is an index that is available.

20 CHAIRMAN OKUN: Okay.

21 MR. LEBOW: If you would like, I'm sure we  
22 can give you cellulose -- pricing on both over some  
23 period of time.

24 CHAIRMAN OKUN: That would be great if you  
25 look at that series for the period of review. That

1 would be great. I appreciate that. And then going  
2 back to the Mexican producers' behavior if the order  
3 were revoked, just in terms of -- just so I'm clear.  
4 In terms of their capacity, their product mix, likely  
5 to be the same post-order? Is that how you've  
6 calculated it?

7 MR. LEBOW: I think we're seeing, based on  
8 some of the sales activity just in the last few  
9 months, which frankly surprised us, given the pendency  
10 of this hearing, that they went into a major oral care  
11 account, where they have not been in the United States  
12 previously, and also -- I don't want to be too  
13 specific -- another personal care product that's  
14 mentioned in our brief.

15 So we think that there will be some  
16 expansion of the types of products to which they would  
17 be selling their CMC.

18 CHAIRMAN OKUN: On the personal care side.

19 MR. LEBOW: On the personal care side and  
20 oral care side, yeah.

21 CHAIRMAN OKUN: Okay. And then just I guess  
22 going back just briefly, Dr. Klett, about one of the  
23 questions that Commissioner Pinkert had raised about  
24 trying to understand what discipline has been placed,  
25 you know, under the order. And I understand your

1 argument about, you know, a low margin can have  
2 pricing discipline. But I guess I'm just curious on  
3 the facts of this case, where you don't see much  
4 change versus a case where you have a low order and  
5 you see an increasing -- that one seems easier to see  
6 the discipline. I mean, harder -- easier to see the  
7 discipline when -- well, maybe my question --

8 MR. KLETT: I understand what you're saying,  
9 and I think the question from Commissioner Pinkert  
10 about kind of looking at what has happened pre- and  
11 post-order may be a good measure in terms of the  
12 discipline, and I'll look at that, because I agree  
13 that if you have a high margin, all else being equal,  
14 that indicates a greater degree of price discipline,  
15 and low margin maybe less so, although it doesn't  
16 necessarily indicate no price discipline.

17 So I understand what you're saying, and  
18 we'll go back and look at the data and see if we can  
19 provide some more empirical analysis to support the  
20 point I'm making.

21 CHAIRMAN OKUN: Okay. I would appreciate  
22 that. And then this will be more of a posthearing  
23 question. I know you, Mr. Lebow, have addressed  
24 cumulation in your brief. But just if you can look  
25 at the conditions of competition, trends, and

1 capacity, capacity utilization numbers, and give your  
2 argument with respect to why Mexico should continue to  
3 be cumulated with the other countries, I would  
4 appreciate that.

5 And I actually don't think I have any  
6 further questions right at this point, but I  
7 appreciate all those answers, and my light has come  
8 up. Vice Chairman Williamson.

9 VICE CHAIRMAN WILLIAMSON: Thank you, Madame  
10 Chairman. While you're addressing Mexico, you might  
11 as well address the Netherlands, too. Thank you.

12 Let's see. Despite underselling by subject  
13 imports, our pricing data show prices rising over the  
14 period of review. Why is this not an indication of  
15 likely price effects in the future?

16 MR. LEBOW: Two words: raw materials. But  
17 I'll let --

18 VICE CHAIRMAN WILLIAMSON: Okay.

19 MR. PANICHELLA: I think us providing you,  
20 you know, the history on raw material prices will help  
21 you make -- give you the perspective around -- and  
22 selling prices. I think that would be very helpful  
23 for you to have that.

24 MR. KLETT: Commissioner Williamson, this is  
25 Dan Klett.

1 VICE CHAIRMAN WILLIAMSON: Yes.

2 MR. KLETT: I think there is another answer  
3 as well, and that is when you look at underselling and  
4 whether underselling has had some price effect, you  
5 almost have to look at, you know, what is the volume  
6 associated with that underselling. And even though  
7 there has been underselling during the period of  
8 review, and prices -- and Aqualon has done better, I  
9 don't think you can necessarily infer from that that  
10 underselling hasn't had an effect, or if you take the  
11 order off, there would be no adverse effects, because  
12 if you were to take the order off, there would be  
13 underselling, and you'd also have additional volume  
14 associated with that underselling. And, you know, you  
15 also have to look at the margins of underselling, the  
16 actual margins of underselling that existed pre- and  
17 post-order as well, which is relevant for that  
18 evaluation.

19 VICE CHAIRMAN WILLIAMSON: Okay. And, Mr.  
20 Panichella, what are you saying about raw material  
21 prices going forward? You've probably already  
22 addressed this, but I --

23 MR. PANICHELLA: Do you mean what is our  
24 forecast?

25 VICE CHAIRMAN WILLIAMSON: Yes.

1           MR. PANICHELLA: Well, if you look at the  
2 cotton forecast for the rest of 2011, they think it  
3 will remain similar. And it all depends on crop  
4 yields as to, you know, what the future -- so, you  
5 know, it really right now depends on what kind of  
6 yields they get in the U.S. and China and Pakistan and  
7 the crop growing regions as to whether, you know,  
8 they'll get a bountiful crop. And if they do, then  
9 there may be some relaxation on their cost of those  
10 raw materials. But I can't really predict that.

11           All I know is for this year, I think we'll  
12 see the similar kind of costs that we have currently.  
13 That's the current forecast.

14           VICE CHAIRMAN WILLIAMSON: Okay. And is the  
15 cotton -- is the impact of the price of cotton bigger  
16 than the impact of the price of wood?

17           MR. PANICHELLA: No. They're about the  
18 same. The relative increase is about the same.

19           VICE CHAIRMAN WILLIAMSON: Okay. Is there  
20 much shifting between wood and cotton in -- I mean,  
21 you said the price of cotton went up, and the price of  
22 oil goes down. Would there be a shifting of --

23           MR. PANICHELLA: That generally doesn't  
24 happen. And if you look at the historical data, you'd  
25 find that they move together, up and down.

1                   VICE CHAIRMAN WILLIAMSON: Okay. Thank you.  
2                   And data refers to proprietary, so you may need to  
3                   address this posthearing. But I'm curious why we see  
4                   AUVs and prices behaving the way they did during this  
5                   severe recession, and can you comment on this? So I  
6                   don't know if anybody wants to say anything now,  
7                   but --

8                   MR. KLETT: Yeah. I mean, I think generally  
9                   I think we said that Aqualon's prices and its business  
10                  actually did not deteriorate in '09 and 2010, as  
11                  you've seen in a lot of other investigations. And  
12                  there are a number of reasons for that, one of which  
13                  is you had a supply shock with the Dutch plant going  
14                  out of business, which had beneficial price effects  
15                  for those that stayed in the market.

16                  On the other hand, I think we want to  
17                  emphasize that Kelco has adjusted to that shock by  
18                  rationalizing their finish in their China operations.  
19                  But just in terms of an explanation, that's one, and  
20                  also there were product mix changes that was to the  
21                  benefit of Aqualon in terms of a higher share of their  
22                  sales being in higher margin products.

23                  VICE CHAIRMAN WILLIAMSON: Okay, okay.  
24                  Thank you for that. And anything you want to add  
25                  posthearing would be useful.

1           Let's see. I had earlier asked about Akzo's  
2 argument regarding relative market power, and you did  
3 give me an answer, I guess vis-à-vis the U.S. But I  
4 was wondering about globally. Does Akzo produce  
5 anyplace else other than the Netherlands, and what is  
6 their sort of, shall we say, market power on a global  
7 scale?

8           MS. GRUBER: Akzo has a plant also I believe  
9 in Italy that does not produce the purified grades.

10          VICE CHAIRMAN WILLIAMSON: Okay. So  
11 basically, their influence on the global market is  
12 going to be what comes out of the Netherlands more.

13          MS. GRUBER: It can be both because you can  
14 use the materials from the other plant to service some  
15 of the nonregulated businesses and free up capacity  
16 from the Netherlands to supply the global market.

17          VICE CHAIRMAN WILLIAMSON: Okay, okay.  
18 Thank you. Now, nonsubjects account for a substantial  
19 amount of apparent compensation. But I get the  
20 impression that you don't feel much competition from  
21 these imports. Is that correct, Mr. Panichella?

22          MR. PANICHELLA: From the nonsubject?

23          VICE CHAIRMAN WILLIAMSON: Yes.

24          MR. PANICHELLA: Well, it depends on the  
25 market. I think the question earlier was are we

1 worried about the nonsubject markets for the regulated  
2 industries, and I think I said that we were not.  
3 However, in some of the energy type applications,  
4 there is a lot of competition from, for instance,  
5 China.

6 VICE CHAIRMAN WILLIAMSON: Okay, good.  
7 Okay. Thank you. And I think with that, I have no  
8 more questions. I want to thank the panel for their  
9 testimony.

10 CHAIRMAN OKUN: Commissioner Lane.

11 COMMISSIONER LANE: Thank you. Mr.  
12 Panichella, you said that the United States can serve  
13 the entire regulated market. Can you tell me what  
14 percentage of the market is regulated? And break that  
15 down into how much is for food application and how  
16 much is for personal care.

17 MR. PANICHELLA: I can do that, but I don't  
18 have that information where I can give you the exact  
19 numbers. But we can for sure get it to you.

20 COMMISSIONER LANE: Okay. Thank you. Does  
21 Aqualon produce any specialized categories of purified  
22 CMC that are not subject to import competition?

23 MS. GRUBER: No.

24 COMMISSIONER LANE: Are there specialized  
25 kinds of imports of purified CMC from any of the

1 subject countries that are not produced by Aqualon?

2 MS. GRUBER: No.

3 COMMISSIONER LANE: During the 2005  
4 Commission hearing, Mr. Herrick described a  
5 repetitive, semicontinuous production cycle such that  
6 about 15 families of CMC products were produced over a  
7 30 to 35 day period, each product family typically  
8 running for one to two days, although longer runs  
9 sometimes occurred.

10 Is this still the manner in which the  
11 different grades of CMC are produced?

12 MS. GRUBER: Yes.

13 COMMISSIONER LANE: Okay. Can you tell me  
14 just how dangerous it is to manufacture this chemical?  
15 I would like to know how the July 9, 2009, explosion  
16 and fire came about in the Netherlands plant, and CP  
17 Kelco Netherlands is not here for me to ask. So I  
18 thought you might know.

19 MR. PANICHELLA: I think the biggest risk in  
20 this industry is around dust. And while, you know,  
21 our -- these are powdered products. So the  
22 accumulation of dust -- I think, you know, there was a  
23 pretty significant dust explosion in a sugar facility  
24 in Georgia within the past two years in the United  
25 States, fatalities involved. So the biggest risk to

1 people and to the environment around cellulose  
2 manufacturing is fugitive dust.

3 And while we didn't do an investigation in  
4 the CP Kelco facility, the nature of that explosion  
5 would lead you to believe that there was some kind of  
6 primary and secondary dust explosion.

7 COMMISSIONER LANE: And are the levels of  
8 dust regulated?

9 MR. PANICHELLA: Yes.

10 COMMISSIONER LANE: With that, I have no  
11 other questions. Thank you.

12 CHAIRMAN OKUN: Commissioner Pearson.

13 COMMISSIONER PEARSON: Thank you, Madame  
14 Chairman. In some industries, we learn that the  
15 customer base likes to have some supply from a  
16 domestic producers, and then perhaps balance that with  
17 some supply from a foreign producer. And in other  
18 industries, there is really a preference for sole  
19 sourcing the supply.

20 Tell me about the customer base here. Do  
21 they have a preference one way or another?

22 MS. GRUBER: Well, I think in follow-up to  
23 Ms. Lane's question with the incident that happened  
24 from CP Kelco, people do look for a secondary source  
25 of supply.

1           COMMISSIONER PEARSON: Across all of the  
2 products, or more for the regulated ones?

3           MR. PANICHELLA: I think it's pretty typical  
4 that most customers -- anyone that had a single source  
5 of supply after an explosion like Kelco, they no  
6 longer have a single source of supply.

7           COMMISSIONER PEARSON: Fair enough. Point  
8 well taken. So as a practical matter then, you share  
9 a lot of your customers with some other supplier.

10          MR. WOLFF: Yes. One other comment I'd like  
11 to make is some customers will approve an alternate  
12 supplier, but won't necessarily buy from them. Just  
13 in case they have an issue, that wouldn't shut their  
14 facility down.

15          COMMISSIONER PEARSON: Let me anticipate a  
16 question that may be raised by Respondents, and see  
17 how you would respond to this. Would continuation of  
18 the order be more likely to help Aqualon in its role  
19 as an importer from all sources rather than as a  
20 domestic producer? Another way of saying it, wouldn't  
21 continuation of the order have the effect of giving  
22 favor to some imports relative to others in a way that  
23 potentially could be beneficial to Aqualon?

24          MS. GRUBER: No. I think that as we talked  
25 about before, our goal is to service the local markets

1 with local production. So the impact of removal of  
2 the order would negatively effect that.

3 COMMISSIONER PEARSON: Okay. If there is  
4 more that might be said about that in the posthearing,  
5 I would be glad to read it. Mr. Klett, do you have --

6 MR. KLETT: I'd just like to make one point  
7 with regard to China being another import source,  
8 because they're the biggest nonsubject import  
9 supplier. And I don't think continuation of the order  
10 would be to the benefit of imports from China versus  
11 imports from the subject countries because they're  
12 largely competing in different parts of the market.  
13 China is primarily an oil field, and the imports from  
14 the subject countries are primarily regulated and in  
15 paper.

16 MR. LEBOW: And I'd like to add to that, if  
17 I may. The issue with China isn't just that they  
18 become GMP qualified at their production level. It's  
19 that first customers have got to qualify them, and  
20 second, customers have got to want to buy from them  
21 and be willing to put Chinese product in American  
22 food, given the history of problems with that in the  
23 past few years, so that we just don't see that being  
24 at least not a medium-term problem.

25 COMMISSIONER PEARSON: Right. But on this

1 record, we see that Aqualon is producing in each of  
2 the market segments. And so it would seem to me that  
3 the possibility of imports from China potentially  
4 would either compete or substitute for products  
5 produced by Aqualon for oil field use. Is that a  
6 correct understanding, Mr. Klett or Mr. Lebow?

7 MR. KLETT: I mean, maybe Zissis can talk to  
8 that. I don't think we're denying that there is  
9 competition from China and Aqualon in the oil field.

10 MR. PAPPAS: Yeah. There is clearly  
11 competition with the Chinese CMC for the oil field.  
12 If you think about the approval process compared to  
13 the regulated industry, the criteria is much lower.  
14 It's for an industrial application versus a food or a  
15 personal care application. So their ability to enter  
16 that market is easier to accomplish.

17 COMMISSIONER PEARSON: Okay. Well, for the  
18 purposes of the posthearing, perhaps you could  
19 elaborate a bit on this, because I'm not sure exactly  
20 what the Respondents will be claiming, but this  
21 possibly could be an issue. Okay.

22 Mr. Panichella, this also will be at least  
23 partly for posthearing. In your public statement, or  
24 your opening statement, you had suggested that  
25 elimination of the pricing disciplines provided by the

1 orders might have the effect of leading to a \$3  
2 million drop in earnings. And the question is should  
3 we find a decline of that magnitude to be material in  
4 the context of Aqualon's CMC operating income?

5 Just looking quickly at the numbers, it  
6 seems to me like a change of that magnitude is sort of  
7 equivalent to normal year-to-year variation in  
8 earnings, not discussing any specific numbers, which  
9 obviously are proprietary. But, you know, how do I  
10 see that as a material injury rather than just kind of  
11 normal noise in the marketplace, normal variation?

12 MR. PANICHELLA: Just to clarify what I  
13 said, to put some perspective around it for you, the  
14 nine cents per pound that I quoted would be the  
15 average that the dumping duty imposed, and that itself  
16 was 3 million, okay? So if you look at then, you  
17 know, whatever further price erosion, you know, that  
18 you would have in that market, plus couple that with  
19 what you lose in fixed cost coverage if you lose  
20 volume, I think it's very significant, okay?

21 So it's not just the 3 million. Three  
22 million is just kind of the impact of the duty.

23 COMMISSIONER PEARSON: Okay. Well, anything  
24 more for the posthearing, I'd be pleased to see it. I  
25 mean, you can understand why I would raise the

1 question because we do have to believe that material  
2 injury will continue or occur within a reasonably  
3 foreseeable time if we revoke the order. I'm just  
4 trying to understand what is the potential for  
5 material injury as compared to just, you know,  
6 something that is --

7 MR. PANICHELLA: I think the way we kind of  
8 look at it is you look at, you know, the performance  
9 that we've submitted in our package. You can clearly  
10 look at '04, '05, and understand what it was like  
11 then. We've obviously benefitted from the order, and  
12 you can see what it's like now. And there is no  
13 question in our mind that if you remove the order,  
14 we'll be back to '04, '05 within the next year or two.

15 And so you want to look at the material  
16 injury, look at the difference between '04, '05, and  
17 '09, and that's what it will be.

18 COMMISSIONER PEARSON: If nothing else has  
19 changed, although we have indications that customer  
20 service, customer attention is higher now than it was  
21 in those years. So whether or not the effects would  
22 be just identical is not clear.

23 Mr. Pappas, maybe this has been mentioned  
24 earlier. But can you clarify which types of paper  
25 use CMC? We know something about paper here at the

1 Commission, so I'm just trying to figure out which  
2 product this gets into.

3 MS. GRUBER: I'll comment from the technical  
4 side, in that it can be used in coated paper --

5 COMMISSIONER PEARSON: The coated free sheet  
6 type, the magazine --

7 MS. GRUBER: The coated sheet --

8 COMMISSIONER PEARSON: Okay, yes. We --

9 MS. GRUBER: It can also go into tissue and  
10 towel for a strength aid, but that's really not what  
11 Zissis was addressing in his presentation.

12 COMMISSIONER PEARSON: Okay. Is it used in  
13 thermal paper, the type for --

14 MS. GRUBER: The inkjet type or thermal --

15 COMMISSIONER PEARSON: Thermal like for,  
16 you know, ATM machines, that sort of thing.

17 MALE VOICE: It's used primarily for the  
18 coated sheet.

19 COMMISSIONER PEARSON: Okay. And so it  
20 wouldn't be part of just copy paper.

21 MS. GRUBER: It can be part of a standard  
22 paper, yes.

23 COMMISSIONER PEARSON: It can be, too? But  
24 the volume is heavier in the coated paper.

25 MS. GRUBER: Sure.

1                   COMMISSIONER PEARSON: Okay. Well, good.  
2 Thanks. That was just one of those for the fun of it  
3 questions. So I appreciate that. Madame Chairman,  
4 with that, I believe I have no further questions.

5                   CHAIRMAN OKUN: Commissioner Aranoff.

6                   COMMISSIONER ARANOFF: Thank you, Madame  
7 Chairman. Respondents argue in their briefs that if  
8 revocation of these orders resulted in lower sales  
9 volumes for Aqualon, you could simply shift to  
10 producing domestically what you're importing, stay at  
11 a high level of capacity without bringing in  
12 nonsubject product, and end up just fine. Do you want  
13 to respond to that argument?

14                   MR. PANICHELLA: I think we clearly have  
15 tried to communicate that the material that comes from  
16 France -- I think that's what you're referring to --  
17 will go away as we improve the capability of the  
18 Hopewell plant. So our current practices and our  
19 future practices are not to import from those  
20 countries, and rather use the domestic production that  
21 we have.

22                   So we disagree with that approach and feel  
23 that there would be a significant change.

24                   COMMISSIONER ARANOFF: Okay. I wanted to  
25 get that on the record. This is a product that's sold

1 both through contracts and also in the spot market.  
2 Is there a particular type of customer that buys this  
3 product as a spot purchase rather than through a  
4 regular contract?

5 MR. PAPPAS: We see most of the spot market  
6 business in the oil field market. Because of the  
7 fluctuation in their demand, they rarely enter into  
8 long-term contracts. And so they typically handle the  
9 purchases on spot or through monthly purchase orders.

10 COMMISSIONER ARANOFF: Okay. So if you're  
11 dealing with someone in one of the other end uses,  
12 paper or personal care products or food, they're  
13 almost entirely likely to be buying under some kind of  
14 contractual arrangement?

15 MS. GRUBER: It's contracts. Some of them  
16 are long-term duration, but some of them can just be a  
17 gentleman's agreement that they continue to buy from  
18 UPO to PO.

19 COMMISSIONER ARANOFF: Okay. When you are  
20 dealing with large customers who are making  
21 contractual purchases, does anybody use any kind of a  
22 formal bidding process in this industry, or is it more  
23 likely to be just an informal discussion?

24 MR. PAPPAS: It's very common in the paper  
25 industry, the bid process. There are numerous

1 suppliers that participate in that, but that is the  
2 only industry that I have responsibility for where we  
3 see a bid process.

4 MS. GRUBER: And we see it for some of the  
5 larger food business, as well as multinational oral  
6 care business.

7 COMMISSIONER ARANOFF: And can you describe  
8 to me in a little more detail in each of those areas  
9 what the bid process is like? They put up some kind  
10 of request for quotation, and you send in a formal  
11 written bid? Or how does it work?

12 MR. PAPPAS: They'll typically provide, you  
13 know, commercial terms around the proposal. They'll  
14 provide the annual consumption of various grades of  
15 products, and they'll give you a specified period of  
16 time in which you need to respond on your price or any  
17 other services that may be required. The process  
18 could last, say upwards to 30 days. They'll give you  
19 one month to respond. And typically, they'll be for  
20 one year, but with language in the agreements for  
21 adjustments if there is any material changes in the  
22 market.

23 COMMISSIONER ARANOFF: Okay. Ms. Gruber?

24 MS. GRUBER: Yes. And the same for the  
25 regulated side as well. You can have electronic bids.

1 It's not so common to have actual live bidding  
2 processes anymore. It's generally a spreadsheet that  
3 will come out with all of the product specifications,  
4 and then you put in your offers for the various  
5 locations and submit those back.

6 COMMISSIONER ARANOFF: Do purchasers tend to  
7 come back to you and tell you that somebody else has  
8 bid lower, and can you adjust your price?

9 MS. GRUBER: Yes.

10 COMMISSIONER ARANOFF: Do they usually tell  
11 you who the lower bidder is?

12 MS. GRUBER: In most instances, no.

13 COMMISSIONER ARANOFF: And there are no  
14 sources of public information that would allow you to  
15 know precisely what offers you're competing against.

16 MS. GRUBER: No. You would have to be told  
17 by the purchasing person.

18 MR. PAPPAS: And if you do lose that  
19 business, you typically find out immediately who won  
20 the business and what happened in the bid process.

21 COMMISSIONER ARANOFF: Are any contract's  
22 price indexed to any sort of public pricing  
23 information about input costs or anything else?

24 MS. GRUBER: Because this was asked before,  
25 is there really a public index that shows your cost,

1 there isn't one because the specialty cellulose that's  
2 used, and because of the monochloroacetic acid. So  
3 typically, although customers do request that, it's  
4 not something that we have done because we would have  
5 to share our actual costs.

6 COMMISSIONER ARANOFF: Okay. In this  
7 review, one of the things that the Commission is  
8 really going to have to take a look at is the role of  
9 nonsubject imports as we look at what would happen if  
10 the orders were revoked. In particular, I don't know  
11 if you're familiar with the Court of International  
12 Trade's recent NSK decision, where they talk about  
13 whether or not nonsubject imports might be an  
14 impenetrable barrier to the reentry of subject imports  
15 in significant quantities.

16 Is there any comment that you want to make  
17 on that now? And alternately, I'll ask you to address  
18 that in your posthearing brief.

19 MR. LEBOW: Clearly we do not believe that  
20 nonsubject imports provide a non-penetrable barrier to  
21 return of the subject imports, as we've discussed,  
22 especially in the higher value added and regulated  
23 fields. But we'll make specific reference to that  
24 case in our posthearing brief.

25 COMMISSIONER ARANOFF: Okay. And in

1 particular, I guess I'd ask you, when you're looking  
2 at -- I know we have a chart in the staff report that  
3 shows all the global producers. If you could take a  
4 look at which ones of the nonsubject producers you  
5 think are competitive in each particular end use  
6 category, particularly for the food grade and the  
7 personal care, but maybe also for others, that would  
8 just be helpful to us in sort of assessing what we  
9 think the role of those nonsubject imports is and  
10 potentially could be in the U.S. market.

11 MR. LEBOW: We will do that.

12 COMMISSIONER ARANOFF: Okay. Thank you very  
13 much. With that, Madame Chairman, I don't have any  
14 further questions.

15 CHAIRMAN OKUN: Commissioner Pinkert.

16 COMMISSIONER PINKERT: I just have one or  
17 two questions. The share of U.S. shipments in the oil  
18 field sector seems to be declining, at least if you  
19 look at the 2009 information that we have. Is that  
20 just a function of oil prices, or is there something  
21 else going on that might be expected to continue?

22 MR. PAPPAS: I'm sorry. The share of import  
23 volumes is declining?

24 COMMISSIONER PINKERT: U.S. shipments.

25 MR. LEBOW: I mean, I think there are

1 perhaps a couple of things there. One is the movement  
2 in terms of overall demand in the oil field, and the  
3 other is, of course, just good business management and  
4 product mix. It makes sense to try to sell it to the  
5 higher value added applications if at all possible.

6 COMMISSIONER PINKERT: Any other comments on  
7 that?

8 MR. PAPPAS: No. That was a proper answer.

9 COMMISSIONER PINKERT: Well, with that, I  
10 have no further questions. I look forward to the  
11 posthearing, and in particular, Mr. Lebow, in your  
12 answer to that question, the last question from the  
13 last round from me, where you talked about a  
14 particular customer in relation to Akzo. If you could  
15 flesh that out in the posthearing submission, that  
16 would be helpful. Thank you. Thank you, Madame  
17 Chairman.

18 CHAIRMAN OKUN: Thank you. I don't think  
19 there are any other questions from the dais, so let me  
20 turn to staff to see if they have questions of this  
21 panel.

22 MR. McCLURE: Jim McClure, Office of  
23 Investigations. As I frequently say, staff has no  
24 questions.

25 CHAIRMAN OKUN: Do those in opposition to

1 continuation of the order have any questions for this  
2 panel?

3 MR. NEELEY: We have no questions.

4 CHAIRMAN OKUN: All right. Well, then this  
5 will be a good time to take a lunch break. But before  
6 we do so, let me thank these witnesses again for your  
7 participation and for answering our many questions.  
8 We look forward to the posthearing submissions as  
9 well.

10 I would remind parties that the room is not  
11 secure, so please don't leave any business  
12 confidential information. And we will be in recess  
13 until 1:00 p.m.

14 (Whereupon, at 12:03 p.m., a luncheon recess  
15 was taken.)

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1 pleased to provide information today and in our briefs  
2 demonstrating that there is no possibility that the  
3 revocation of this antidumping order can possibly  
4 result in any material injury to Aqualon, the sole  
5 producer of purified CMC in the United States, and a  
6 growing importer on its own right. Mexico occupies a  
7 unique position in the marketplace today.

8 CHAIRMAN OKUN: I apologize for interrupting  
9 but we're having a little problem with the audio. Can  
10 you just pull that a little closer.

11 MR. NESSEL: Okay. Mexico occupies a unique  
12 position in the marketplace today. Amtex has always  
13 been a very small participant in the U.S. market and  
14 has very little competition in the limited market  
15 which it supplies. We should not be grouped with the  
16 other countries subject to the order. Basically, we  
17 followed a significant Mexican customer, Azteca  
18 Milling, to the U.S. when it expanded its operations  
19 from Mexico based on our experience producing the  
20 specialized grade of purified CMC needed for the  
21 tortilla flour manufacturing. Since the time of the  
22 initial investigation, our presence has remained  
23 unchanged, with the same low, single digit percentage  
24 share of the total U.S. market and virtually  
25 neglectable dumping margins in the four reviews

1 completed to date.

2 Aqualon does not compete with Amtex for the  
3 vast majority of our modest sales volume in the U.S.  
4 The imposition of the antidumping order on Mexico  
5 provided no benefit to Aqualon and its revocation will  
6 cause it no injury. There are good reasons why. The  
7 global industry is now characterized by very high  
8 capacity utilization due in both growing demand and  
9 reduced supply in many markets. In light of current  
10 high demand, the loss of approximately 12 percent of  
11 global capacity with the destruction of the Kelco  
12 plant in the Netherlands and the close of the Kelco  
13 plant in Sweden has led to higher prices and very high  
14 capacity utilization for the foreseeable future. In  
15 addition, for Amtex, there are limits to our capacity  
16 growth due to the high cost of new facilities and  
17 insufficient infrastructure to support expansion.

18 As a result, there are no plans to expand  
19 capacity in the future. Finally, Aqualon has become a  
20 major importer in order to address its obvious  
21 capacity constraints in the U.S. In fact, imports  
22 from France are approximately twice the level of the  
23 Mexican imports. Amtex continues to focus primarily  
24 on its home market where it has an established market  
25 in the food and personal care sectors. We encounter

1 less competition in the oil sector than in the United  
2 States due to the absence of Chinese imports from that  
3 portion of the Mexican market. Importantly, we do not  
4 supply CMC for paper coating applications in any  
5 markets since we are unable to produce a product of  
6 sufficiently low viscosity that satisfy technical  
7 needs of the market. Because the paper market demand  
8 is very low in our home market of Mexico, we have no  
9 incentive to make the significant investment required  
10 to manufacture this grade of CMC for any market.

11 With respect to our market in the U.S., the  
12 very small dumping margins found by the Commerce  
13 Department for each of the last four years  
14 demonstrates that the pricing in both the U.S. and  
15 Mexico is equivalent. There is no basis to conclude  
16 that the U.S. market is somehow more attractive to  
17 Amtex. Rather, it is primarily an extension of a  
18 single niche market which we supply on both sides of  
19 the border. Finally, if the U.S. market had been as  
20 appealing to Amtex as Aqualon suggests, we would have  
21 supplied the U.S. market for the last five years with  
22 nonsubject purified CMC from our related companies in  
23 Colombia and Argentina. Instead, we have chosen to  
24 sell to our established niche market and focus our  
25 hemispheric production resources on the Latin American

1 markets. Aqualon has chosen to address its  
2 overcapacity needs with its own imports into the U.S.  
3 from France. Therefore, Mexico poses no threat to the  
4 U.S. industry with or without an antidumping order in  
5 place. Thank you very much, and I'll be happy to  
6 respond to any of your questions.

7 MR. NEELEY: We'll turn next to Corrado  
8 Piotti.

9 MR. PIOTTI: Good afternoon. My name is  
10 Corrado Piotti. I am Vice President and Director of  
11 Sales for Quimica Amtex. I would like to talk to the  
12 Commission today about the position of Amtex in the  
13 U.S. market and why I believe that the dumping order  
14 is having no effect on Amtex's ability to compete in  
15 the U.S. market, and why removal of the order will not  
16 hurt Aqualon. First, Amtex has a very limited number  
17 of customers in the U.S. By far, our largest customer  
18 is Azteca Milling, which will testify in a few  
19 minutes. Only about three customers make up almost  
20 all of our sales in any year. Amtex sells only to the  
21 food sector in the U.S. market, and then, only to a  
22 limited part of the market. As I will discuss, we see  
23 almost no competition from Aqualon, which sells in  
24 very different parts of the market, either with regard  
25 to its customer base or with regard to the sector of

1 the market.

2           The Commission has identified the different  
3 sectors of the market as food, personal care, paper  
4 and board, oil field and other. For technical  
5 reasons, we do not compete in the paper sector of the  
6 market anywhere in the world. Much of that  
7 information is confidential and we have provided  
8 details in our confidential brief. This is a major  
9 part of the market for Finland and significant for  
10 Aqualon, but nonexistent for Amtex. The oil field  
11 sector, which is very important to Aqualon and is very  
12 competitive in the U.S. because of Chinese  
13 competition, is a sector in which we do not compete in  
14 the U.S. This is a low end product without the  
15 requirements of the food sector and it goes up and  
16 down with the oil industry.

17           In Mexico, there is very little importation  
18 of Chinese product and we do sell at high prices, but  
19 in the U.S. we have no interest because it is not a  
20 competitive product. Aqualon seems interested in  
21 taking the rest of the oil sector but we are not  
22 interested since we already have our small, but  
23 stable, customer base in the U.S. In the personal  
24 care sector I want to make a slight correction to what  
25 we said in our brief. We discuss one of our customer,

1 Colgate, in the confidential part of our brief, but I  
2 have decided to correct our statement publicly. We  
3 had indicated Colgate had not U.S. production of  
4 toothpaste. What we meant and should have said is  
5 that Colgate has no U.S. production of toothpaste that  
6 can use Amtex' purified CMC.

7 Colgate does continue to make one toothpaste  
8 product in the U.S. However, that toothpaste requires  
9 Grade 12 purified CMC which has a 1.2 degree of  
10 substitution. Amtex has no technical ability to  
11 produce this product and has never produced the  
12 product above a one degree of substitution. Aqualon  
13 can produce this, the 12 grades, as can Kelco. you  
14 can see our inability to produce this product in our  
15 recent bid for Colgate where we bid for the purified  
16 CMC for several markets but did not bid on the U.S.  
17 market at all because of our inability to make the  
18 Grade 12. We can provide that bid to the Commission  
19 so you can see what I referring to. I am sorry if our  
20 original argument was not as clear as it should have  
21 been about what is made and not made in the U.S. and  
22 why we cannot compete in the U.S. for the Colgate  
23 business.

24 By the way, at this time Aqualon is selling  
25 the CMC Grade 12 to the Colgate Mexican plant because

1 Amtex has no technical ability to produce this grade.  
2 The one sector that we sell into the U.S. is the food  
3 sector. Azteca will testify in a few minutes as to  
4 why they do not buy from Aqualon. Azteca constitutes  
5 most of our sales in the U.S. The only customer where  
6 we see any competition from Aqualon at all is a  
7 company called Nitta Casing, but that customer has  
8 been a small customer of ours for a long time and  
9 continues to be. It is much too small to have any  
10 effect on the profitability of Aqualon when there is a  
11 shortage of capacity worldwide for purified CMC. I  
12 also should mention another more significant customer,  
13 TIC Gums, which has been our customer for 15, 20  
14 years.

15 It originally came to Amtex because it had  
16 been buying from a European supplier many years ago  
17 and there was a production problem, but it had largely  
18 stopped buying from Amtex because it was not happy  
19 with the performance of our products with regard to  
20 clarity. For many years it had been purchasing only  
21 very high viscosity purified CMC which was not  
22 available from Aqualon. However, recently the Tic  
23 Gums did come back to us for some lower viscosity  
24 product due to the shortage of capacity in the market  
25 and its inability to obtain the product. I think that

1 the Commission will conclude that our position in the  
2 market where we have been a small and steady supplier  
3 despite having low dumping margin and having plants in  
4 Colombia and Argentina show that our volume and price  
5 are not going to change regardless of whether there is  
6 a dumping order. Thank you for the opportunity to  
7 testify, and sorry for my English.

8 MR. NEELEY: We will now turn to Eduardo de  
9 la Fuente from Azteca.

10 MR. DE LA FUENTE: Good afternoon. Is it  
11 clear there? My name is Eduardo de la Fuente, and I  
12 am with in charge of quality assurance for Azteca  
13 Milling, LP. I am based in Edinburg, Texas. I have  
14 been with the company since 1991. Azteca Milling has  
15 six U.S. Plants in Texas, Kentucky, Indiana and  
16 California, employing approximately 800 employees.  
17 Gruma, our parent company, also has 18 plants in  
18 Mexico. The company's sole business is the production  
19 of corn flour for industrial and retail customers.  
20 The biggest segment of our business is corn flour for  
21 use in the production of table tortillas. By table  
22 tortillas, I mean the soft tortillas that can be  
23 folded. This is the type of flour for which we  
24 purchase CMC.

25 Azteca's Mexican facilities have been

1 purchasing CMC from Amtex since the late 1970s, and  
2 when Azteca opened its first U.S. operation, first  
3 plant, in 1982, it naturally turned to Amtex to supply  
4 its U.S. operations as well. In 2000 we switched to  
5 Aqualon for most of our CMC supplies. However,  
6 quality issues forced us to switch back as Azteca  
7 began receiving complaints from customers that the  
8 tortillas made with our flour were hardening and would  
9 crack when folded. After researching the problem, we  
10 concluded that the CMC being supplied by Aqualon was  
11 at fault and we approached Aqualon in hopes of working  
12 with them to resolve the problem. However, the  
13 company refused to work with us to determine how its  
14 CMC was at fault and never worked with us to reach a  
15 solution to the problem.

16 We had no choice but to stop buying CMC from  
17 Aqualon the same year. Ultimately, the fact that  
18 Aqualon's product was at fault was confirmed as the  
19 problem disappeared once we switched back to using CMC  
20 from Amtex. As a result of this experience, Azteca  
21 has not purchased CMC from Aqualon since that time and  
22 will not purchase CMC from Aqualon under any  
23 foreseeable circumstances. We simply do not see them  
24 as a reliable supplier given the quality issues with  
25 their products, with regard to its application in

1 tortilla flour and the poor customer service. We also  
2 purchase CMC from Kelco's plant in Holland before it  
3 was destroyed, as confirmed by our questionnaire  
4 response. We have never purchased CMC from Finland or  
5 Sweden. We currently purchase CMC from Amtex in  
6 Mexico and from Dow in Germany. We have not had  
7 quality or technical support issues with either  
8 supplier. Amtex has always supplied us with a quality  
9 product and has worked with us to develop new  
10 formulations in order to make the product better.  
11 They supply CMC of consistent quality and provides  
12 excellent customer service. Thank you for your time.  
13 I'd be happy to answer any questions.

14 MR. NEELEY: I'd now like to address a  
15 couple of issues very briefly: pricing and  
16 cumulation. With regard to pricing, our position is,  
17 having looked at the data and looked at the facts of  
18 this case, that the pricing data in this investigation  
19 seem to be of little probative value of any kind in  
20 determining whether there would be a recurrence of  
21 injury. As we've discussed, there are very few  
22 customers of Amtex in the marketplace. What we also  
23 see is that there is very little competition between  
24 Amtex and Aqualon. Thus, if Amtex is not competing  
25 head to head for customers of Aqualon, looking at the

1 prices in a vacuum seem to us to be of really no  
2 value. It tells us nothing.

3 Whether there's underselling or overselling  
4 for a particular quarter can be very useful  
5 information at times for the Commission if the  
6 companies are, in fact, meeting in the marketplace,  
7 but here, where any price difference is basically  
8 comparing totally different things that are going on  
9 in the marketplace, we just don't see that this has  
10 any value. We've heard from Azteca, for example,  
11 which is by far our largest customer in the United  
12 States, and for technical reasons, they are not buying  
13 from Aqualon and they are buying from Amtex. I would  
14 suggest that if you look at our pricing data a lot of  
15 the pricing data, the bulk of our pricing data, is  
16 because of sales to Azteca, which there is no  
17 competition with Aqualon.

18 So what we would suggest to the Commission  
19 is that while this is obviously a factor that the  
20 statute requires you to take into account, that you  
21 take it into account while keeping in mind the  
22 conditions of competition and the segments of the  
23 market in which we compete with Aqualon. We have also  
24 discussed the issue of cumulation in our brief. Just  
25 to very quickly go over our main points with regard to

1 that issue, we think that there is no discernable  
2 impact, or there will be no discernable impact, from  
3 importations from Amtex in the event that this order  
4 is revoked. The Commission need go no further than  
5 that, obviously, under the statute if it finds no  
6 discernable impact. We think we are so small in the  
7 market, given the situation with regard to our  
8 capacity utilization, given our very strong home  
9 market in Mexico, there's no reason to think that  
10 that's going to change in the future.

11 In addition, what we see is that Amtex is  
12 not primarily an export-oriented company, unlike some  
13 of the other companies from some of the other  
14 countries that are subject merchandise. The home  
15 market of Mexico is huge. The home market of Mexico  
16 is the primary focus of the company. It would be,  
17 frankly, an insane business decision for Amtex to  
18 abandon that market and to abandon a market that  
19 frankly is much easier to sell into to come into the  
20 U.S. market with all of the issues that it has that  
21 we've talked about this morning, including increasing  
22 Chinese imports into the U.S. market. In addition, as  
23 we've testified, Amtex is not selling into the same  
24 market segments as the other subject countries. Our  
25 importations, our sales, are all in one segment in the

1 market and that is food, and within that food grade,  
2 largely to the tortilla segment of the food grade  
3 market.

4 I would also point out that the price levels  
5 in the United States and Mexico are virtually the  
6 same. In fact, the Mexican prices are shown to be  
7 slightly higher. You don't have to believe us with  
8 regard to this, you don't have to believe some sort of  
9 vague and gross level of data on that issue. We can  
10 turn simply to what the Commerce Department does every  
11 year. Every year the Commerce Department has reviewed  
12 the dumping margins of Amtex. The dumping margins  
13 have been based on a comparison of the U.S. prices of  
14 Amtex to the Mexican home market prices of Amtex. As  
15 you can see from their conclusions, they're very small  
16 dumping margins. What that means is on a very precise  
17 basis the prices in Mexico are ever so slightly higher  
18 than they are in the United States.

19 So our conclusion is that with the higher  
20 market share that the other countries have, with all  
21 the other issues that I've discussed with regard to  
22 cumulation, with the fact that we have no dumping  
23 margins that provide any competitive, let's put it  
24 another way, dumping margins that in any way prohibit  
25 us from competing in the United States with the

1 revocation of the dumping order, there would be no  
2 real difference in the terms of how Amtex competes in  
3 the United States market. So, with that, that is the  
4 end of our testimony. I'll turn it over to the  
5 representatives of Akzo.

6 MR. WEST: Madam Chair.

7 CHAIRMAN OKUN: Please proceed.

8 MR. WEST: Madam Chair, again, for the  
9 record, my name is Matthew West, counsel for Akzo  
10 Nobel. If I may just introduce our panel up here  
11 today before we begin. To my right, Mr. Frank  
12 Grootnibbelink who is the Finance Director for CMC  
13 products at Akzo Nobel, Mr. Philip Raatjes who is the  
14 Business Director for CMC products within Akzo Nobel.  
15 We are also joined by Dr. Susan Manning from Compass  
16 Lexecon, and today, in a silent, but highly supportive  
17 role, my colleague, Jason Wilcox, joins us here as  
18 well. So, with that, I will now turn it over to Frank  
19 to begin our direct presentation.

20 MR. GROOTNIBBELINK: Good afternoon, Madam  
21 Chairman, and other Members of the Commission. I'm  
22 Frank Grootnibbelink, working as Finance Director for  
23 Cellulosic Specialties, an operating business entity  
24 of Akzo Nobel. I have been with Akzo Nobel for over  
25 25 years and started working for Cellulosic

1 Specialties in 2007. SPU Cellulosic Specialties  
2 includes all global CMC operations of Akzo Nobel and  
3 is run by a global management team with full P&L  
4 responsibility. In my role and responsibility, I am  
5 involved in all key decisions concerning the CMC  
6 business on a global basis. The Cellulosic  
7 Specialties headquarters is located in the  
8 Netherlands, and in the Netherlands we have one CMC  
9 plant located in Arnhem. We are the only producer of  
10 CMC from the Netherlands after the CP Kelco accident  
11 and closure of their site in July 2009.

12 Akzo Nobel has two manufacturing sites for  
13 CMC. One is located, as I had already mentioned, in  
14 the Netherlands, in Arnhem, and the other one in  
15 Italy, in Novara. Akzo Nobel is producing three  
16 different product lines: cross-linked, purified and  
17 technical. In the Netherlands, in Arnhem, our focus  
18 is on cross-linked and purified, whereas in Novara,  
19 Italy, we only produce technical. We did produce  
20 technical in the Netherlands until the year 2008 but  
21 only very limited after that, so almost none in the  
22 last two years. It is more attractive for us to  
23 produce cross-linked and purified in Arnhem as this is  
24 in line with the plant design. Furthermore, the added  
25 value reflected through higher prices for purified or

1 cross-linked products is higher than for technical  
2 products.

3           This is logic as there is less manufacturing  
4 steps needed to produce technical versus purified or  
5 cross-linked, and costs associated with technical are  
6 lower. In Italy, Novara, however, it is only possible  
7 to produce technical. This is limited by the  
8 technical design of our manufacturing plant there.  
9 Also, we have no plan to make changes in the current  
10 capacity and will not expand capacity in the  
11 foreseeable future. In the period 2004 until 2010, we  
12 have successfully grown our cross-linked volumes. We  
13 actually doubled our cross-linked volumes in that  
14 timeframe. We are expecting this to continue as we go  
15 forward in the coming years. During the years 2004,  
16 2010, we also had high rates of utilization and the  
17 year 2010 actually was fully utilized, except for some  
18 smaller standstill for technical reasons that are  
19 normal for this kind of operations.

20           We have reported to the Commission the  
21 capacity of purified CMC and I would like to mention  
22 here that those numbers include, of course, all  
23 purified CMC, as requested in the questionnaire.  
24 However, this is not equal to the output of the  
25 manufacturing plant because we have also produced

1 cross-linked and, as I mentioned earlier, until 2008,  
2 also technical. The capacity output of cross-linked  
3 and technical is not equal to the output of purified.  
4 The point that I want to make is that the capacity  
5 utilization through this combination of two or three  
6 product lines has been high throughout the years and  
7 there is no underutilization gap to fill. At Akzo  
8 Nobel, it is important to deliver value and  
9 consistently meet profitability criteria.

10 If performance is below those criteria, we  
11 need to update our plants regarding the future to  
12 ensure we meet the criteria as set by the Akzo Nobel  
13 Board of Management. During the years 2005 until  
14 2008, we did not always meet criteria set by the  
15 company, and therefore, we developed a so-called road  
16 map to reestablish the profit of the business for CMC.  
17 The essence of this road map is that we have appointed  
18 one global business manager for CMC who is Philip  
19 Raatjes, the next speaker from Akzo Nobel, and the  
20 other point is that we want to focus on products and  
21 markets that deliver highest value to us. The before  
22 mentioned expected development of our cross-linked CMC  
23 means that gradually there will be less volume  
24 available for purified CMC. This is in line with our  
25 strategy to continue to focus on niche and high value

1 added products and markets. We expect CMC to further  
2 develop into a more global business with a higher  
3 relative share in emerging markets, like eastern  
4 Europe, India and China. Also, we have no plans  
5 whatsoever to expand capacity at our current base.  
6 Thank you.

7 MR. WEST: We will now hear from Mr.  
8 Raatjes.

9 MR. RAATJES: Dear Commission, my name is  
10 Philip Raatjes. I'm like Frank, 25 years with the  
11 company, mostly from the start in commercial  
12 functions. I have been in CMC before and I rejoined  
13 the CMC two years ago. In between, I have been the  
14 Global Business Director for monochloroacetic acid  
15 that is one of the two main raw materials to produce  
16 carboxymethylcellulose. So you need cellulose and you  
17 need MCA, monochloroacetic acid. So I have seen also  
18 the business from the other side. I've been supplying  
19 basically all CMC suppliers in the world with  
20 monochloroacetic acid. I rejoined the business, as  
21 Frank said, to fix it, so the financial performance  
22 was not in the last years as it should be within Akzo  
23 Nobel, and I can tell you, as Frank said, we are fully  
24 back on track and we have a good record and the  
25 company is very confident in our business for the

1 future, so we are, in fact, off the road map.

2 So there is, I think it was a nice  
3 celebration we had on that. Maybe I want to refer now  
4 to two slides that I have given you. There are two  
5 slides with diagrams and that makes my speech a little  
6 bit easier to explain. Referring to page 1, you all  
7 got it?

8 MR. WEST: Just to be clear, these are two  
9 slides. The first slide is two circles on it, the  
10 second slide is four circles on it on a graph.

11 CHAIRMAN OKUN: Okay. Just to be clear, do  
12 Petitioners have copies of the slides available?

13 MR. WEST: Yes. Madam Chairman, I believe  
14 there was a reproduction issue. One of the pages was  
15 missing in the reproduction done by the secretary.

16 CHAIRMAN OKUN: Okay. And that's available  
17 back on the distribution table. Thank you. You may  
18 proceed.

19 MR. RAATJES: Okay. May I continue? Yeah.  
20 Now, maybe then I hold it up. So on this slide you  
21 see two pies. One is a purified pie and the other one  
22 is a technical pie. You see also two Xs. One is  
23 mentioning the quality level of the CMC and the other  
24 one is mentioning the price. You can imagine, here in  
25 this corner it's low for both parameters. This is

1 more or less a traditional view of looking at the CMC  
2 market. So we have purified and technical. When I  
3 joined we said, looking at our capabilities of the two  
4 plants, and our structure, our quality control, et  
5 cetera, the whole set up of the plants, and looking at  
6 the market, we said we should change our view on the  
7 CMC market. So we changed it to a more higher value  
8 added purified plus market and the purified market.

9 I don't want to touch on the technical side  
10 because that's not an issue today. Looking at the  
11 purified plus market, we see there three applications.  
12 That's pharmaceuticals, healthcare and food  
13 specialties. The purified pie mentions more or less  
14 the industrial applications for purified CMC and  
15 including, I call it food commodities. Where are we  
16 with our business? We are solely in the upper right  
17 corner of the purified plus. That is where we are,  
18 with our complete business in Arnhem. What is the  
19 driver for that? Why do we claim that? We have a  
20 very big portion, a very big position in the  
21 pharmaceutical CMC. I think we have a unique position  
22 there. This position has even strengthened when the  
23 plant from CP Kelco in Nijmegen in the Netherlands  
24 unfortunately was, they had the accidents there. They  
25 were making pharma grades as well. They are not

1 making pharma grades anymore.

2           So we, yeah, we had the wind in our back, as  
3 we say in the Netherlands anyway, so we got that also  
4 as a present, you could say. So that strengthens even  
5 this pharmaceutical segment of the purified CMC plant.  
6 That's really the driver of the plant in Arnhem. As  
7 Frank already said, this business has really grown  
8 double digit year after year, and it will continue to  
9 grow double digit percentage. It's really a fantastic  
10 business to be in. We see a lot of growth in the, we  
11 call it within Akzo Nobel nowadays the fast growing  
12 markets. In China, people start using pills.

13 Because, maybe I should address that. The cross-link  
14 CMC is not used in food at all. It is not allowed to  
15 use in food, it is strictly for the pharmaceutical  
16 application. It is used as a tablet disintegrant. So  
17 it's not used in food, I want to make that very clear  
18 to you, and it will not be used in food.

19           According to the Code access, et cetera,  
20 it's not allowed. Then about pharma. Then you see  
21 that I have on the slide healthcare instead of  
22 personal care. Personal care I would say is a lot of  
23 personal care is in the *P* pie, so not in the *P* plus  
24 pie. If you talk about toothpaste, we heard Aqualon  
25 saying that there are bids on toothpaste, customers do

1 bids on that, so that business has been commoditized  
2 completely. It is a pity because for toothpaste you  
3 really need very specific CMC grades. It's not so  
4 easy. If you change the color of the toothpaste, you  
5 need to adjust the CMC. Unfortunately, it's very  
6 commoditized. We are not in that business. We will  
7 not go into that business until the prices are at the  
8 right level. They are far too low. Where are we with  
9 our business in healthcare? That is in medical  
10 devices. That was not an application that Aqualon was  
11 appointed to, but we have a good position there.

12 Then maybe to food specialties and food  
13 commodities. The food commodity is the customer type  
14 that buys thousand of tons of CMC to make, for  
15 example, ice cream blends. That market is also  
16 completely commoditized. There, it's not a  
17 performance that is important, it's only the  
18 specification of the CMC, so that everybody can make  
19 that CMC. It is interchangeable. So they can, that  
20 is not our market. We are not in that market at all  
21 anymore. We are at smaller customers who value our  
22 service level. What do I mean with service level is  
23 they can, if they phone, they have it the next day.  
24 This may be also an explanation that our stock levels  
25 are relatively high of the purified CMC plant, because

1 that is how we operate. As long as the customers are  
2 prepared to pay for that, we do that.

3 That's one of the service levels that I  
4 think we differentiate from many competitors. Another  
5 one where we differentiate is that a small customer  
6 values the function of the CMC in the application.  
7 Many times they use it but it doesn't function well.  
8 What we then do, we offer them help. We have  
9 application laboratories, we have big R&D facilities  
10 worldwide as Akzo Nobel where we can make use of and  
11 customers value that. Also, that is reflected in our  
12 price level. Maybe another one that I should mention.  
13 Yeah. Quality control. As a spinoff of the  
14 pharmaceutical business, you can imagine what is  
15 important there is a very high level of quality  
16 control, a G&P plant.

17 So we have you could say an expensive  
18 organization in quality control with a lot of people  
19 running around. That has also a spinoff to this kind  
20 of smaller food customers who sometimes need analysis,  
21 additional analysis, and we can provide that, but they  
22 have to pay for it, but they are prepared to pay for  
23 it. As long as they do that, then it's fine. This  
24 business concept. So we are basically not in the  
25 purified pie. We are not active anymore. We have

1 some activity still in drilling. We are not active in  
2 paper, we are not active in paint, we are not active  
3 in food commodities. That is our business model. We  
4 have been successful expanding this business model on  
5 a global basis. It is a, yeah, you could say it's a  
6 niche market approach. We have found our value  
7 approach by going for niches, not for the big  
8 accounts. That's not our business. Yeah. I think I  
9 want to leave it by that. Thank you for your  
10 attention.

11 MR. WEST: Next we'll hear from Dr. Susan  
12 Manning.

13 MS. MANNING: Good afternoon. Conditions of  
14 competition relevant to this inquiry have changed  
15 significantly during the period of investigation.  
16 These changes must be considered to properly determine  
17 the probable effects of removing the order on CMC  
18 imports from the Netherlands. The very nature of the  
19 counterfactual analysis in a sunset proceeding is one  
20 of predicting probable effects from an event that has  
21 yet to occur. In this case, the revocation of the  
22 antidumping order. This requires an explicit  
23 understanding of the conditions of competition that  
24 are likely to exist in the foreseeable future. If  
25 these conditions are known to be different than those

1 that existed during the initial period of  
2 investigation or the period of investigation following  
3 the imposition of the order, then these changed  
4 conditions of competition must be accounted for in the  
5 counterfactual analysis.

6 As we know, at the time of the Commission's  
7 original determination in 2005, the Netherlands had  
8 two producers exporting purified CMC to the United  
9 States, CP Kelco and Akzo Nobel. As we've discussed,  
10 CP Kelco is no longer a productive factor in the  
11 Netherlands, so this is a significant change in the  
12 conditions of competition affecting the counterfactual  
13 analysis. Imports from CP Kelco's Netherlands  
14 operations during the period of investigation 2005 to  
15 September of 2010 have no predictive value in  
16 determining the probable volume and price of  
17 Netherlands imports in the foreseeable future or their  
18 effect on the domestic industry. In addition, the  
19 pricing behavior exhibited by CP Kelco Netherlands  
20 imports in the United States during this period also  
21 was not relevant in the counterfactual analysis since  
22 CP Kelco will have no ability to affect U.S. pricing  
23 with Netherlands imports in the future.

24 So the only relevant volume and pricing  
25 information on likely impacts of Netherlands CMC

1 imports is that of Akzo Nobel. For this reason, we  
2 focus our analysis on Akzo Nobel's imports in the  
3 United States and we exclude CP Kelco's Netherlands  
4 imports. This is a position that I believe that the  
5 Petitioners and the Respondents have consensus on.  
6 Akzo Nobel's volume in imports and share of U.S.  
7 consumption is insignificant and decreasing. Only a  
8 small portion of Akzo Nobel's total purified CMC  
9 production out of the Netherlands is exported to the  
10 United States. During the period of investigation,  
11 Akzo Nobel's volume share of U.S. consumption has been  
12 very small, even in its highest year in 2007, and has  
13 declined by half during the latter part of the period  
14 of investigation.

15 Akzo Nobel's value share of purified CMC is  
16 somewhat higher than its share by quantity but this is  
17 because Akzo Nobel sells purified CMC in the United  
18 States at a much higher average unit value price than  
19 other sources of purified CMC in the U.S. market.  
20 Akzo Nobel's change in market share during the period  
21 of investigation actually declined relative to other  
22 sources of purified CMC, while imports from Finland,  
23 CP Kelco's Netherlands imports while they were in the  
24 market, and imports from nonsubject countries actually  
25 increased. So Akzo Nobel's share of purified CMC for

1 the largest end use, food, is negligible. Akzo Nobel  
2 does not sell purified CMC in the United States for  
3 use in oil field applications from its Netherlands  
4 plant, and in the highly differentiated personal care  
5 end use, as Mr. Raatjes has described, Akzo Nobel's  
6 small volume of imports does not compete against other  
7 subject imports and rarely does it compete against the  
8 domestic product.

9 Akzo Nobel's U.S. shipments are almost  
10 certainly not likely to increase should the Commission  
11 decide revocation of the order against purified CMC  
12 from the Netherlands is warranted. As I discussed  
13 earlier, the portion of production which is exported  
14 to the United States has decreased by half during the  
15 period of investigation. Exports to other countries  
16 have increased significantly and are expected to  
17 continue to increase. Its key export markets for Akzo  
18 Nobel's Netherlands plant has become Italy, China,  
19 Canada, Brazil and Hungary, to name a few. Akzo Nobel  
20 has purposely positioned itself in Asia, eastern  
21 Europe and Latin America, and, to some degree, western  
22 Europe, to take advantage of the expected continued  
23 growth in the demand for high end purified CMC in  
24 these markets.

25 Akzo Nobel has made the decision to commit

1 to these markets so that it can participate fully in  
2 the expected increasing demand for this higher end  
3 purified CMC and cross-linked product. In addition,  
4 Akzo Nobel has shifted production to cross-linked CMC,  
5 which is more profitable to produce than to sell.  
6 That is not the subject of this investigation. Akzo  
7 Nobel is experiencing significant growing demand for  
8 this particular product in its global markets, as Mr.  
9 Raatjes has indicated. On the pricing side, Akzo  
10 Nobel's average unit values are the highest in the  
11 U.S. market and have been increasing over the period  
12 of investigation. Akzo Nobel primarily competes in  
13 low volume niche purified CMC markets. This is based  
14 on a global marketing strategy, and it no longer finds  
15 it profitable to compete in low priced commodity type  
16 CMC products which require very high volumes which at  
17 this point Akzo Nobel is unable to produce.

18 This product positioning global strategy is  
19 evident from the high average unit value of Akzo  
20 Nobel's U.S. shipments. I urge the Commission to take  
21 note of Akzo Nobel's unit values of shipments compared  
22 with other sources of purified CMC competing in the  
23 United States. As you would expect, these high unit  
24 values translate into substantial margins of  
25 overselling compared with the domestic product. In

1 the products for which the Commission collected data,  
2 for Product 1, Akzo Nobel has had substantial and  
3 consistent margins of overselling during the period of  
4 investigation. In Product 2, there were only a few  
5 quarters when Akzo Nobel incurred underselling  
6 margins.

7 In fact, it had sales during 2008, 2009 and  
8 2010, which we correct in our brief, but these sales  
9 were made at large margins of overselling against the  
10 domestic product and in quantities that were  
11 insignificant. For Product 3, sales have been  
12 negligible. Akzo Nobel's data shows very few quarters  
13 of underselling. Its margins of overselling were  
14 substantial and account for the vast majority of  
15 quarters captured by the Commission's data. For  
16 Product 5, Akzo Nobel had a few periods of  
17 underselling but has reported no sales in this product  
18 category since the first quarter of 2008 in keeping  
19 with its strategy to focus on higher end, low volume  
20 product.

21 For Product 6, Akzo Nobel's data has shown  
22 consistent and substantial margins of overselling  
23 during the period of investigation and there were no  
24 reported sales during 2008 and 2009, and only one  
25 quarter of sales in 2010. The underselling analysis

1 strongly indicates that imports of Akzo Nobel would be  
2 highly unlikely to be sold in the United States at  
3 prices which undersell those of the domestic producer  
4 in any quantity that would lead to a depressing or  
5 suppressing effect on the domestic prices should these  
6 orders be revoked. With respect to the domestic  
7 industry's financial and operating performance  
8 improvement, that occurred immediately and  
9 considerably since imposition of the orders against  
10 the subject imports.

11 Aqualon appears to be very well-positioned  
12 to withstand any impact from the Commission's  
13 revocation of the antidumping order against subject  
14 imports, particularly if that order is lifted against  
15 Akzo Nobel's Netherlands imports which are sold at  
16 average unit values substantially higher than those of  
17 the domestic producer and at quantities that could  
18 only be termed insignificant and in areas of the  
19 market in which the domestic product does not compete.  
20 In sum, I urge the Commission to consider the special  
21 circumstances of imports from the Netherlands in its  
22 revocation analysis. The low volume, high unit values  
23 indicate that Akzo Nobel's CMC product is not  
24 simultaneously present in the U.S. market with other  
25 subject imports. It does not compete in the same

1 product positioning and should not be cumulated.

2 Thank you.

3 MR. WEST: Madam Chair, that concludes our  
4 testimony.

5 MR. NEELEY: We welcome questions from the  
6 Commission.

7 CHAIRMAN OKUN: Well, before we begin those  
8 questions, let me take this opportunity to thank this  
9 panel of witnesses, in particular the industry  
10 witnesses who have taken the time to travel and answer  
11 our questions. We very much appreciate your presence  
12 here. And also just to note, if you could just  
13 restate your name for the court reporter when  
14 responding to questions, in particular for our  
15 witnesses from Akzo Nobel. We can't see all of your  
16 nameplates all the time, so just to make sure that we  
17 get that accurate, that would be helpful.

18 And with that, I will turn to Vice Chairman  
19 Williamson to start our questioning this afternoon.

20 VICE CHAIRMAN WILLIAMSON: Thank you, Madame  
21 Chair. And I too want to express my appreciation to  
22 the witnesses for their testimony this afternoon.

23 I asked this question this morning, and I  
24 was just wondering. Are there any publicly available  
25 economic series for each of the major end use -- of

1 the segments that we're following that you use to  
2 track and forecast demand?

3 MR. RAATJES: There are definitely -- sorry.  
4 Philip Raatjes. There are definitely public sources  
5 available where you can find growth figures and  
6 market. I think they are not very consistent with  
7 each other. One of the things that is very  
8 inconsistent, I have quite some knowledge about the  
9 Chinese market because I've been supplying MCA to the  
10 same three suppliers there.

11 But there is quite some inconsistency in the  
12 Chinese data. I think that West European -- of the  
13 Western data from the Americas and western Europe are  
14 rather accurate. And also, growth figures are  
15 mentioned there. I don't know if -- are you looking  
16 for growth figures? Do we have growth figures?

17 VICE CHAIRMAN WILLIAMSON: I think just  
18 figures that -- you know, demand is one of the  
19 important considerations we have to take into account  
20 here. So it's really -- yes, so it would be growth.

21 MR. RAATJES: Okay. To talk about  
22 pharmaceuticals, the way -- what is public there is  
23 double digit growth, 10 to 15 percent. It's India,  
24 China. It's really very high growth, of course still  
25 from a relatively lower volume, but it's a very high

1 growth area there.

2 Looking at food, I recall Aqualon has been  
3 mentioning this morning, and I follow -- it's in line  
4 with what Aqualon has mentioned this morning.

5 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.  
6 If anybody wants to submit anything posthearing, that  
7 will be fine on this topic. This morning I also asked  
8 the Petitioners about the cross-linked CMC and the  
9 role that it plays in the market and how we should  
10 take its existence into account. And I was wondering  
11 what your perspective is on this. This morning they  
12 were talking about if someone wants to bring CMC and  
13 cross-link, that might give them a competitive  
14 advantage. I don't know what your views are on that.

15 MR. RAATJES: Philip Raatjes. What Aqualon  
16 this morning mentioned is that cross-link CMC can be  
17 used in food. That is not the case. It is not  
18 allowed. So it's a separate market. It's dedicated  
19 for pharmaceutical industry. It's not being used in  
20 food.

21 VICE CHAIRMAN WILLIAMSON: Okay. So you're  
22 seeing its use in pharmaceuticals growing, I take it,  
23 though, just as obviously the production in  
24 pharmaceuticals is growing rapidly.

25 MR. RAATJES: Can you recall the -- sorry.

1 I might have jet lag coming from --

2 VICE CHAIRMAN WILLIAMSON: No. I  
3 understand.

4 MR. RAATJES: It's getting late for me, but  
5 okay.

6 VICE CHAIRMAN WILLIAMSON: Well, the real  
7 question, I guess, is the impact of the existence of  
8 cross-link and its growing use have on the sales of  
9 CMC itself.

10 MR. RAATJES: I would say no impact at all.  
11 It's really a separate market. It's a pharmaceutical  
12 market. It's used in tablets. So the pharmaceutical  
13 application of cross-link CMC is solely used in  
14 tablets as a tablet disintegrate. So it makes that  
15 your -- if you swallow a pill --

16 VICE CHAIRMAN WILLIAMSON: Yes. I  
17 understand, yes. Now, if a producer was using CMC and  
18 cross-linked CMC, would he prefer to get both from the  
19 same supplier, or would he --

20 MR. RAATJES: No. Basically, I would say  
21 looking at -- we have a major customer for cross-  
22 linked CMC here in the States. It's maybe not a  
23 little secret.

24 VICE CHAIRMAN WILLIAMSON: Yes.

25 MR. RAATJES: And they indeed use, as

1 Aqualon was referring to, also a lot of CMC. We have  
2 a 20 years -- next year we will celebrate a 20 years  
3 celebration of partnership with this large customer in  
4 the United States. They use it also at different  
5 places, by the way, the cross-linked CMC, not only in  
6 the United States. But they have consumption of CMC.  
7 And since 20 years we talk with this large customer  
8 also about CMC.

9 But looking at the price level they get it  
10 for, it's ridiculous low. It's far too low. So we  
11 are out of that business. The price level is that low  
12 that we say this doesn't make sense. So we are not  
13 supplying there. If that would be -- and even the  
14 dumping duty of 9 percent doesn't make really a  
15 difference. So the price level should be much higher,  
16 will it be for us, for our type of business, because  
17 the business portfolio we have today, it's much higher  
18 priced.

19 So we don't need that volume. So we have a  
20 good business without having this CMC volume.

21 VICE CHAIRMAN WILLIAMSON: Okay.

22 MR. RAATJES: And it is basically only  
23 customer that has a combination of cross-linked CMC  
24 and food-grade CMC in that portfolio.

25 VICE CHAIRMAN WILLIAMSON: Okay. Either now

1 or posthearing, can you sort of say who are you  
2 competing with in this here -- what is it, the P-  
3 plus --

4 MR. RAATJES: P-plus.

5 VICE CHAIRMAN WILLIAMSON: -- category?  
6 Now, are there other producers in the world that  
7 are --

8 MR. RAATJES: I can say that definitely  
9 Aqualon -- Aqualon is a company that has also done a  
10 lot on CMC in the past. They developed CMC. So there  
11 is a lot of good things that Aqualon did in the past.  
12 Aqualon is also in this P-plus area. But they are  
13 more in the down corner. So we have the  
14 pharmaceuticals, and that is really very high priced.

15 The price level of pharmaceutical grade is  
16 way out of food grade, way out.

17 VICE CHAIRMAN WILLIAMSON: Okay. We won't  
18 discuss why that is. That's another hearing. But you  
19 are competing with Aqualon in that segment of the  
20 market, that broader segment of the market, even if  
21 you could say -- you know, you say, well, we have the  
22 upper end, and they have the lower end.

23 MR. RAATJES: I would say that there is a --  
24 we don't come across Aqualon really as a competitor,  
25 hardly.

1 VICE CHAIRMAN WILLIAMSON: Okay.

2 MR. RAATJES: But there is some -- always  
3 some competition. And I think that is good. There  
4 should be some competition now and then.

5 VICE CHAIRMAN WILLIAMSON: Okay.

6 MR. WEST: And, Commissioner, we will in the  
7 posthearing brief -- we can lay out a little more  
8 fully exactly who we are competing with in the P-plus  
9 and along the product lines that we're competing with  
10 them.

11 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.  
12 And I assume Petitioners might have a few things to  
13 say about that, too, but --

14 MR. WEST: I would suspect so.

15 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.  
16 For Amtex, I was curious. You talked about -- you  
17 made the argument that you could have been selling  
18 from Colombia or Argentina if you really were  
19 interested in the U.S. market. I was just curious. I  
20 know the duty in the U.S. is about 6 percent. Is this  
21 a product covered by GSP, or would you have to pay the  
22 duty if you were selling from Colombia or Argentina?

23 MR. NEELEY: Our understanding is that the  
24 Argentine products are covered by GSP, and the  
25 Colombian products are covered by the Andean

1 Preference. So they're both at zero.

2 VICE CHAIRMAN WILLIAMSON: Okay. So I just  
3 wanted to make sure that I understood that part.

4 MR. NEELEY: Correct.

5 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.  
6 And you indicate that there is only limited  
7 competition between you and Aqualon. But in 2009, you  
8 know, it was clear that the food segment was the  
9 largest segment in the U.S. And doesn't this indicate  
10 likely substantial competition in the future? I mean,  
11 this is where the action is.

12 MR. NEELEY: I'll try that, and let them  
13 jump in. I think, you know, you see our capacity  
14 utilization numbers. You know, you can't crank out  
15 anything more, so it has got to come from somewhere.  
16 We think it would be, you know, rank speculation and  
17 inaccurate to think that we would switch from our home  
18 market customers who are long-time customers and to  
19 the United States.

20 So that's why we think that's highly  
21 unlikely to happen. I don't know if Mr. Nessel has  
22 anything else on that.

23 MR. NESSEL: Yeah. The vast majority of our  
24 sales are cross-linked, and that is around 60 percent,  
25 which is a customer Aqualon does not compete for. We

1 are selling to some other total producer in the U.S.,  
2 which is let's say our strong part regarding food  
3 applications. Yes, we are selling for other  
4 applications. We will find Aqualon in the market.  
5 But until now, in the last five years, those weren't  
6 more than the three customers they could come up with  
7 here.

8 VICE CHAIRMAN WILLIAMSON: Okay. But I take  
9 it probably the demand for the product is probably  
10 growing. You know, it's a growth sector in this  
11 country, I would think.

12 MR. NESSEL: Yes. But here is only so much  
13 CMC we can provide since there is no plan to expand  
14 capacity utilization. We do not foresee to sell to  
15 different customers than we are selling now, which is  
16 Azteca, and --

17 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.  
18 My time has expired, and thank you for those answers.

19 CHAIRMAN OKUN: Commissioner Lane.

20 COMMISSIONER LANE: Thank you all for coming  
21 this afternoon. I have a different question about the  
22 Colombia-Argentina issue that Mr. Nessel talked about  
23 in his opening statement. Would the transportation  
24 costs make it -- would cost too much to actually bring  
25 the product from Colombia to Argentina into the United

1 States, rather than shipping the product in from  
2 Mexico?

3 MR. NESSEL: The transportation costs would  
4 be a little bit higher because you would have to bring  
5 that by ship. But now everything is on truck. And  
6 the difference would not be that much higher. But the  
7 Colombian plant serves basically the Andean market  
8 from Chile up to Venezuela. Argentina has a strong  
9 market in Brazil. So on the one hand, there is not  
10 very much excess capacity that they could ship to the  
11 U.S. if they wanted to. And Argentina produces one  
12 special grade which is related to granulation. That's  
13 the only thing they ever ship to the United States,  
14 and that is about as much as they are going to do.

15 MR. NEELEY: I think our point, Commissioner  
16 Lane and others, was that the Petitioner Aqualon had  
17 made a point that they thought the American market,  
18 the U.S. market was incredibly attractive. Our point  
19 is it's not all that attractive. There are lots of  
20 attractive markets out there. And the way that  
21 they've organized their business is to stick mostly to  
22 Latin America because that's really much more  
23 attractive to them.

24 COMMISSIONER LANE: Okay. I was just trying  
25 to make sense of what you said, that we would have

1 supplied the U.S. market for the last five years with  
2 nonsubject purified CMC from Colombia and Argentina.  
3 And I was just wondering from a business sense would  
4 it make sense with the added transportation costs, as  
5 opposed to just trucking it up from Mexico.

6 MR. NESSEL: If the U.S. prices were that  
7 much higher that the market would be as attractive as  
8 Aqualon apparently thinks it is, we could do that. We  
9 would have, let's say, a 3 or 4 percent over-price to  
10 bring in the product from Argentina -- from Colombia  
11 versus Mexico. And it is not that interesting.

12 COMMISSIONER LANE: Okay. Thank you. This  
13 is for Akzo and Amtex. Aqualon argues at page 8 that  
14 record data supports a finding that purified CMC is a  
15 commodity product. Do you agree?

16 MR. NEELEY: We think that that is an  
17 overstatement. I think that the testimony of Mr. de  
18 la Fuente from Azteca, which is by far our largest  
19 customer, shows this isn't purely a commodity product  
20 that can easily be substituted. There are technical  
21 aspects to the sales that are very important.

22 COMMISSIONER LANE: So you don't think it's  
23 a commodity product.

24 MR. NEELEY: We don't think it's purely a  
25 commodity product, no. We think that performance and

1 technical specifications are extremely important.

2 COMMISSIONER LANE: Okay. You, sir.

3 MR. NESSEL: Yes. I might add to that. If  
4 you see the Colgate bid -- and we bid for two of  
5 the products -- we are unable to produce the third  
6 one.

7 COMMISSIONER LANE: Okay. Thank you.

8 MR. WEST: Commissioner Lane?

9 COMMISSIONER LANE: Yes.

10 MR. RAATJES: I think that what I related to  
11 with the P, part of the business in food --

12 COMMISSIONER LANE: Could you speak into  
13 your microphone?

14 MR. RAATJES: Sorry, yeah. I think that  
15 part of the business has been commoditized. So if you  
16 really go for the large customers, their business has  
17 been commoditized. There are bids, as we heard this  
18 morning. And there are all kind of things there. So  
19 CP Kelco and Aqualon compete with each other. We are  
20 not in. But so for us, CMC is not a commodity at all.  
21 It's really performance. We have the market niches.  
22 But definitely, if this word is being used, it is  
23 there. There is a commodity type of CMC where  
24 everybody can do their bid. It's just extra  
25 specification. And yeah.

1                   COMMISSIONER LANE: Okay. Thank you. Now,  
2 what is a typical contracting cycle? Aqualon suggests  
3 that even for customers that require qualified  
4 suppliers, it would be possible to replace existing  
5 suppliers in one or two contracting cycles. Do you  
6 agree?

7                   MR. NESSEL: In most of the -- let's say the  
8 bids and the contracts are not really binding. As the  
9 colleague from Aqualon said, sometimes they're just  
10 gentlemen agreements. So if they really wanted to  
11 switch, they will just stop placing purchase orders.  
12 In the rest, I'd say half a year would be, let's say,  
13 the longest period you would be attached to one  
14 supplier.

15                   COMMISSIONER LANE: Okay. Thank you. In  
16 its prehearing brief, at 92, Aqualon almost appears to  
17 be suggesting that the Commission factor into its  
18 analysis CP Kelco's nonsubject facility in China,  
19 under the theory that CP Kelco can direct production  
20 from its various global facilities where it chooses.  
21 Is there a legal basis for us to do as Aqualon  
22 suggests?

23                   MR. NEELEY: I'll have to take a look at  
24 what their argument is exactly. I think we should  
25 probably address that in the posthearing brief and see

1 exactly what they're arguing.

2 COMMISSIONER LANE: Okay. Thank you. Are  
3 you aware of any inventories of purified CMC produced  
4 by Dutch producer CP Kelco either in the Netherlands  
5 or elsewhere? In other words, is there anything to  
6 indicate that there are still Dutch-produced CP Kelco  
7 products that may have an effect on the U.S. market?

8 MR. RAATJES: Maybe I can comment a little  
9 bit on that. It should be gone by now. So definitely  
10 there was stock after the explosion. But I don't  
11 think there is still stock there. It would surprise  
12 me. It's very close by, by our plant. It's only 25  
13 kilometers away. And the whole operation is closed.  
14 So there is nothing anymore there. So the office,  
15 everything is gone. So I would be surprised if there  
16 were still stock there.

17 COMMISSIONER LANE: Okay. Thank you.  
18 Aqualon asserts that the United States market is one  
19 of the largest global markets. Do you agree? And how  
20 do prices in the U.S. market compare with prices in  
21 other markets?

22 MR. RAATJES: Maybe I can comment on that.  
23 But if you look at the regulated industry and you look  
24 at public data, then the food industry in the United  
25 States is relatively large. But in China, it's much

1 bigger. So in China, the market for food is 60,000  
2 tons. So it's much bigger than in the United States  
3 today.

4 COMMISSIONER LANE: But what about the  
5 prices? How do the prices in the U.S. compare to  
6 other --

7 MR. RAATJES: Now, if you look at China, the  
8 prices are very much lower. But it has to do, as also  
9 Aqualon pointed this morning, with the purity level.  
10 So basically, in the West, you need to have 99-1/2  
11 percent purity at the minimum, whereas in China you  
12 can sell also products with a 95 percent CMC content.  
13 So the price level in China is definitely much lower.  
14 But that's maybe an exception. I would say worldwide,  
15 the prices are more or less the same.

16 It depends a little bit on the plant, and  
17 you have some transportation in between. So there  
18 might be some differences. But on an a works basis,  
19 or income terms FCA basis, there is not so much  
20 difference, I would say.

21 COMMISSIONER LANE: Okay. Thank you.  
22 Madame Chair.

23 CHAIRMAN OKUN: Commissioner Pearson.

24 COMMISSIONER PEARSON: Thank you, Madame  
25 Chairman. I'd like to welcome all of you,

1 particularly those who have traveled long distances.  
2 I would observe that your English has been excellent,  
3 far exceeding my capabilities in either Spanish or  
4 Dutch, and so I thank you for that.

5           Those of you who practice before the  
6 Commission know that I generally leave issues of  
7 cumulation to my colleagues who are learned in the  
8 law. But every once in a while, I can't resist, and  
9 so I jump in, and this is one of those. Perhaps I  
10 earned the right having been the only one to find a  
11 way to decumulate a country in the original  
12 investigation.

13           But at any rate, this will be largely for  
14 counsel. Akzo's preliminary brief argues that imports  
15 from the Netherlands should not be cumulated with  
16 other subject imports. Amtex argues that it's imports  
17 from Mexico should not be cumulated. Do both Akzo and  
18 Amtex think that subject imports from all countries  
19 should be considered separately?

20           MR. NEELEY: Yes.

21           MR. WEST: We would agree with that as well,  
22 Commissioner.

23           COMMISSIONER PEARSON: Okay. So you're not  
24 arguing that countries other than the one you  
25 represent should be cumulated. You just want them all

1 separate, okay.

2 MR. NEELEY: That's correct.

3 COMMISSIONER PEARSON: Okay. You have made  
4 a number of arguments about reasonable overlap of  
5 competition. But they've tended to concentrate on  
6 data from the period of review, not the original  
7 investigation. Why wouldn't the factors that led the  
8 Commission majority to find a reasonable overlap of  
9 competition in the original investigation reoccur upon  
10 revocation, especially given the change in the GMP  
11 status of the plant in Finland?

12 MR. WEST: Commissioner, I'll speak for Akzo  
13 Nobel first here. The most significant difference we  
14 see why the conditions of competition have changed  
15 really stem from the different business model that the  
16 two gentlemen from Akzo Nobel explained.

17 In the original period of investigation, the  
18 company was, as noted, sort of financially  
19 unsuccessfully attempting to, we'll say, play in the  
20 market with CP Kelco and Aqualon on a purely price  
21 commodity, price drive basis. And that led them to  
22 the pricing they were doing at the time.

23 But that was an unsuccessful strategy. The  
24 addition of Mr. Raatjes to the business was  
25 specifically because it was the case that Akzo Nobel

1 was not able to compete with those price levels of  
2 CMC. Rather, as he points out, there are price levels  
3 that can be paid, can be achieved, but on a lower  
4 volume, higher value type of price.

5 So to say that the company would go back to  
6 a model that not only raised issues of dumping, but if  
7 this case had never been brought would have still been  
8 a financial failure for the company down the road,  
9 simply doesn't make sense. And what we have now is a  
10 picture where the Dutch market, which was at the time  
11 of the investigation populated by Akzo Nobel and  
12 Kelco, Kelco having a different pricing model than  
13 Akzo Nobel has chosen to follow now. They are really  
14 competing, as Mr. Raatjes says, for different slices  
15 of different P pies, P-plus versus P. And Quimica  
16 Amtex is not a competitor in the P-plus pies that we  
17 operate it.

18 So while during the investigation there was  
19 overlap in the Netherlands, there were two producers  
20 -- one of them had a common sales strategy of pricing  
21 across three of the subject countries, that is now  
22 limited to Finland. Netherlands has its own pricing  
23 strategy for a set of the pies. Mexico has a  
24 different strategy for its set of the pies. And I  
25 think those differences are what now show that

1 cumulation is not something the Commission should look  
2 into, especially, as Mr. Neeley noted, where if you do  
3 not believe there is to be injury by the Dutch  
4 imports, which are now only Akzo Nobel, not Kelco and  
5 Akzo Nobel, or not injury by Amtex, that it is not  
6 proper to cumulate Netherlands and Mexico with  
7 Finland, where the Commission will have to make  
8 determinations based on the information submitted.

9 And so because of those reasons, we feel it  
10 is a materially different factual situation with  
11 respect to cumulation.

12 COMMISSIONER PEARSON: Okay. Mr. Neeley?  
13 Or Mr. Nessel.

14 MR. NESSEL: Yes. I may take that one. On  
15 the one hand, let's say, the market is quite  
16 different, and we are at high capacity utilization, so  
17 nobody has to fight over clients. On the other hand,  
18 in the original investigation, we were supposed to  
19 sell into the oil drilling sector because of one  
20 quotation Aqualon presented, which we did not feel  
21 worth making an adjustment in that regard. And on the  
22 other hand, we just thought we didn't come through  
23 with the argument that Azteca is not a client willing  
24 to buy from Aqualon, which also was understood by the  
25 Commission differently in the original investigation.

1                   So the facts are not that much different.  
2                   It's just maybe this time we can get -- makes  
3                   ourselves a little bit clearer.

4                   COMMISSIONER PEARSON: Okay. Well, my  
5                   expectation is that the domestic industry will be  
6                   arguing in its posthearing brief that all three  
7                   countries should be cumulated, and you have laid out  
8                   reasons -- you know, a different point of view. So it  
9                   would serve the record well for you to elaborate  
10                  clearly in the posthearing what are those differences,  
11                  and why we should choose not to cumulate, if indeed --  
12                  well, obviously, that's the position you're taking.  
13                  Mr. McGrath.

14                  MR. McGRATH: Yes. Commissioner, if I could  
15                  just add one point. In terms of the reasonable  
16                  overlap, I don't think we're saying there isn't a --  
17                  there is something -- there is a major difference in  
18                  terms of the possible theoretical overlap that exists,  
19                  especially in the food sector business. What we are  
20                  trying to communicate a little more clearly is there  
21                  has been an opportunity since that time in the last  
22                  five years to see if there truly is some overlap of  
23                  competition with respect to the food sector that  
24                  Mexico services its one large customer here.

25                  There hasn't even been an attempt by Aqualon

1 to sell or deal with the technical problems with that  
2 customer during the five years that the order has been  
3 in effect. We think that you can take that into  
4 account in trying to decide whether it is a  
5 discretionary step for the Commission to decumulate.  
6 Whether you can take that into account, we think you  
7 should take it into account because it does account  
8 for the vast majority of the sales from Mexico to the  
9 U.S. It characterizes them.

10 So that different fact I think is important  
11 in making your decision.

12 COMMISSIONER PEARSON: Okay.

13 MR. NEELEY: I would add just one more  
14 thing, if I could, just very quickly, and that is  
15 that, you know, we have had consistently the lowest  
16 dumping margins of any of the countries. So there  
17 were opportunities for Amtex, had it wanted to, to  
18 sell into these other market segments, if that would  
19 have been its intention, and it did not do so.

20 COMMISSIONER PEARSON: I recognize that.  
21 The Commission did find that all countries should be  
22 cumulated in the original, and so the things we've  
23 learned since then that would indicate a different  
24 outcome now are relevant. So those would be good to  
25 focus on.

1           So a final cumulation question. In the  
2 event that the Commission once again cumulates subject  
3 countries and treats them as a group, what is the  
4 correct outcome in this investigation? Affirmative,  
5 negative?

6           MR. NEELEY: Negative. Are you surprised by  
7 that answer?

8           COMMISSIONER PEARSON: No, I'm not terribly  
9 surprised. But argue that as well in your  
10 posthearing, if you could, and give us -- help us to  
11 understand why it should be a negative on a cumulated  
12 basis.

13           MR. NEELEY: We think that fundamentally  
14 that the situation in the marketplace now, if you look  
15 at the health of Aqualon, if you look at the capacity  
16 utilization of Aqualon, and you look at the  
17 profitability of Aqualon, all the factors the  
18 Commission looks at, the issues that face the industry  
19 today are supplying enough product right now. We can  
20 see how Aqualon has responded to the marketplace by  
21 importing from France, and that's perfectly rational  
22 on their part. We see that continuing for the  
23 foreseeable future. And if there are challenges to  
24 the domestic industry, the primary challenge does not  
25 even come from Finland, although that is the one that

1 has been mentioned. I understand why Mr. Lebow argues  
2 that. But it comes more from the China side, we  
3 believe.

4 COMMISSIONER PEARSON: Okay. Did you have  
5 something more?

6 MR. WEST: Commissioner, I just would agree  
7 that we also believe it would be negative, given the  
8 health of the U.S. industry, health that it was able  
9 to achieve over five years. But the rise of  
10 nonsubject imports, the effect of nonsubject imports,  
11 I think plays a significant role, particularly to the  
12 extent that they have been able to capture any market  
13 that -- opened any market share that may have opened  
14 up during the period of relief. And we will address  
15 that further in the brief as well.

16 COMMISSIONER PEARSON: Great, thank you.  
17 Thank you very much for those answers. Madame  
18 Chairman, my time has expired.

19 CHAIRMAN OKUN: Commissioner Aranoff.

20 COMMISSIONER ARANOFF: Thank you, Madame  
21 Chairman. I want to join my colleagues in welcoming  
22 the afternoon panel. We really appreciate your being  
23 here.

24 Let me start by following up on something  
25 that you said, Mr. Nessel, in your direct testimony.

1 You were mentioning that Amtex would not be likely to  
2 increase its production or capacity. And I recall  
3 that you said two things. One was that I think you  
4 said the investment probably wouldn't be justified,  
5 and the other was that there were infrastructure  
6 restrictions. Can you explain what you meant by each  
7 of those things?

8 MR. NESSEL: Yes. The first one is the easy  
9 part. We would have to build a complete new line from  
10 cellulose grinding to packing because whatever we've  
11 got presently in Mexico is full. So you're talking of  
12 an above \$10 million investment, which we do not have  
13 the pocket to make.

14 The second part is for the industrial  
15 clients, you will need a certain amount of services,  
16 steam, cold water, electricity, all that stuff. And  
17 so the present infrastructure is full, so we have no  
18 additional infrastructure, no extra stream, no extra  
19 water that we could put into a new line. So the  
20 investment would be even higher.

21 COMMISSIONER ARANOFF: Okay. Well, I  
22 understand those things. But we're in a situation  
23 where we've got a global industry that from everyone  
24 is saying today is everybody is operating at or close  
25 to capacity. You've told us the market in Mexico is

1 very strong. The market in Latin America is very  
2 strong. Why is nobody investing in increasing their  
3 capacity? Or is all the investment going to China?

4 MR. NESSEL: Yes. China has increased  
5 capacity quite a lot. And we have evaluated  
6 investment in China and decided against it. Amtex is  
7 a family business, and the shareholder is not willing  
8 to expand capacity in CMC.

9 COMMISSIONER ARANOFF: And you think  
10 fundamentally that's because there is a concern about  
11 competing with capacity that is going up in China?  
12 Because it is obviously not a concern with lack of  
13 markets to sell the product.

14 MR. NESSEL: In Latin America, which is our  
15 primary market -- and the most interest part is  
16 Brazil. So if anything is added in CMC, that would be  
17 certainly Argentina.

18 COMMISSIONER ARANOFF: Okay. Throughout the  
19 testimony, Amtex has characterized itself as a small  
20 and steady player in the U.S. market. And in doing  
21 that, at least in your brief, you focus on evidence  
22 from the period of review, so while the order has been  
23 in effect. But if you look back to the original  
24 investigation, I wouldn't argue that Amtex was an  
25 enormous player in the U.S. market, but larger than it

1 is now, larger volume, larger market share.

2 If we're to conclude that Amtex is going to  
3 keep the limited role that it had during this period  
4 if the orders are revoked, I guess I need to know what  
5 was in the other piece that went away. Are there  
6 other customers that you were serving in the U.S.  
7 prior to the orders that you're no longer serving?  
8 Are there end use markets that you used to pursue that  
9 you're no longer pursuing? Can you explain that?

10 MR. NESSEL: As you might say, during the  
11 period of review, we have rather significant  
12 fluctuations. And I again have to point in the  
13 direction of Azteca. And if Azteca decides to work  
14 with 100 percent of their consumption, which sometimes  
15 they do and other years they do not, let's say that  
16 would increase. The same goes for the other  
17 customers.

18 The customer base as a head count is  
19 basically the same. There are years where they  
20 consume more than they do in others. And as we heard,  
21 most of the time they prefer to have two or even three  
22 suppliers for the same raw material. Depending on the  
23 share you're getting from a specific client, that will  
24 vary.

25 COMMISSIONER ARANOFF: Okay. So then there

1 are not U.S. customers that you had prior to the order  
2 who stopped buying from you after the order went into  
3 effect.

4 MR. NESSEL: No. It is basically a  
5 reduction in the consumption. For example, take  
6 Gump's, they're only buying the very, very high  
7 viscosity stuff. In the medium viscosity, we lost the  
8 business due to quality problems.

9 COMMISSIONER ARANOFF: Okay. Thank you. I  
10 asked the witnesses from Aqualon this morning -- I  
11 sort of quizzed them on what they knew about the  
12 Chinese industry. And so I guess I'll quiz the  
13 various members of this afternoon's panel about the  
14 same thing. What can you tell me about the size of  
15 the industry in China? And as I mentioned this  
16 morning, I'm particularly interested in what parts of  
17 the Chinese capacity are represented by global  
18 companies versus startups that are just located in  
19 China. Anyone want to jump in?

20 MR. RAATJES: Yeah, I can comment on that.  
21 I think we should maybe mention also in the post-  
22 briefing, give you some additional information. We  
23 have a lot of information available on that, that is  
24 our estimate. I just want to make a statement here  
25 that looking at -- that's public data, and I can talk

1 about that. Everybody can look that up at the  
2 Internet.

3 The export from China for CMC, they are  
4 growing tremendously. They are -- really, it's almost  
5 scary what is happening. So there is a lot going on  
6 in China in CMC. The share just to -- there are maybe  
7 200 CMC plants in China, and the -- type of CMC  
8 producers, but are also the multinational producers.  
9 And so Aqualon has a plant there. CP Kelco built a  
10 plant. But also --

11 COMMISSIONER ARANOFF: Your company doesn't  
12 have a plant in China.

13 MR. RAATJES: We don't have a plant in  
14 China. And maybe I can say something to that. You  
15 cannot make money in China with CMC production. We  
16 have been looking extensively at that. You cannot  
17 make money there with a CMC plant. It is a very low  
18 price, with a very high competitive market. They buy  
19 from each other. It's more or less a stock exchange.  
20 So the prices can vary by day. And it's -- yeah, it's  
21 a Chinese type of business that is very marginal. At  
22 least it's too marginal for the company like Akzo  
23 Nobel, where we want to have certain financial  
24 standards we have to reach that, and we cannot do that  
25 with the CMC production in China.

1                   COMMISSIONER ARANOFF: Now, are you  
2 competing with Chinese market in any of the specialty  
3 end uses where you like to sell?

4                   MR. RAATJES: No. So that is how we also  
5 define our strategy. By having -- I think there is  
6 still a big asset if you have -- the technology of  
7 Chinese CMC production is 40 years behind the  
8 technology of our production, like Aqualon has, and  
9 Quimica, and we have. So there is still a big  
10 difference in technology. That's one thing. Well,  
11 one. I had two now, because I lost it.

12                  MALE VOICE: Specialty products.

13                  MR. RAATJES: Yeah. So but looking at --  
14 that's why we defined it also this way. We think that  
15 within five to ten years -- how far can you look ahead  
16 today, in this very hectic world? It's ten years  
17 looking ahead -- ten years is quite a challenge, I  
18 would say. But we foresee that by having -- there  
19 will not be competition because to get to the purity  
20 level of 99-1/2 percent, it's quite a step change also  
21 for the Chinese.

22                  You see some, they claim. Some of the  
23 Chinese -- real Chinese CMC producers claim that they  
24 can do it. I can mention some names here. There is  
25 also Welty Chemicals, for example. Dynesco has a

1 plant there. They claim that they can make 99-1/2  
2 percent CMC. But I think if they can do it in an  
3 economic way, that's a big question. So maybe their  
4 cross price is that high still. So there should be a  
5 major change in the type of technology of CMC, the way  
6 to produce CMC to get to the level of the western  
7 producers.

8 COMMISSIONER ARANOFF: Okay, okay. I  
9 appreciate. I know, Mr. Nessel, you also wanted to  
10 say something.

11 MR. NESSEL: Only hearsay, I cannot. So  
12 maybe better not.

13 COMMISSIONER ARANOFF: Okay. Well, since  
14 your company is selling into emerging markets in Latin  
15 America, are you competing with Chinese product?

16 MR. NESSEL: Yes. Also, we know that Kelco  
17 has a plant. We know that Aqualon has a plant.  
18 Welty, Dynesco, and another plant we know of, San We,  
19 which basically sells to toothpaste applications. And  
20 I do not share the view of the colleagues that they  
21 are so far behind in quality issues. We have seen  
22 very good quality CMC also for food applications,  
23 especially from Welty. So I do not think it is a very  
24 farsighted approach to ignore them.

25 COMMISSIONER ARANOFF: Okay. That's all I

1 have, Madame Chairman.

2 CHAIRMAN OKUN: Commissioner Pinkert.

3 COMMISSIONER PINKERT: Thank you, Madame  
4 Chairman. And I join my colleagues in thanking all of  
5 you for being here today. Staying with that point,  
6 Mr. Nessel, would you say that continuation or  
7 revocation of the orders has more of a bearing on the  
8 competition between subject and nonsubject imports  
9 here in the U.S. market than it does on any other  
10 competition with other entities?

11 MR. NESSEL: I'm not sure if I understood  
12 that one.

13 COMMISSIONER PINKERT: Well, in other words,  
14 is this really a battle over whether nonsubject  
15 imports will be dominant in the U.S. market versus  
16 other, for example, subject imports or anybody else?  
17 Is that really what this whole case is about, in your  
18 mind?

19 MR. NESSEL: Presently, I would say it has  
20 become that kind of battle because Sweden is down.  
21 The Kelco plant in Holland is down. And Kelco has  
22 started to bring, as far as I know from the import  
23 statistics, very substantial amounts directly from  
24 China into this market. And so whether I think it is  
25 or it is not, the figures seem to indicate that the

1 nonsubject imports are basically what are driving the  
2 U.S. market presently.

3 MR. NEELEY: We would mention also, though,  
4 that in the case of at least Amtex, because of sort of  
5 the very few customers we have, that, you know, we  
6 have not seen particularly, for example, with Azteca  
7 -- you know, this is a client that obviously has very  
8 specific issues with regard to the flour that they're  
9 making, where we haven't seen that import competition  
10 from the Chinese side.

11 Now, of course, we do, as Mr. de la Fuente  
12 mentioned, you know, we have competition from the  
13 German side. But so there is nonsubject in that  
14 sense. So in some sense, it's all nonsubject. That's  
15 the only people we face for certain of the products.  
16 And for others, which are not made by Aqualon, the  
17 competitors are all nonsubject, always have been,  
18 always will be.

19 COMMISSIONER PINKERT: As you think about  
20 this question for the posthearing submission, I would  
21 modify my question a little bit and say is it your  
22 view that the nonsubject imports represent the growing  
23 segment of the U.S. market, rather than dominant  
24 segment? I think that was perhaps overstating the  
25 point a little bit. But as you think about it for the

1 posthearing, I'd appreciate your answer to that  
2 question more fully developed.

3 MR. NEELEY: Thanks.

4 COMMISSIONER PINKERT: Now, turning to this  
5 issue that is raised in Akzo's brief about disparity  
6 in market power, given the reasons why cumulation is  
7 often done when statutory factors have been satisfied,  
8 does it seem to be the case that a disparity in market  
9 power would be a reason for not cumulating when the  
10 statutory factors have been met?

11 MR. WEST: Commissioner, to address your  
12 question, I feel -- and we will explain this more in  
13 the posthearing brief. We would raise a question if  
14 the statutory factors had been met as an initial  
15 matter. But to address your question, if they have  
16 been -- we'll work on that assumption. I believe in  
17 this case -- and we do feel that there is precedent  
18 that has supported the Commission's decision to this  
19 in the past, where the Commission has discretion to  
20 look at whether cumulation is an appropriate  
21 methodology, even where you have the statutory  
22 factors; when you have something like a disparity in  
23 market power; where you have a Akzo Nobel in  
24 Netherlands that has a dramatically different place  
25 and share of a market versus a CP Kelco in Finland.

1           There is discussion that needs to be made  
2           about the statutory factors. But we feel that there  
3           is sufficient precedent to allow the Commission to  
4           look beyond the statutory factors to see if it is  
5           really an appropriate method, given the facts of the  
6           particular review at hand in a sunset proceeding.

7           MR. NEELEY: I might add, we didn't make  
8           that specific argument. But I might add that, you  
9           know, the Commission does look at whether there is no  
10          discernible impact, and market power may have  
11          something to do, whether there is no discernible  
12          impact or not.

13          COMMISSIONER PINKERT: Thank you. Now, just  
14          staying with the assumption that the statutory factors  
15          have been satisfied for cumulation, and staying with  
16          the assumption that there is a discernible adverse  
17          impact with respect to the Netherlands, just for sake  
18          of discussion -- and now we're talking about whether  
19          we should exercise our discretion to cumulate or not  
20          to cumulate in that situation. And I'm wondering,  
21          when you talk about market power, is that the same  
22          thing as talking about large companies versus small  
23          companies, because at least the way that I've looked  
24          at this issue in the past, large and small is not a  
25          reason not to cumulate because large can be added to

1 small, or small can be added to large, and it would --  
2 that would amplify the impact.

3 So I'm giving you an opportunity to respond  
4 to that.

5 MR. WEST: Commissioner, I would say -- and  
6 again, we'll reserve the right to expand on this in  
7 our brief posthearing. But I would suggest that the  
8 panel would not say to the Commission that Akzo Nobel  
9 is by any means a small company. It is a significant  
10 international company. But what we have here is a  
11 small business, and not an insignificant business,  
12 within Akzo Nobel that manages purified CMC.

13 Where we are talking market power is with  
14 respect to particular the U.S. market, where the  
15 company has a business plan and decision that does not  
16 put it in the same sphere as -- particularly, we'll  
17 just say, at Finland, in terms of how they are  
18 grabbing the purified CMC market in the U.S.

19 So Akzo Nobel is a large company. CP Kelco  
20 is a large company. But two companies that have very  
21 different approaches and very different presence in  
22 the U.S. market. And so therefore the influence of  
23 one who has the smaller presence should not be seen to  
24 be waiting, we would say, to the same -- that  
25 influences on a larger presence. And so to cumulate

1 the imports from the Netherlands with Finland, for  
2 example, leaving Mexico aside for the moment, you are  
3 looking at companies that behave differently, sell  
4 differently, sell different products. At a commodity  
5 price level, Kelco is, we still will maintain, a  
6 significant price setter. We are a price taker at  
7 commodity level prices, which is why, as Mr. Raatjes  
8 says, we don't participate in those sales.

9 So that is our contention with a small  
10 presence, not that we are a small company, but that  
11 our influence in the sphere that CP Kelco competes out  
12 of Finland does not match our influence, and therefore  
13 we believe it's important for the Commission to look  
14 at these spheres of influence on their own merits.  
15 And if you find that there is injury caused by the  
16 Dutch imports, which we do not believe is the case,  
17 but if you find that as a Commission determination, so  
18 be it. But we do not believe that it is appropriate  
19 to combine Finland with the Netherlands, as Mr. Neeley  
20 I'm sure will say, with Mexico, which operates a  
21 different model.

22 And as to the point of why did this happen  
23 six years ago, it had to do where CP Kelco was. Six  
24 years ago, Akzo Nobel was pulled into the case because  
25 of CP Kelco and the Netherlands. The question would

1 be -- and it's only speculation, a guess, and I'm sure  
2 Mr. Lebow would say he would still have pulled us in  
3 -- would the Netherlands have been brought in six  
4 years ago had CP Kelco not been there. I can't answer  
5 that. It's only a guess at this point.

6 But there is significant difference in how  
7 Kelco and Akzo Nobel price, and we would request the  
8 Commission respectfully to honor and look at those  
9 differences individually. Thank you, sir.

10 COMMISSIONER PINKERT: Thank you. Now, I  
11 know I only have about a minute left in this round,  
12 but I wanted to get the panel's view about the likely  
13 future demand for the substitutes for purified CMC.  
14 Can we get a quick answer to that? And then we can  
15 come back to it in the next round.

16 MR. NESSEL: Yes. Depending on the price  
17 levels, the substitutes will be incrementing.  
18 Technical CMC has gone up in the amount, as has guar  
19 gum for oil drilling applications, and also in food.  
20 So we expect to see an increased demand also in the  
21 substitutes.

22 MR. RAATJES: May I? Philip Raatjes. What  
23 we see now -- also this morning Aqualon touched on  
24 that, on the guar situation. I think at guar, we will  
25 see structurally a higher price than before. The

1 harvest of guar is very good, so it's much higher than  
2 last year. Normally, guar is a seasonable product,  
3 and they can speculate with it. But the speculation  
4 effect is almost out this year, and still the prices  
5 are rocket high. So they are two and a half dollar at  
6 the moment, so they are very high. And this will have  
7 -- and the trigger is the amount in the drilling  
8 industry, as also Aqualon was pointing this morning.

9 So what I expect that will happen is that we  
10 will see an increased demand of CMC because guar -- we  
11 see already food customers who use guar today, and  
12 they get nervous. And the interchangeability of guar  
13 and CMC is there. So you can replace in many  
14 applications guar by CMC.

15 COMMISSIONER PINKERT: Thank you. Thank  
16 you, Madame Chairman.

17 CHAIRMAN OKUN: Thank you for all of your  
18 responses. Let's see. I think with respect to  
19 cumulation, because we spent a fair amount of time, I  
20 think I would just request posthearing that you pay  
21 careful attention to those arguments. I appreciate  
22 the difficulty for counsel since the commissioners  
23 approach it somewhat differently. But to the extent  
24 that there are cases where the Commission has  
25 exercised its discretion not to cumulate based on

1 different conditions, if you would take a look at those  
2 and point out the similarities or differences for your  
3 respective clients, I would appreciate that, because  
4 just noting for myself, there is no discernible adverse  
5 impact while it probably works for Sweden for me, my  
6 threshold has been fairly low. So I will look forward  
7 to seeing that discussion in the posthearing.

8           But that did remind me, Mr. Nessel, I wanted  
9 to go back just with respect to the home market in  
10 Mexico. You had talked about your long-term customers  
11 in Mexico, but then in response to another question  
12 had talked about, you know, these aren't really cases  
13 where you have long-term contracts, you know, that  
14 people could get out of a contract should they so  
15 choose to do so. And I guess my question is, in  
16 Mexico itself, for your contracts there, do you face  
17 competition for those contracts?

18           MR. NESSEL: Yes, we do.

19           CHAIRMAN OKUN: Okay. And so when you say  
20 you have long-term customers, perhaps for posthearing  
21 you could give us a sense of are those also -- you had  
22 talked about the U.S. customers being ones where the  
23 customer may not have changed, but the level or the  
24 amount that you are requested to provide each year has  
25 changed. If you can just talk about the similarities

1 and differences with your Mexico versus your U.S.  
2 customers.

3 MR. NESSEL: The Mexican customers tend to  
4 have not two or three suppliers. That is not that  
5 much custom in Mexico. So basically, Mexico, when you  
6 lose them, you lose them.

7 CHAIRMAN OKUN: Okay. So any information --  
8 I don't want you to have to go into anything  
9 proprietary here. But for posthearing, I'm just  
10 trying to get a sense of how stable the home market is  
11 for you, and whether it is a growing market or not,  
12 and then also looking at the information that you've  
13 provided with respect to your U.S. customers and how  
14 likely it would be that you would gain or lose more  
15 market share there. That would be helpful.

16 And then, let's see, there has been a lot of  
17 discussion about the Chinese nonsubject. And I  
18 appreciated the information that you've provided and  
19 that you'll provide about that market. I did want to  
20 get your reaction to the Petitioner's argument this  
21 morning with respect to the nonsubject imports from  
22 France because they did respond fairly specifically  
23 about having added the capacity in the Virginia plant  
24 to supply part of what had been imports from France,  
25 and then they also talked about what they described as

1 a small non-GMO market.

2 And so I just wanted to get your sense of  
3 the importance of nonsubject imports from France in  
4 the future, to the extent you can comment on it. I'm  
5 not sure you can, but just -- yes, someone, anyone.  
6 Mr. Nessel?

7 MR. NESSEL: Yes. Maybe I might first  
8 address the GMO issue. Solving GMO or non-GMO is as  
9 easy as using a different type of cellulose, and there  
10 is no cotton linter, pulp supplier that will guarantee  
11 GMO freeness. Every wood pulp producer, on the other  
12 hand, will. So there is absolutely no reason to  
13 suppose that the facility here in the United States  
14 could not produce GMO-free CMC, because I'm pretty  
15 sure they do use wood pulp in their different  
16 products.

17 CHAIRMAN OKUN: They had also, though,  
18 commented on that being a very small segment of the  
19 U.S. market. Is that also your understanding?

20 MR. NESSEL: Yes, because contrary to  
21 Europe, the U.S. does not have any labeling  
22 requirements for GMO food. So as far as I understand,  
23 that is only a suggestion from the respective  
24 administration. So the U.S. purchasers for food-grade  
25 CMC tend to put a lesser emphasis on GMO freeness.

1                   CHAIRMAN OKUN: Okay. And now I don't know  
2 if anyone else could comment on the panel just with  
3 respect to nonsubject imports from France, how  
4 important they may or may not be in the market in the  
5 future if the order were lifted.

6                   MR. RAATJES: Maybe I should say something  
7 that's also public information. It's import  
8 statistics, and with a lot of detailed information on  
9 the statistics. And what I note, that a lot of CMCs  
10 being imported, not only on this GMO issue or for the  
11 cross grades, whatever, because the grade names are  
12 mentioned there. So we can bring this in in the  
13 briefing if necessary, but it's public information.

14                   But what is also noticeable is that a lot of  
15 the CMCs being imported from France go to this famous,  
16 big customer for cross-linked CMC. And as I already  
17 addressed, it's very low price. So there are prices,  
18 but the prices are not mentioned there. But it's  
19 striking to see that it comes out of France, the  
20 imports. So there might be in the future also coming  
21 this type of food grade CMC for this very big cross-  
22 linked CMC customer out of France.

23                   CHAIRMAN OKUN: Okay. And I appreciate  
24 those comments. And then if you will just elaborate  
25 posthearing with respect to the statistics and what

1 they mean for our analysis with respect to nonsubjects  
2 in the event the order were revoked.

3           Your mention of cross-links had reminded me  
4 of a question that I had in listening to your  
5 testimony today and understanding that you produce --  
6 this is for the Dutch facility, that you produce the  
7 purified, technical, and cross-linked CMC. And I  
8 don't want to get into any confidential information,  
9 but I also understand you obviously have reported your  
10 questionnaire capacity data. And so I had a couple of  
11 questions. One is how difficult is it to switch  
12 between a production of the three different types of  
13 CMC, cross-linked, purified, and --

14           MR. GROOTNIBBELINK: Frank Grootnibbelink is  
15 my name. Generally speaking, it is not too difficult  
16 to switch. But as I mentioned in my testimony before,  
17 it is of course not attractive for us to produce  
18 technical grades, and this is basically, yeah,  
19 restricting the added value out of that operation from  
20 the Netherlands. So we really prefer to have cross-  
21 linked and/or purified volumes out of our factor in  
22 the Netherlands because the plant design is equipped  
23 for that. And, of course, related to that equipment  
24 is the operational cost, and that's, well, basically a  
25 strong economic reason to go for volumes and produce

1 purified and cross-linked, and not technical in that  
2 factory.

3 MR. NEELEY: I would just add one thing so  
4 we're very clear, and that is that substitution and  
5 the bottleneck -- let's put it that way. The  
6 bottleneck is at -- we make technical and we make  
7 purified. The bottleneck is at the purified level  
8 because purified is a further process than technical.

9 So while, you know, you can -- you can't  
10 really switch back and forth at will. You're limited  
11 by whatever your purified capacity is. So if we have  
12 a whole lot of technical, and we're selling a whole  
13 lot of technical, and we decide tomorrow, gee, it  
14 would be nice to make some more purified, we can't do  
15 it if we're at full capacity for purified. So I want  
16 to be very clear about that. We cannot shift back and  
17 forth at will.

18 CHAIRMAN OKUN: Okay. So just for  
19 posthearing -- and it may be clear in your prehearing.  
20 But just with respect to the questionnaire data and  
21 the capacity report, if you could just make sure that  
22 I have a good understanding of how that was calculated  
23 and how I should look at the estimates, particular for  
24 pure. And then also another question about capacity.  
25 And again, I'm not sure how much market information

1 you have. But as you know, Aqualon in its brief and  
2 today had taken issue with the capacity report for CP  
3 Kelco's plant in Finland. They're of course not here  
4 for me to ask this question. But I don't know that  
5 any of the company witnesses here today have any  
6 public information about the size of the facility in  
7 Finland that you could share.

8 MR. RAATJES: There is no public  
9 information, but we have very accurate information.

10 CHAIRMAN OKUN: Okay. I will look for that  
11 posthearing. Okay. With that, my red light has come  
12 on. I will turn to Vice Chairman Williamson.

13 VICE CHAIRMAN WILLIAMSON: Thank you, Madame  
14 Chairman.

15 There have been some arguments made that  
16 because exports didn't increase when margins were low,  
17 revocation would have little effect on imports, import  
18 volumes.

19 Other than, of course, the argument that  
20 dumping orders still have a restraining effect because  
21 of the administrative review process and the risk that  
22 if you sell at prices that are too low you'll get hit  
23 with that much higher rate in the next review, I was  
24 wondering how actually I want to comment, if you guys  
25 might want to comment on that, and what is their

1 perspective as how it applies to this case.

2 MR. NESSEL: I'm sorry, could you repeat  
3 that? I didn't get it.

4 VICE CHAIRMAN WILLIAMSON: Okay. Some have  
5 argued that, you know, because the margins are so low  
6 in this case, that revocation would really have very  
7 little impact on import volumes. You know, because  
8 your margins are low.

9 But then I guess there are others who will  
10 argue that any time you get under a dumping order,  
11 there is some discipline on you because of the  
12 administrative reviews, and you're running a risk that  
13 you'll get hit with a high margin if a review shows  
14 you're under-selling.

15 I was wondering if that has some  
16 applicability because, you know, how one looks at that  
17 might affect how we would vote on this case. I was  
18 wondering if you would give your views as to how that  
19 might apply to Mexico.

20 MR. NEELEY: Let me try it. First of all,  
21 really the argument of Aqualon is this. If you have  
22 high dumping margins, then they ought to continue the  
23 dumping order. Because if they get rid of it, then  
24 you're going to be selling because those high dumping  
25 margins, you know, are preventing you from selling.

1           If you have low dumping margins, then you  
2           should, you should continue the order because, it's  
3           because of the discipline of the order. So you know,  
4           heads they win, tails we lose, is basically their  
5           argument.

6           What we would say is that the low dumping  
7           margins that we have consistently gotten -- and this  
8           is not like a one-off thing, this is a consistent low  
9           dumping margin -- shows that if we wanted to, we could  
10          sell substantially more in the U.S. market with very  
11          little risk. And whether it's because we're just  
12          really clever with the way that we, you know, do our  
13          pricing, or what I really think is going on, which is  
14          that the Mexican home market prices just happen to be  
15          very close to the U.S. home market prices. So that we  
16          can continue to have these low dumping margins.

17          Whatever the reason is, it's not, it has not  
18          been an impediment to our selling into the U.S.  
19          market. So I think it's a very good test. And I  
20          think in some of the past cases, the Commission has  
21          looked at it that way; that it's a very good test, if  
22          you have consistently low dumping margins, that, you  
23          know, it pretty much tells you what they would be if  
24          they were zero. And you know, we're pretty close to  
25          zero, and have been for a while.

1           VICE CHAIRMAN WILLIAMSON: So you don't see  
2 any disciplining in effect here.

3           MR. NEELEY: I don't see any significant  
4 disciplining effect. No, not at that low a level. We  
5 obviously know how to sell without dumping, or with  
6 very little dumping.

7           VICE CHAIRMAN WILLIAMSON: Mr. West, any  
8 comment on that?

9           MR. WEST: Yes, Commissioner, thank you.  
10 For Akzo Nobel, the disciplining effect, which for us  
11 at that point really came through company financial  
12 requirements for having productivity, and having the  
13 returns on their businesses. As I mentioned earlier,  
14 the company made a choice in a sales strategy that is  
15 different now than it was during the period of  
16 investigation. Because they, for their cost  
17 structure, were not able to make money at the levels  
18 that were being sold at a commoditized price.

19           And so I would commend to you, if you look  
20 at the difference in price between what Akzo Nobel has  
21 sold at in the markets that Mr. Raatjes has said they  
22 are interested in now, and see going forward, versus  
23 the different, versus the domestic price levels. And  
24 consider that difference, and consider that difference  
25 with respect to the nine-percent margin we have. Now,

1 it is one of the higher margins in this case, I will  
2 concede it. In the scope of international trade it is  
3 not that high, but it is one of the higher margins.

4 But the difference that we have in our price  
5 that we're selling for now, versus domestic market,  
6 that difference, I would commend to you, you will see  
7 is likely greater than nine percent. And had Akzo  
8 Nobel wanted to capture market share, or capture more  
9 volume, it could have lowered its price; still have  
10 been above the commodity pricings to pull in more  
11 volume.

12 It chose not to do that. And one further  
13 note just to comment, that with respect to the  
14 disciplining effect, the nine percent assessed against  
15 Akzo Nobel is not a reflection of, that it is pricing  
16 nine percent above the domestic market. It is a  
17 reflection that it is simply selling nine percent  
18 cheaper in the U.S. than it does of the same,  
19 comparable home products, under the Department of  
20 Commerce Rules, in the Netherlands.

21 So the margin only compares how Akzo Nobel  
22 is competing against itself in one country versus  
23 another. It is not insightful as to how it competes  
24 against the domestic industry. Which again, we would  
25 say when you review the material, would suggest there

1 is significant room, that the pricing is not affected  
2 by the margin.

3 VICE CHAIRMAN WILLIAMSON: Okay, thank you  
4 for that. It's the board of directors as opposed to  
5 the discipline, not the dumping policy. Okay.

6 For Amtex, you say there is a little Chinese  
7 product coming to Mexico. And there's more, much more  
8 competition in the oil sector in the United States.  
9 And why do you think the Mexicans have not targeted  
10 the Chinese market? I mean, why China has not  
11 targeted the Mexican market, and could this change?  
12 Is it the duty, for example, or any other factor --

13 MR. NESSEL: There is a certain amount of  
14 duty on imports from, for Chinese CMC. And let's say  
15 one of the reasons at least specific for the oil-  
16 drilling sector is that the, the drillers buy, their  
17 headquarters in the United States, they buy in the  
18 United States, and export at reasonable prices to  
19 Mexico, to transfer profits from Mexico, the Mexican  
20 subsidiary, to the United States.

21 VICE CHAIRMAN WILLIAMSON: Okay. One reason  
22 they are not coming to the U.S. market is the market  
23 volatility in the oil market. And I was wondering,  
24 why would not that indicate that, you know, there is  
25 volatility in the Mexican market, too, in this

1 segment. And why wouldn't that indicate that you  
2 might want to move to other markets in the U.S. if,  
3 say, oil prices started going down?

4 MR. NESSEL: We do sell to the Mexican oil-  
5 drilling industry. And the Mexican regulation on  
6 that, on that product have changed recently. We are  
7 still trying to adapt to the new regulations we have  
8 in Mexico on that regard.

9 And the Mexican operation does not depend on  
10 the sales to the oil-drilling sector. So it is not a  
11 very substantial amount of our sales, not even in  
12 Mexico.

13 VICE CHAIRMAN WILLIAMSON: Okay, thank you.  
14 Okay, let's see. I was wondering, how useful are AUVs  
15 for price-comparison purposes? Are we looking at a  
16 significant difference in product mix among the  
17 countries, or changes in product mixes, that you're  
18 aware?

19 MR. NEELEY: We think, and that was what I  
20 was trying to convey in part of my testimony, is that  
21 AUVs are of very, of almost no use. Because we're  
22 looking at, you know, very different products. We're  
23 looking at technical specs. In the case of Azteca,  
24 for example, we're looking at product 12, you know,  
25 with regard to Colgate. And none of that is being

1 captured in those average unit values.

2 VICE CHAIRMAN WILLIAMSON: Okay.

3 MS. MANNING: I would, I would agree with  
4 that. I think that the, particularly for Akzo Nobel,  
5 the high prices that you see that basically of over-  
6 selling, countries that they have positioned their  
7 product in a different segment than the domestic  
8 industry, and other subject imports.

9 So I do believe that there is this market  
10 segmentation that the, particularly the under-  
11 selling/over-selling analysis is not picking up. Like  
12 to some extent, the averaging, cost averaging of  
13 values is also not picking up.

14 But I think it does tell you something, if  
15 you look at the Relics Commission, particularly with  
16 respect to Akzo Nobel, because it is so significantly  
17 higher, I think it is telling you something about the  
18 fact that there is little competition between Akzo  
19 Nobel and the domestic product. And to some extent,  
20 the product positions of some of the other subject  
21 imports, as well as non-subject imports.

22 VICE CHAIRMAN WILLIAMSON: Okay, thank you.  
23 With that, I have no further questions.

24 CHAIRMAN OKUN: Commissioner Lane.

25 COMMISSIONER LANE: I don't have any more

1 questions. And thank you all for your answers this  
2 afternoon.

3 CHAIRMAN OKUN: Commissioner Pearson.

4 COMMISSIONER PEARSON: Thank you, Madame  
5 Chairman. Mr. De La Fuente -- and Mr. McGrath has  
6 already spoken to this -- but I'd like you to clarify,  
7 if you could, whether Aqualon has any interest in  
8 resuming sales to Azteca Milling since they stopped  
9 serving as a supplier.

10 MR. DE LA FUENTE: Not that I am aware of.  
11 Me, personally, no.

12 COMMISSIONER PEARSON: Okay. And any idea  
13 why there's not interest?

14 MR. DE LA FUENTE: No, I'm not sure. But we  
15 stopped buying it from them because it created a big  
16 problem with our customers.

17 COMMISSIONER PEARSON: I understand that  
18 perfectly, perfectly reasonable, to switch suppliers  
19 and have quality problems. Hard to address otherwise.

20 Mr. De La Fuente, this would be both for you  
21 and Mr. Nessel. And it may be something that you  
22 would answer more comfortably in the post-hearing, but  
23 I'll put it out now, and you may comment if you wish.

24 Are the prices that Azteca pays in the  
25 United States for CMC produced by, by Amtex related to

1 the prices that the same two companies have in Mexico?  
2 You know, the Mexican business, is the price there  
3 related to the U.S. pricing? Or is it entirely  
4 separate?

5 MR. NESSEL: And related in the sense that  
6 it is the same.

7 COMMISSIONER PEARSON: Well, the same plus  
8 or minus some factor.

9 MR. NESSEL: No, one is not dependent on the  
10 other. The price is set, and it is set for both sides  
11 of the border in the same way.

12 COMMISSIONER PEARSON: Set in the same way,  
13 but in separate discussions? Or in just one  
14 discussion? You know, we will supply, we will supply  
15 CMC to you in both your Mexican plants and your U.S.  
16 plants basically at the same price.

17 MR. NESSEL: No, they have different  
18 headquarters.

19 COMMISSIONER PEARSON: Oh, okay. So in  
20 order to sell in the United States, you are, you have  
21 salespeople who are coming to the U.S. headquarters of  
22 Azteca Milling, and dealing with business managers  
23 there.

24 MR. NESSEL: Yes, yes.

25 COMMISSIONER PEARSON: Okay. So the

1 relationship in pricing between the two countries  
2 would be only as it relates to your costs of  
3 production. So there would be some rough  
4 relationship, but not any specific relationship.

5 MR. NESSEL: That's correct, yes.

6 COMMISSIONER PEARSON: Okay, thank you. In  
7 this business, do you find that customers have a  
8 preference for multiple sourcing from different CMC  
9 suppliers? Or are some of them preferring to have a  
10 sole-source supplier? Mr. Nessel.

11 MR. NESSEL: Our experience is that none of  
12 the major accounts will stick to only one supplier.  
13 In Colgate, in Azteca, there are always at least one  
14 other supplier.

15 COMMISSIONER PEARSON: Part of the risk  
16 management strategies.

17 MR. NESSEL: I would assume so, yes.

18 COMMISSIONER PEARSON: Mr. Raatjes, do you  
19 see the same in your customers for the high-end niche  
20 products?

21 MR. RAATJES: To a lesser extent. So yes,  
22 to a lesser extent. Hardly, let's put it that way.  
23 That's a better word, hardly. So we are, many of the  
24 food customers had, we serve the network, and we are  
25 the sole supplier there.

1           So the, the distributor also supplies -- to  
2           that customer, so they rely 100 percent on us. In the  
3           pharmaceutical side I would say we are also sole  
4           supplier. So basically, we have very longstanding  
5           relationship.

6           For example, in Canada we work already 35  
7           years with the same distributor. And yeah, I  
8           mentioned the pharmaceutical account, the big account  
9           here, a 20-year celebration next year. We will do the  
10          incident, by the way, and have a nice party.

11          COMMISSIONER PEARSON: We're not able to  
12          accept the invitation.

13          (Laughter.)

14          COMMISSIONER PEARSON: It's the ethics  
15          problems we have. Okay. This is a question for Akzo  
16          Nobel.

17          Has the changing euro-dollar exchange rate  
18          had an influence on your ability to sell profitably in  
19          the United States?

20          MR. RAATJES: No. Most of our businesses,  
21          looking at pharma business, we have euro prices. And  
22          in many parts of the world, we work with euro, and not  
23          with dollars.

24          Of course, in the United States we have  
25          dollar-based pricing, but we adjust to the currency.

1 So that's also one of the reasons that we have higher  
2 prices today, much higher in the United States than  
3 dollars.

4 COMMISSIONER PEARSON: Right. And one of  
5 the advantages of serving the high-value customers, if  
6 you're able to.

7 What's the case for Amtex? Has the change  
8 in the dollar-peso relationship influenced the pricing  
9 possibilities for Mexican CMC coming to the United  
10 States?

11 MR. NESSEL: The peso did devalue at the  
12 end of 2008. But the pricing policy was not really  
13 that much affected by it, and prices adjusted rather  
14 quickly on one side and the other side of the border.

15 COMMISSIONER PEARSON: Okay, thank you.  
16 Then, a final question. This is for Akzo Nobel again.

17 There was discussion this morning about the  
18 possible cause of the explosion at CP Kelco in the  
19 Netherlands. And dust was mentioned as a likely  
20 cause.

21 If you know anything more about that that  
22 you might want to say for the record, I would be, I  
23 would be curious. It's not crucial to how we would  
24 decide this case, but I'm familiar with facilities  
25 that have dust problems. And so I'm just wondering

1 what you think about it.

2 MR. NESSEL: It was not related to dust.  
3 Maybe that was an accumulation, but the initiative was  
4 the purification section, where they work with  
5 alcohol. So there was the, you could say over a  
6 longer period, they didn't really have right  
7 consciousness on safety levels. So they had for many  
8 years the same auditor, and he was getting a little  
9 bit blind on safety levels. And it had to do with the  
10 alcohol-water mixture in the purification section.  
11 And they said there were wrong calculations. So then  
12 the explosion originated.

13 And then maybe it was also good  
14 housekeeping. You need, in CMC plants you need to  
15 have good housekeeping. We are used to that for the  
16 pharmaceutical industry. You shouldn't have dust in  
17 your plant. It's very important. But the initiator  
18 was ethanol.

19 COMMISSIONER PEARSON: Okay, thank you. And  
20 I realize, since I said that was the last question,  
21 that I had another one that was written down  
22 someplace, set aside. So from memory, let me ask it  
23 this way. This is also for Akzo.

24 You had explained that much of your business  
25 is in the P-plus category, and some of it in the P

1 category. For purposes of the post-hearing, could you  
2 provide us with specific lists of customers and  
3 products that would fall into the P-plus category, and  
4 also into the P category? So that we might understand  
5 the differences.

6 And then to the extent, if you know, because  
7 you may or may not know, is Aqualon a competitor for  
8 certain customers and certain products in the two  
9 groupings?

10 MR. NESSEL: For the record, we would be  
11 happy to provide that in the post-hearing,  
12 Commissioner.

13 COMMISSIONER PEARSON: Okay, good. Because  
14 that would give some specificity to somewhat general  
15 categories that I've only become familiar with this  
16 afternoon. So anything you can provide there would be  
17 helpful.

18 MR. NESSEL: We'd be happy to provide that  
19 in the detail. Thank you.

20 COMMISSIONER PEARSON: And with that, Madame  
21 Chairman, I'd like to thank this panel. I think I am  
22 now done with my questions.

23 CHAIRMAN OKUN: Commissioner Aranoff.

24 COMMISSIONER ARANOFF: Thank you, Madame  
25 Chairman. This morning the witnesses for Aqualon said

1 that they were able to pick up a little short-term  
2 business when the culture plant in the Netherlands  
3 experienced their fire. But that in the long run, CP  
4 Kelco has been able to serve all of its prior  
5 customers now from its plant in Finland, and so  
6 there's really no business for other people.

7 Is that also your impression?

8 MR. NESSEL: What happened in our case, and  
9 the Netherland plant of CP Kelco was the second  
10 supplier for Azteca, we got around that portion that  
11 the Netherlands were providing. And we suspect, we do  
12 not know, that the same thing is happening, that they  
13 were buying from the Netherland plant of Kelco; and  
14 that we got part of that business back. And because  
15 of the lack of supply in the market, we did not gain  
16 any additional customers due to that.

17 COMMISSIONER ARANOFF: But Kelco has not  
18 come back and competed the business back away from you  
19 from their plant in Finland.

20 MR. NESSEL: No, but now the Germans are  
21 serving the volume.

22 COMMISSIONER ARANOFF: Okay. How about for  
23 Akzo?

24 MR. RAATJES: Maybe I address it already a  
25 little bit, definitely in the pharmaceutical sector,

1 where CP Kelco was in the Netherlands. They don't  
2 supply the market any more. So we had that luck, you  
3 could say, of the accident, but that's life.

4 COMMISSIONER ARANOFF: Okay, thank you. Is  
5 costly CMC a proprietary product?

6 MR. RAATJES: Now, you've already asked me.  
7 I don't believe so. I don't think so.

8 COMMISSIONER ARANOFF: There are multiple  
9 producers who make it?

10 MR. RAATJES: Oh, that's what you mean.  
11 Yes, there are more. So there are, yes, three or  
12 four. If you want to have more information, we can  
13 provide, that's no problem. I don't want to disclose  
14 the names.

15 COMMISSIONER ARANOFF: Okay. I'd be happy  
16 to have confidentially who the other producers are,  
17 and about what you think the size of the global market  
18 for that product is.

19 MR. RAATJES: Yes, we can provide.

20 COMMISSIONER ARANOFF: Okay, thank you very  
21 much. Also, this morning, and I know this has come up  
22 this afternoon too, but I asked Aqualon about  
23 substitute products. And they were quite dismissive.  
24 Their testimony was they really, they hardly ever  
25 compete with Guar or some of the other products that

1 were listed as substitutes in various applications.

2 And some of you have alluded to the  
3 contrary; that some of these substitutes are  
4 significant forms of competition.

5 So I guess I would like to ask you, and  
6 indeed ask Aqualon as well, for purposes of post-  
7 hearing, if you can document any specific, you know,  
8 volume of sales where you've competed directly with a  
9 substitute product, or lost an account to a substitute  
10 product. Sort of any other way that we can really  
11 quantify the extent to which substitute products are  
12 competing in this space.

13 MR. NEELEY: Yes, we'd be glad to do that.

14 COMMISSIONER ARANOFF: Okay, thank you. I  
15 think with that, I have finished all my questions. So  
16 I do want to thank you all again for your testimony  
17 today.

18 CHAIRMAN OKUN: Commissioner Pinkert.

19 COMMISSIONER PINKERT: I just have a few  
20 questions. I try to avoid saying I just have one  
21 further question, because I never know for sure.

22 For purposes of cumulation, what should we  
23 know about the structural features of the Finnish CMC  
24 industry? Other than the fact that it may have more  
25 market power than other industries.

1           MR. NEELEY: A couple comments from our  
2 point of view, as submitted in our brief. One, it's  
3 extremely export-oriented, much more than Mexico is.  
4 Two, it is in almost every sector of the marketplace,  
5 unlike Mexico. Three, it's much bigger than Mexico  
6 is. We agree with that, it's the biggest plant  
7 around.

8           COMMISSIONER PINKERT: Anything else?

9           MR. RAATJES: And maybe I can give some  
10 input as well. The paper market is a big market for  
11 CP Kelco also in Europe. And that market is declining  
12 for paper coating, it's declined three percent per  
13 year. And a big market is in Finland for paper  
14 application. And that market is difficult to judge,  
15 but quite some volume might be done there.

16           So yes, they might have volumes available.  
17 There is a drive for CP Kelco to export more, I would  
18 say, even than in the past.

19           COMMISSIONER PINKERT: Thank you. Mr.  
20 Neeley, just a quick follow-up on your answer to that  
21 last question. Are you suggesting that large player  
22 in the U.S. market versus small players would be a  
23 reason not to cumulate, once the export factors have  
24 been satisfied?

25           MR. NEELEY: What I'm suggesting is that if

1 you have a very large layer in the market, and Mr.  
2 Lebow was talking about what the potential excess  
3 capacity is that you have to look at it much harder.  
4 And it may be that they have a different situation  
5 with regard to excess capacity than we do in Mexico.  
6 And I think the Commission traditionally takes that  
7 into account as one of the things they look at with  
8 regard to cumulation.

9 COMMISSIONER PINKERT: Thank you. With  
10 that, I have no further questions. I appreciate all  
11 of the information that you've given to us today, and  
12 I look forward to the additional information that  
13 we've requested for the post-hearing submission.

14 CHAIRMAN OKUN: I think I also have a few  
15 more questions. Dr. Manning, I wanted to go back to,  
16 just in terms of the counter-factual analysis and how  
17 to evaluate pricing behavior. In terms of you had  
18 talked about the pricing information we have on the  
19 record during the period of review, which I usually  
20 tend to see as not as probative as the pricing  
21 behavior before the order.

22 But you had made some arguments. I just  
23 wanted to ask you about that again. Like, what do we  
24 see on this record that, that should tell us about  
25 pricing behavior if the order were revoked?

1 MS. MANNING: I think this is a situation  
2 when pricing behavior in the period, the original  
3 period of investigation, is not informative as to what  
4 the pricing would be if there's revocation of the  
5 order. And this is with respect to Akzo Nobel.

6 Akzo Nobel has taken, as we've described  
7 today, it reevaluated its position with respect to  
8 this industry around the time of 2004/2005. It  
9 realized that the pricing strategy and the positioning  
10 of its products at that time was not something that  
11 was profitable for the overall company. And that's  
12 one of the reasons why it brought in Mr. Vargas, to  
13 reevaluate that.

14 And what they decided was that with the  
15 increasing commoditization of some portions of the  
16 market, it was not a profitable strategy for them to  
17 engage in on a global basis. And they made the  
18 decision to look at a different type of product  
19 positioning. And that product positioning took them  
20 to a different area of the market. And that is one  
21 that is characterized by more niche products, ones  
22 that have more value added.

23 And their whole strategy in the last five  
24 years has been directed towards implementation of  
25 that, that strategy. That strategy on a global basis

1 has been extremely profitable for them. And since  
2 they have moved to that new strategy, there is really  
3 no reason why they would move back to the position of  
4 high volume of imports at low prices to compete with  
5 non-subject imports in the U.S. market with the  
6 domestic product. Because this will not get them the  
7 same profitability as their current strategy.

8 They are in a nice position, globally and in  
9 the United States, where they are actually able to  
10 couple the value-added of their product and the  
11 specialization of the services that they provide to  
12 very small customers, to be able to command a  
13 particular price, and a premium price, for that.

14 To move away from that strategy as a result  
15 of a dumping order would simply not be in their best  
16 interest.

17 CHAIRMAN OKUN: Okay. And also a question  
18 for Akzo Nobel, which is -- and you may have addressed  
19 this is some of your other responses about the global  
20 nature of the product -- which is, are there any  
21 customers where you must be able to supply in the U.S.  
22 market to get an account.

23 MR. RAATJES: Thank you for addressing that.  
24 In fact, we have some accounts in the United States  
25 where we supply who we supply on a global basis. So

1 they have also facilities in Europe and in South  
2 America, for example.

3 CHAIRMAN OKUN: Okay. And this might have  
4 also already been provided, but if you can identify  
5 those accounts and just note the price, what the  
6 pricing is, to the different accounts, also post-  
7 hearing, I'd appreciate seeing that.

8 MR. RAATJES: Okay, we'll be happy to do  
9 that.

10 CHAIRMAN OKUN: Okay. And then Mr. Neeley,  
11 to come up to you with respect to pricing. Because I  
12 think you have argued that for Amtex, the pricing is  
13 not very probative in the period of review. And you  
14 went through kind of your list of what the different  
15 products said.

16 And so going back to the period of  
17 investigation or prior to the order, the pricing  
18 event, how should we evaluate the differences we see  
19 there, or similarities, in what would be likely if the  
20 order were revoked?

21 MR. NEELEY: Again, I think it's not very, I  
22 think it's really difficult, let's put it that way, to  
23 start with what was going on before the period, the  
24 original period of investigation, in the period of  
25 review. Because it's not just the dumping order that

1 you have to sort out.

2 I mean, if you're going to do this in a way  
3 that makes economic sense, it seems to us that you'd  
4 have to also take into account what's going on with  
5 costs. You'd also have to take into account what's  
6 going on with supply and demand. If you can control  
7 for those things and separate out in some way the  
8 dumping effect, so to speak, the dumping pricing from  
9 everything else, then I guess, you know, you could  
10 have a test.

11 I don't know exactly how you'd do that. I  
12 think it's virtually impossible. Because the real  
13 driver in the market has nothing to do with the  
14 dumping order. They have to do with supply and  
15 demand, they have to do with cost. That's the  
16 reality.

17 CHAIRMAN OKUN: Okay. You had noted in  
18 discussing -- it was probably you, Mr. Nessel, or it  
19 might have been, it might be Mr. Piotti. I've  
20 forgotten. It's late, you know, I forget.

21 But in terms of your customers and the  
22 pricing in the U.S. market, one of the questions or  
23 one of the issues raised in your briefs that you  
24 acknowledge the prices of imports in Mexico are lower  
25 than the prices of U.S.-produced purified CMC in the

1 majority of quarterly price comparisons with the order  
2 in place, but that they had no adverse effect on  
3 Aqualon.

4 Explain to me again, why would they be  
5 priced lower now? As you say, if your margin is so  
6 low that it's just consistent with what your pricing  
7 was prior? I'm just trying to make sure I understand  
8 the -- and if it's confidential, you could do it post-  
9 hearing. But I'm just trying to understand the,  
10 again, how we evaluate pricing if the order were  
11 revoked.

12 MR. NESSEL: So the question would be what  
13 kind of pricing would be expected from Amtex once the  
14 order was revoked? I mean --

15 CHAIRMAN OKUN: Right, keeping in mind that  
16 you've already acknowledged that your prices are lower  
17 even with the order in place. So again, the  
18 Petitioner is arguing that if your prices are lower  
19 and the order is in place, then without the restraint  
20 or the discipline of the order, you will price lower  
21 and take more business.

22 MR. NESSEL: I have the disadvantage that I  
23 do not see the direct price comparison you have access  
24 to. And I can't really imagine what customers they're  
25 talking about. Because the only place where we have

1 encountered competition with the Petitioner are the  
2 ones we have talked about. So, our prices in that  
3 regard have been pretty stable. And if you look at  
4 our confidential data, I think that will be confirmed.

5 And I do not know why the Aqualon prices  
6 still trade so much. So if, sometimes we're above,  
7 and sometimes we're below. And being as constant. So  
8 that is not really a question I can give an answer to,  
9 because I don't know what the Aqualon prices still  
10 trade so much.

11 CHAIRMAN OKUN: Okay, that's good. And Mr.  
12 Neeley, just for purposes of the post-hearing, if you  
13 could just elaborate on your pricing argument with  
14 respect to --

15 MR. NEELEY: Sure, we'll be glad to.

16 CHAIRMAN OKUN: Okay. And then, well, I  
17 think that's enough on the pricing. And I have no  
18 other questions, and I don't think there are other  
19 questions from my colleagues.

20 Let me turn to staff to see if they have  
21 questions for this panel.

22 MR. McCLURE: Madame Chairman, Jim McClure  
23 from the Office of Investigations. We have no  
24 questions.

25 CHAIRMAN OKUN: Do those in support of

1 continuation have questions for this panel?

2 MR. LEBOW: No, Madame Chairman, we do not.

3 CHAIRMAN OKUN: Okay. And for the court  
4 reporter, there was no questions.

5 Before we turn to the closing statements, I  
6 want to take this opportunity to again thank the  
7 witnesses for being here. We wish you safe travels,  
8 and very much appreciate your participation today.

9 And I will review the time remaining. Those  
10 in support have a total of 32 minutes, 27 minutes left  
11 from direct and five for their closing. Those in  
12 opposition have a total of 21 minutes, 16 from direct  
13 and five for closing.

14 It's been our practice to just combine those  
15 times, if there's no objection from counsel, so that  
16 you could just give your closing and your rebuttal at  
17 the same time.

18 All right, then, we'll take a couple minutes  
19 to let this panel go back to its seats, and bring the  
20 closing statements up.

21 (Recess.)

22 CHAIRMAN OKUN: You may proceed.

23 MR. LEBOW: Thank you. Again, for the  
24 record, I am Edward Lebow of Haynes and Boone,  
25 representing Petitioner Aqualon Company.

1           You know, the Commission is really in a  
2 position where you're asked to treat past as prologue.  
3 The trouble is you don't know which past to look at.

4           There are some, Petitioners presumably, who  
5 say look at the past before the order was put in  
6 place; and there are others who say look at the last,  
7 more recent period.

8           We contend that, on balance, there is still  
9 more information to be gained from the pre-order  
10 period, because that was a kind of commercial state of  
11 nature. The benefits of the anti-dumping order and  
12 its influence on the market were not yet in place.

13           After the order, it does make sense that  
14 Respondents would change their behavior, and maybe  
15 even change their entire marketing strategy.

16           The U.S. remains a large and rich market.  
17 There is a reasonable overlap in competition,  
18 particularly in the high-value-added food and  
19 pharmaceutical sectors, with all the Respondents. And  
20 non-subject imports really have a limited impact in  
21 this business. And I'm going to touch on, just on the  
22 three different categories.

23           First, the Chinese imports are focused on  
24 the oil field and industrial areas, and not on the  
25 high-value-added areas.

1           Second, we've been talking rather loosely  
2 about growth from China. But actually, if you look at  
3 the import statistics, they've been kind of up and  
4 down, with the oil demand.

5           And with respect to France, as we stated,  
6 Aqualon has improved its production process in  
7 Virginia, so that the great majority of the imports  
8 that have been coming in from France will no longer  
9 need to for the coarse particle-sized product. And  
10 that will really have a very, very small impact on the  
11 overall demand situation.

12           And as for substitute products, again,  
13 there's a difference between Respondent and  
14 Petitioner. But we contend that in the oilfield  
15 sector, Gwar is used in a product in which pure CMC is  
16 not used. Gwar is used in fracturing product, and CMC  
17 is used in drilling muds.

18           In the food industry there is a little bit  
19 of substitution at the margin, but there are many  
20 formulations which take some Xanthum, some Gwar. One  
21 is a thickener, one is a suspension agent. There's a  
22 little bit back and forth. But again, the substitute  
23 products really haven't had much of an impact.

24           We talked in great length about this, I  
25 think, in 2005, at the first hearing. And there was a

1 lot more of that made by Respondents at the time. We  
2 said then it didn't have a big impact. It didn't; it  
3 still doesn't.

4 We've also heard very clearly from  
5 Respondents that, you know, contracts, well, they're  
6 not really contracts in this industry. People can  
7 move pretty quickly to get a better product, or a  
8 different product, or a product at a lower price.

9 Respondents have talked a lot about what's  
10 gone on recently. I didn't hear much from them, nor  
11 see much in their brief, about the staff report, which  
12 is a very objective collection of information about  
13 what's going on even in the current market. We've  
14 quoted extensively and cited extensively to the staff  
15 report, because we think that it and the market  
16 conditions support our position.

17 Now, turning specifically to each of those  
18 major Respondents if I could. First, with Akzo. I  
19 think there has been a little confusion about  
20 crosslink.

21 Crosslink CMC is not a substitute for, nor  
22 does it compete directly with, purified CMC. Our only  
23 point is that there is one particular customer in the  
24 United States which buys many millions of pounds of  
25 purified CMC, that already is buying crosslink from

1 Akzo. And the Akzo purified is qualified there. So  
2 that if the order were revoked, we think that there  
3 would be a very great likelihood that Akzo would be  
4 back into that product.

5 We think that the dumping order has had a  
6 clear impact on Akzo's U.S. sales of CMC. They have  
7 gone down a great deal, although it has maintained  
8 relationships with some of its customers.

9 Akzo tells you that they've changed their  
10 business strategy. Now, I don't know anything about  
11 their profitability before 2005; at least, if I did,  
12 I've long forgot. But it may be that the reason they  
13 changed their business strategy is that there was a  
14 dumping order put in place, and it made the U.S.  
15 market a lot less attractive to them. So they could  
16 have been changing the strategy with that in mind.

17 We do know that before the order was put in  
18 place, they were selling large volumes, very  
19 competitively, into the United States.

20 They also showed you that chart with P and  
21 P-plus. And I just want you to know, and we'll put  
22 this in detail in our post-hearing brief, Aqualon  
23 sells throughout P-plus. We sell in pharma and the  
24 healthcare and the specialized food industries, and  
25 definitely are not excluded from that high-value-added

1 segment of the market. In fact, like any rational  
2 company, that's a segment we'd like to be more into.

3 The Commerce Department predicts a return to  
4 dumping over 13 percent by Akzo if the orders are  
5 revoked. Even now their margins are nine percent. So  
6 their contentions that they're only going for the  
7 higher-priced customers, and don't want to dirty their  
8 hands with anything that looks like large customers in  
9 the United States, would be belied by that.  
10 Otherwise, why are they willing to pay the U.S.  
11 Government nine-percent duty? That's on top of, I  
12 guess, the 6.4-percent normal Customs tariff.

13 As for Amtex, their story is different.  
14 Their story is that they've stayed the same, rather  
15 than they've pulled out of the market. They still,  
16 however, in order to make their sales, have been  
17 dumping. And before the order was put in place, they  
18 were dumping at 12 percent. And again, the Commerce  
19 Department suggested they could go back to that if the  
20 order were revoked.

21 My client has also asked me to say something  
22 very specific to you about the tortilla business. I  
23 think they are offended by the charge they can't make  
24 a good tortilla. And the truth is that they now are  
25 selling CMC to a company called Mission Foods. And

1 they said use the name in public. It is, I  
2 understand, part of the same group of companies as  
3 Azteca.

4 And the tortillas, what I've heard from  
5 Mission Foods, are fine. And in fact, our folks have  
6 made a presentation, as of June 2010, to the, is it  
7 the Grooma Group? The Grooma Group that controls both  
8 Azteca and Mission Foods. So it's not that we're  
9 throwing up our hands and walking away from the  
10 tortilla industry.

11 We've also pointed out to you that there  
12 have been several attempts made to entice other  
13 customers on the basis of price, very recently, by  
14 Amtex, one where, we mention in our brief, where we  
15 lost the customer. And competition at other  
16 facilities, including Colgate, which has been  
17 mentioned. And then also Amtex's shipments to the  
18 United States have gone up pretty markedly in the  
19 second half of 2010.

20 But I'd like to conclude where I began, and  
21 that's with CP Kelco. Because again, they're not  
22 here, and I'm afraid that out of sight might mean out  
23 of mind.

24 We don't know why they decided not to be  
25 here. Perhaps they were trying to show some kind of

1       subliminal-interest message of a lack of interest in  
2       the U.S. market.

3                 But meanwhile, CP Kelco has the world's  
4       largest plant. It has, we believe, substantial unused  
5       capacity. And it has continued to dump significant  
6       quantities of CMC during the period of review. Its  
7       dumping margins have been significant. It can produce  
8       all grades of CMC for all markets, including for  
9       regulated markets. And we heard this morning that,  
10      due to a decline in the paper market in Finland, they  
11      are having a greater, not a lesser, export orientation  
12      going forward.

13                We really are concerned at Aqualon that the  
14      lowering of price by the amount of recent dumping  
15      alone would force Aqualon to reduce its own prices to  
16      hold share, or see a decline in share and an increase  
17      in per-unit cost. This would result in immediate loss  
18      of revenue and profit.

19                Though we believe that the conditions of  
20      competition and the incentives exist to cumulate the  
21      impact of imports of CMC from all three subject  
22      countries, we urge you in any event to find that  
23      exports from Finland comprise a real threat of a  
24      recurrence of material injury to the domestic CMC  
25      industry within a reasonably foreseeable time.

1 Thank you.

2 CHAIRMAN OKUN: Thank you.

3 MR. WEST: Again for the record, my name is  
4 Matthew West from the law firm of Baker Botts,  
5 representing Akzo Nobel.

6 We'll just take a few minutes here, by no  
7 means the entire time that remains for our side, to  
8 review what the Commission has heard today in regards  
9 to purified CMC from the Netherlands.

10 We all heard about the changes in the  
11 production market for purified CMC that has led to  
12 differences in how Dutch purified CMC competes against  
13 purified CMC imported from Finland and Mexico.

14 Six years ago, Dutch CMC consisted of two  
15 very different products produced by different  
16 companies. Today, Dutch CMC is synonymous with CMC  
17 from Akzo Nobel.

18 And we have heard that there is no  
19 substantial meaningful overlap between the sales of  
20 purified CMC from Finland, Mexico, and the  
21 Netherlands, and the U.S. market that would require or  
22 support the Commission reviewing the purified CMC  
23 imports from each of these countries, on a cumulated  
24 basis, as was done in the original investigation.

25 We have also heard how Akzo Nobel is

1 pursuing a different sales strategy. And this, as the  
2 witnesses stated, this is not a sales strategy that  
3 had been motivated in a meaningful way, in real part  
4 by the anti-dumping duty order. I believe it was  
5 Commissioner Williamson who really capsulized it, who  
6 said it was more to do with the boardroom than an  
7 anti-dumping duty order.

8           The sales practices of Akzo Nobel during the  
9 original period of investigation were a losing  
10 proposition for the company. They acknowledged that;  
11 that was not the way they could compete. They cannot  
12 compete in a commoditized price market. So they had  
13 moved to a global sales strategy that looks at higher  
14 value, higher-priced CMC products, where they are  
15 respected for the services they can bring to  
16 customers; and accordingly, are able to command a  
17 higher price than those that are in the commoditized  
18 industries.

19           And we have provided data, and will provide  
20 additional data, to the Commission that supports and  
21 evidences that this change in strategy over the last  
22 three years has made sense to the company fiscally,  
23 and is not a strategy that they are looking to abandon  
24 if a nine-percent duty is removed off their purified  
25 CMC products.

1           We believe that in consideration of the  
2 testimony that has been heard today, combined with the  
3 full range of information that the Commission has been  
4 able to review and will receive in the post-hearing  
5 briefs, that the Commission should and will come to a  
6 conclusion that imports of purified CMC from the  
7 Netherlands, particularly CMC from Akzo Nobel, will  
8 not lead to a continuation or a recurrence of material  
9 injury to Aqualon in the foreseeable future, if the  
10 order is revoked.

11           Thank you very much for your time.

12           CHAIRMAN OKUN: Thank you.

13           MR. NEELEY: Jeffrey Neeley from Amtex. I  
14 want to touch on a few issues here.

15           We were a little bit surprised to hear some  
16 of the arguments of Mr. Lebow, and frankly some of the  
17 arguments that were made by Aqualon throughout this,  
18 this particular hearing.

19           Aqualon seems to be ignorant of certain  
20 things that are going on in the market, which frankly  
21 surprised us a great deal. Let me start with France.

22           The French argument that they've made to you  
23 is basically, as I understand it, that they're  
24 bringing in the coarse product. And they're claiming  
25 now that they're bringing it back into the United

1 States. Which is fine, but that suggests to us that  
2 if, you know, unless they're expanding capacity  
3 somehow in the United States, you're just substituting  
4 swapping out one for the other.

5 And so, you know, I guess our question is,  
6 there still seems to be a situation, according to my  
7 client, since the first day I talked to them, that  
8 Aqualon has, is really running at pretty much full  
9 capacity, according to my clients and everything that  
10 they hear. Prices are very high. So if they are  
11 bringing stuff back into the United States, it means  
12 that certain other things are being foregone. I mean,  
13 unless they are increasing their capacity.

14 I'm not quite sure what that French argument  
15 is. As we said at the outset, we have no problem with  
16 them rationalizing their production and going to  
17 France. But to somehow suggest that there is  
18 something going on here that, you know, the Commission  
19 can kind of ignore, is something that we find to be a  
20 quite strange argument. It seems like they've given  
21 up on the non-CMC argument pretty much. But with  
22 regard to the coarse, I'm not quite sure where that  
23 argument goes.

24 We hear from Aqualon, for example, that they  
25 are not concerned with the Chinese product from food.

1 Well, fine, neither are we. We don't really see it in  
2 the few customers that we have.

3 But they are concerned about it in the oil  
4 sector, or they see them in the oil sector. And that  
5 is exactly what we said in our brief. That is a major  
6 sector for Aqualon; it is a sector we do not compete  
7 in in the United States. So as I said at some point  
8 during the colloquy today, the fact is if there is any  
9 problem on the horizon, that's where, that was where  
10 it is for Aqualon. It's a very volatile sector of  
11 the, of the industry, with commission originally with  
12 the oil sector from things like drill pipe and a lot  
13 of other gauges, OCTG, we know how volatile it is.  
14 And the same is true with regard to the CMC segment of  
15 that market.

16 We have shown, we think, quite conclusively  
17 that we are in separate segments of the market, with  
18 very specific customers, very limited customers. We  
19 have shown, we think, that there is, I wouldn't say  
20 no, that we'd never say never or no, head-to-head  
21 competition, but very, very limited head-to-head  
22 competition with Aqualon.

23 We've heard testimony from Azteca. There  
24 should be no question, I think, on the part of the  
25 Commission, that Azteca, for technical reasons, and

1 purely technical reasons, is not purchasing from  
2 Aqualon. And that has been the case for many years,  
3 and will continue to be the case, regardless of what  
4 the Commission does in this particular case. And that  
5 is by far our largest customer, as the Commission  
6 knows.

7 Colgate. Any allegations with regard to  
8 Colgate being lost in the United States is just flat-  
9 out wrong. We will provide you with any information  
10 that we have with regard to the bids on those. There  
11 is nothing that we have done with Colgate in the  
12 United States. We do not produce that product, and  
13 will be glad to provide you with information on that.

14 TIC Gums, which is another company that was  
15 mentioned by Mr. Piotti, is a very limited customer.  
16 We have gotten a few orders recently, as he talked  
17 about; but it's simply because of the shortage in the  
18 marketplace of capacity. And we had some things that  
19 they could use, and they bought a little bit from us.

20 In terms of pre-order, post-order, obviously  
21 we'd argue that the most relevant period for the  
22 Commission as far as looking at is really what's  
23 happened since the order.

24 Let me tell you a couple reasons why we say  
25 that. First, if we only look at pre-order, we're

1 looking at a period of time where things have changed,  
2 and changed utterly. Changed, for example, with  
3 regard to substitute products.

4 We will provide the Commission in our post-  
5 hearing brief very specific instances of substitutions  
6 of products that we think shockingly, apparently,  
7 Aqualon thinks they lost to subject merchandise. It  
8 wasn't even subject merchandise.

9 There's a lot of substitution going on, and  
10 I will give you at least one very major example and  
11 try to clarify that issue.

12 Secondly, before the order, there were no  
13 Chinese in this market, to speak of, not as much as we  
14 have now. That is a very major change in this market,  
15 that makes going back to 2004 or 2005 we think the  
16 wrong approach. Because the Chinese have had an  
17 effect on this market, particularly in places like the  
18 oil sector.

19 Third, there were no importations from  
20 France. The importations from France, as we said, are  
21 primarily because of the high-capacity utilization.  
22 But that was not the case if you go back five years  
23 ago. And as I said, there was a very different  
24 situation with regard to capacity utilization  
25 worldwide.

1           Since the order, what we have is low margins  
2           on the part of Quimica Amtex. We have really no  
3           increase of imports from Mexico. It's been very  
4           stable, very flat; it's gone up and down a little bit,  
5           as Mr. Nessel pointed out, based on what a particular  
6           client might order in a particular year, or depending  
7           on how the economy is doing. But it's been very  
8           stable.

9           And there have been no increases from  
10          Columbia or from Argentina, which, as we mentioned at  
11          the outset, we could have done, had we really been  
12          interested in being in market share at any cost.

13          Finally, my favorite issue: tortillas. I  
14          talked to Mr. De La Fuente, who whispered to me about  
15          the final point that Mr. Lebow made with regard to  
16          Mission Foods.

17          Mission Foods, what he's talking about is a  
18          wheat tortilla. As some of us -- I like corn  
19          tortillas myself, okay. What Mr. De La Fuente  
20          testified to was, it was corn tortillas where they had  
21          the problem, not wheat tortillas. Yes, Mission Foods  
22          may be buying certain CMC for wheat tortillas, but Mr.  
23          De La Fuente assures me that every single corn  
24          tortilla that that company is making has CMC from  
25          Amtex. And that was our point. At least for those

1 particular types of tortillas, there is no substitute.

2 Thank you very much.

3 CHAIRMAN OKUN: Thank you. Post-hearing  
4 briefs, statements responsive to questions, requests  
5 of the Commission, corrections to the transcript must  
6 be filed by February 28, 2011. The closing of the  
7 record and final release of data to parties is  
8 April 1, 2011, and final comments are due on April 5,  
9 2011.

10 With no other business to come before the  
11 Commission, this hearing is adjourned.

12 (Whereupon, at 3:51 p.m., the hearing was  
13 adjourned.)

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**CERTIFICATION OF TRANSCRIPTION**

**TITLE:** Purified Carboxymethylcellulose from Finland,  
Mexico, Netherlands and Sweden

**INVESTIGATION NOS.:** 731-TA-1084-1087 (Review)

**HEARING DATE:** February 15, 2011

**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:** February 15, 2011

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

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

**SIGNED:** Tammy Brodsky  
Signature of Proofreader

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

**SIGNED:** Kyle P. Johnson  
Signature of Court Reporter